she will literally be adrift and have to seek shelter from public sources.

The article goes on to say:

That lament resounded across the West today, as 18 large blazes burned in six states, consuming acreage at a pace roughly double the 10-year average.

The reason I want to talk about that very briefly, as I did yesterday morning, is that today in the West over 2.5 million acres of public land have now been charred into a smoldering rubble—homes, beautiful wildlife habitat, timbered acreages—that simply we forgot because the public policy of this country said, over a decade ago: Leave the land to Mother Nature and walk away. And in our walking away, in the pursuit of the environment, Mother Nature took charge.

Today, Mother Nature rules the West, and her mode of operation is a monstrous wildfire consuming the public timber reserves of the West, the wildlife habitat, and the watershed.

To put in context 2.5 million acres having burned currently, on the same date in 2000—a year when we burned over 7.3 million acres, in 2000—at this point in time, we had only burned 1.2 million acres. So today we have already burned double what we burned by this time in 2000. And 2000 was the worst in recorded history of fires on public lands.

Why is this happening? Again, neglect. Again, an irresponsible public policy that took people off the land and did not allow us to manage it in wise and responsible ways for all of the multiple-use values we hold dear to our public lands.

It is a tragedy of nature. It is a tragedy we have made. It is a tragedy we can solve. We well ought to solve it by a much more prudent public policy. But it will take decades now to begin to reverse what we have allowed to happen.

Where there were once 150 trees per acre in the public forests, today there are 400 or 500 trees per acre, oftentimes growing like weeds, and resulting in equivalent Btu's of 10,000 to 15,000 to 20,000 gallons of gasoline per acre. And when the temperature is right, and the humidity is right, and the drought is running rampant across the Southwest, as it is today, we set in motion the ''perfect storm,'' only in this case it is the perfect firestorm that has now consumed nearly 500 homes in Colorado, in Arizona, and in New Mexico. And our summer, our fire summer—the long hot summer in the West—has just begun.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. EDWARDS). Morning is business closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

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

The assistant legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 4007

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I will await the distinguished chairman, but it is my anticipation that we will move to the issue pending; that is, missile defense. I will send to the desk at this time an amendment on my behalf and that of the Senator from Georgia, Mr. MILLER.

I will not ask it to be the pending business, as a courtesy to my chairman, until he arrives. I anticipate upon his arrival that we will work out a procedure by which a second degree will be added. As a courtesy, I will wait until he arrives.

Mr. REID. If the Senator will yield, it is my understanding he will send his amendment to the desk but not call it up.

Mr. WARNER. That is correct. I will call it up, but I would prefer, as a courtesy, to allow Mr. LEVIN to examine it and then hopefully we can agree upon a procedure whereby he would then file a second degree, and then we can have hopefully the Senate address the two issues.

Mr. REID. I think if we want this to be the pending business, what we should do is have the amendment called up. I ask unanimous consent, because we have talked about this for some time, that Senator LEVIN or someone on his behalf would have the right to second degree the amendment.

Mr. WARNER. I am perfectly willing to agree to that at this point and ask that it be the pending business, if that is the guidance you wish.

Mr. REID. I ask unanimous consent then, in keeping with the statement of the Senator from Virginia, that Senator LEVIN or his designee would be allowed to offer a second-degree amendment and no one would have a right to offer one prior to him.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, I ask that my amendment be the pending amendment.

The PRESIDING OFFICER. Is the Senator objecting?

Mr. WARNER. No.

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

Mr. WARNER. Given that the chairman will arrive in a few minutes, I am happy to yield the floor to my colleague for such purposes.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. MILLER, Mr. LOTT, Mr. STEVENS, Mr. COCHRAN, Mr. ALLARD, Mr. KYL, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. THURMOND, Mr. SESSIONS, Mr. ROBERTS, Mr. HUTCHINSON, Mr. BUNNING, Mr. HELMS, Mr. MCCAIN, Mr. NICKLES, and Mr. HAGEL, proposes an amendment numbered 4007.

The amendment is as follows:

(Purpose: To provide an additional amount for ballistic missile defense or combating terrorism in accordance with national security priorities of the President)

On page 217, between lines 13 and 14, insert the following:

SEC. 1010. ADDITIONAL AMOUNT FOR BALLISTIC MISSILE DEFENSE OR COMBATING TERRORISM IN ACCORDANCE WITH NATIONAL SECURITY PRIORITIES OF THE PRESIDENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts authorized to be appropriated by other provisions of this division, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2003, $814,300,000 for whichever of the following purposes the President determines that the additional amount is necessary in the national security interests of the United States:

(1) Research, development, test, and evaluation for ballistic missile defense programs of the Department of Defense.

(2) Activities of the Department of Defense for combating terrorism at home and abroad.

(b) OFFSET.—The total amount authorized to be appropriated under the other provisions of this division is hereby reduced by $814,300,000 to reflect the amounts that the Secretary determines unnecessary by reason of a revision of assumptions regarding inflation that are applied as a result of the midsession review of the budget conducted by the Office of Management and Budget during the spring and early summer of 2002.

(c) PRIORITY FOR ALLOCATING FUNDS.—In the expenditure of additional funds made available by a lower rate of inflation, the top priority shall be the use of such additional funds for Department of Defense activities for combating terrorism and protecting the American people at home and abroad.

AMENDMENT NO. 4009

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, if I could have the attention of Senator WARNER for one moment, it is my understanding the amendment which I will send to the desk very shortly has been approved on both sides. It is cosponsored by Senators BIDEN, LUGAR, LANDRIEU, HAGEL, BINGAMAN, MURKOWSKI, CARNAHAN, LINCOLN, and MIKULSKI.

I send the amendment to the desk and ask for its immediate consideration. I assume I have to ask that the pending amendment be laid aside.

The PRESIDING OFFICER. The Senator is correct.

Is there objection to laying aside the pending amendment?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, I will ask my good friend if he will allow the two managers to have a chance to consult on this. It is my understanding

that the amendment is cleared on both sides.

Mr. DOMENICI. I wouldn't have come here unless it had.

Mr. WARNER. I am certain of that. Our attention was diverted by other matters to get started this morning. If you will just forebear for a brief period, we will see if we can't accommodate the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I would like to speak for a few moments on the subject they will clear shortly, the amendment to which I referred and listed the cosponsors, to whom I am extremely gratified for their support. Senator BIDEN is my principal cosponsor. We hope that this bill will move along and be known as the Domenici-Biden nonproliferation amendment.

This amendment supports the nonproliferation program proposed in a bipartisan Senate bill, the Nuclear Nonproliferation Act of 2002. Today, Senators BIDEN, LUGAR, LANDRIEU, HAGEL, BINGAMAN, MURKOWSKI, CARNAHAN, LINCOLN, and MIKULSKI are cosponsoring this amendment.

The end of the Soviet Union in 1991 started a chain of events, which in the long term can lead to vastly improved global stability. Concerns about global confrontations were greatly reduced after that event.

But with that event, the Soviet system of guards, guns, and a highly regimented society that had effectively controlled their weapons of mass destruction, along with the materials and expertise to create them, was significantly weakened. Even today, with Russia's economy well on the road to recovery, there's still plenty of room for concerns about the security of these Russian assets.

The tragic events of September 11 brought the United States into the world of international terrorism, a world from which we had been very sheltered. Even with the successes of the subsequent war on terrorism, there's still ample reason for concern that the forces of al-Qaida and other international terrorists are seeking other avenues to disrupt peaceful societies around he world.

In some sense, the events of September 11 set a new gruesome standard against which terrorists may measure their future successes. There should be no question that these groups would use weapons of mass destruction if they could acquire them and deliver them here or to countless other international locations.

One of our strongest allies in the current war on terrorism has been the Russian Federation. Assistance from the Russians and other States of the former Soviet Union has been vital in many aspects of the conflict in Afghanistan.

President Putin and President Bush have forged a strong working relationship, and the summit meeting was another measure of interest in increased cooperation. As this amendment seeks to strengthen our nonproliferation programs, it provides many options for actions to be conducted through joint partnerships between the Russian Federation and the United States that build on this increased cooperative spirit.

The Nunn-Lugar program of 1991 and the Nunn-Lugar-Domenici legislation of 1996 provided vital support for cooperative programs to reduce the risks that weapons of mass destruction might become available to terrorists. They established a framework for cooperative progress that has served our Nation and the world very well. But despite their successes, accomplished in the face of some enormous challenges, there remain actions that should be taken to further reduce these threats.

This amendment would expand the current nonproliferation programs of the Department of Energy, most of which trace their origins to those original Nunn-Lugar and Nunn-Lugar-Domenici bills. Before I discuss this amendment, I would like to review some our progress to date.

For example, the Nuclear Materials Protection, Control and Accounting program has improved the security of at least one-third of the fissile materials in the former Soviet Union. Comprehensive upgrades have been largely completed on the Russian Navy's stocks of weapons usable materials, with work completed at 10 of their 11 storage sites.

Border security is being improved through the Second Line of Defense program. I recall when I participated in the initial ribbon-cutting of this system at Moscow's main airport in 1998. Now this equipment is at over 20 sites in Russia and the Ukraine.

Programs to counter ''brain drain'' have moved ahead. The Initiatives for Proliferation Prevention of IPP program has shown excellent progress in recent years in the daunting task of creating commercial opportunities for weapons scientists throughout the former Soviet Union. To date, over $50 million of venture capital has been attracted on several major projects and more than 10,000 technical personnel have been engaged since the program began.

Under IPP, about 100 American businesses are working in Russia, and they've contributed over $100 million of their own funds in support of efforts in which our Government has invested about $70 million. About 400 projects are currently in progress with 100 of those in the closed nuclear cities. American businesses are sharing costs on 132 of those projects.

The Nuclear Cities Initiative has one of the most challenging tasks of all the programs—to work cooperatively with the Russians to down-size their vast nuclear weapons complex. The closed nuclear cities that make up this complex have immense technical capabilities, but they have to be, at least in the past, one of the most business-unfriendly places in the world.

In 1998, I visited Sarov, the Russian version of Los Alamos. It was a fascinating place where the hospitality of my hosts was most impressive. I still remember visiting their weapons museum and standing beside a 60-megaton bomb that was once destined for our shores. Despite their history, they displayed significant interest in shifting their weapons focus to commercial interests.

Today, there's been real progress in Sarov. For example, there is a signed agreement with the Russians to terminate all weapons construction work at Sarov by 2003. Many commercial ventures are now underway including an Open Computing Center, which provides employment opportunities for former weapons scientists through software development and computer modeling.

The HEU deal has largely remained on track, although it's required some help from Congress to keep from derailing. That program has the goal of rendering 500 tons of weapons grade highly enriched uranium un-usable for weapons by converting it into ordinary reactor fuel. To date, 146 tons have been converted, enough for about 6,000 warheads.

Despite the successes of the Nunn-Lugar and Nunn-Lugar-Domenici legislation, there remain many actions that should be taken to further reduce these threats. This new amendment expands and strengthens many of the programs established earlier, to further reduce threats to global peace.

It addresses one of the most important realizations from September 11—that the forces of terrorism span the globe. It's now clear that our nuclear nonproliferation programs should extend far beyond the states of the former Soviet Union.

This amendment expands the scope of several programs to world-wide coverage. It focuses on threats of a nuclear or radiological type, which largely fall within the expertise of the National Nuclear Security Administration.

Just today, the National Research Council released their major report on ''The Role of Science and Technology in Countering Terrorism.'' They present a number of critical recommendations to address threats of nuclear and radiological terrorism. I'm very pleased that the legislative basis for most of their suggestions is in this amendment.

This amendment expands programs to include the safety and security of nuclear facilities and radioactive materials around the world, wherever countries are willing to enter into cooperative arrangements for threat reduction. It recognizes that devices that disperse radioactive materials, so-called ''dirty bombs,'' can represent a real threat to modern societies. This is one of the key recommendations of the National Research Council.

Dirty bombs could be used as weapons of mass terror, property contamination, and economic disaster. We need

better detection systems for the presence of dirty bombs that are appropriate to the wide range of delivery systems for such a weapon, from trucks to boats to containers. And we need to be far better prepared to deal with the consequences of such an attack.

The new legislation includes provisions to accelerate and expand existing programs for disposition of fissile materials. These materials, of course, represent not only a concern with dirty bombs, but also the even larger threat of use in crude nuclear weapons.

It includes a program to accelerate the conversion of highly enriched uranium into forms un-usable for weapons. It addresses one of the major concerns associated with this material that, many years ago, both the United States and the Soviet Union provided HEU to many countries as fuel for research reactors. That fuel represents a proliferation risk today. This accelerated conversion is another of the prime recommendations of the National Research Council.

It authorizes new programs for global management of nuclear materials, in cooperation with other nations and with the International Atomic Energy Agency. It recognizes that modern societies use radioactive materials as essential tools in many ways, and offers assistance in providing new controls on the most dangerous of these materials.

It suggests that many of the program elements involve international cooperation with the Russian Federation and with other nations. In fact, it recognizes that the global nature of the current threats requires such cooperation, and provides authorizations for the Secretary of Energy to assist the Secretary of State in offering significant help to other nations. We cannot accomplish these programs without such cooperation.

This amendment includes provisions extending the First Responder training programs, originally created under Nunn-Lugar-Domenici. These programs have already made real contributions. In fact, the training provided under this program in New York City helped mitigate the catastrophe there on September 11. That program was authorized for only 5 years in the original legislation, this bill extends that authorization for another 10 years.

The amendment requires annual reports demonstrating that all our nonproliferation programs are well coordinated and integrated. The original call for this coordination was in the Nunn-Lugar-Domenici legislation.

The report must disclose the extent of coordination and integration between federally funded and private activities. That is very important, because of the excellent work being done by private organizations, like the Nuclear Threat Initiative, that are providing critical assistance toward similar nonproliferation goals.

With this amendment, our programs to counter threats of nuclear and radiological terrorism will be significantly strengthened and risks to the United States and our international partners greatly reduced.

The amendment authorizes $15M for a new R&D and demonstration program to address nuclear or radiological (''dirty bombs'') terrorism. Includes new responsibilities in First Responders program. Includes a partnership with Russia and extends assistance to any country in dealing with either stray radioactive sources or with a dirty bomb incident. (Section 3156);

Extends the expired authorization for training of First Responders. (Section 3155);

Authorizes $40 million to accelerate the ''blend-down'' of Highly Enriched Uranium. Authorizes new approaches, in addition to the HEU Deal, to increase the rate at which HEU is modified to render it incapable of weapons use. Extends an option to all nations with HEU to receive compensation in return for providing their stocks of HEU now. (Section 3158);

Authorizes $5 million to extend MPC&A to the international community and develops options, working jointly with Russia, to accelerate conversion of reactors fueled with HEU. (Section 3157);

Encourages the Secretary to finalize an agreement with Russia for plutonium disposition that meets specific criteria. (Section 3159A);

Authorizes $20 million for the Department to work with the international community to develop options for a global program for international safeguards, nuclear safety and proliferation-resistant nuclear technologies. Amount includes $5 million for the Department to increase nuclear safety work related to sabotage protection for nuclear power plants and other nuclear facilities overseas and $10 million, led by DOE/NE, for advanced, proliferation resistant fuel cycles. (Section 3159B);

Authorizes $15 million to expand programs supporting the IAEA in strengthening international nuclear safeguards. (Section 3159B);

Authorizes $5 million for assisting nations develop stronger export controls. (Section 3159C);

Requires development of a comprehensive ten year plan to develop a sustainable approach to MPC&A in the Russian Federation. (Section 3159D);

Requires annual report on coordination and integration of all U.S. nonproliferation activities describing programs, synergies, coordination including with private efforts, opportunities for new joint cooperative programs with foreign countries, and funding requests integrated across all federal agencies. Extends reporting requirement in FY2002 Defense Authorization Act to an annual report. (Section 3159E); and

Streamlines contracting by other agencies with DOE labs for anti-terrorism work. Agencies may elect to follow the new procedures or may use standard Work For Others model. (Section 3159F).

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we simply need a little time on this side to give it consideration. The chairman and I have just commenced a discussion on how we will proceed on the bill today. I would hope in due course we can indicate to the Senator that it will be accepted on both sides.

Mr. DOMENICI. Mr. President, I have already sent the bill to the desk. It obviously will not be referred to committee unless and until it is cleared by the managers pursuant to the conversation we have had.

I would ask that we follow the course I have just indicated.

I yield the floor.

Mr. LEVIN. Mr. President, does the Senator have a copy of the amendment handy?

Mr. DOMENICI. Surely. I will provide it to the Senator.

Mr. LEVIN. We are pretty sure this is the one we already have.

Mr. DOMENICI. Yes, it is.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, we support the amendment on this side. We have cleared it. We are willing to see it adopted by voice vote.

Mr. WARNER. Mr. President, we now have clearance on our side. I thank the chairman. We are ready to move forward on the amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the pending amendment be laid aside and the Domenici-Biden amendment be the pending business.

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

The pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. BIDEN, Mr. LUGAR, Ms. LANDRIEU, Mr. HAGEL, Mrs. CARNAHAN, Mr. MURKOWSKI, Mr. BINGAMAN, Mrs. LINCOLN, and Ms. MIKULSKI, proposes an amendment numbered 4009.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. BIDEN. Mr. President, I am pleased to join today my good friend and colleague, Senator DOMENICI, in introducing a vital amendment to the Department of Defense authorization bill to reduce the odds that terrorists or rogue states will acquire the necessary ingredients overseas for nuclear and radiological terrorism. This amendment takes important steps to expand the legal mandate for specific U.S. nuclear nonproliferation programs and lays down a marker on the necessary funding levels.

We have every expectation that, before this bill emerges from conference, the additional money will indeed be made available through both the supplemental fiscal year 2002 appropriations and regular fiscal year 2003 appropriations. Senator DOMENICI is to be both commended and supported for drafting this amendment, and the underlying bill, S. 2545, from which it is derived.

This amendment will lead to greater levels of effort and, I believe, greater levels of achievement in U.S. nuclear nonproliferation programs.

For example, it authorizes $40 million to accelerate and expand current international programs to blend down highly enriched uranium (HEU) needed to make nuclear bombs, making it less likely that terrorists or rogue states will get their hands on lethal nuclear materials.

It authorizes $35 million to develop options for a global program for international safeguards and proliferation-resistant technologies to ensure that civilian nuclear reactors in other nations are not illicitly producing significant quantities of weapons-grade material or are vulnerable to terrorist assault.

This amendment also allocates $30 million in funding for a new research, development, and demonstration program to help respond to nuclear or radiological terrorism. For example, the program would fund expanded research into monitors and gauges capable of detecting nuclear and/or radiological materials, for use at border crossings and ports of entry. It will help identify and account for radioactive sources located abroad. And all of these efforts will be carried out in cooperation with Russia and the rest of the international community.

On May 8 Jose Padilla, an American citizen working with al-Qaida, was arrested on the charge of planning to attack the United States with a Radiological Dispersion Device, more commonly called a ''dirty bomb.''

Padilla is only the first person associated with a major terrorist group to have been caught plotting an attack using a radiological weapon. It would be folly to think that he will be either the last or the most competent and successful.

The fact that radiological terror is real and a threat to the nation will come as no great surprise to the Senate. On March 6 the Foreign Relations Committee held a public hearing on the twin threats of nuclear and radiological terrorism. On March 5 we held a classified briefing on the same subject, followed a month later by an even more detailed classified session for all Senators.

We assembled the finest scientists from government, the nuclear weapons laboratories, public interest groups and academia to speak of the dangers of dirty bombs. Without exception they told us that there was a real possibility that terrorists could obtain radioactive material and blow it up with a conventional bomb, spreading the material for miles.

But they also agreed on the likely consequences of a radiation attack on an American city.

Despite Attorney General John Ashcroft's statement from Moscow on June 10 that a dirty bomb can ''cause mass death and injury,'' the facts are very different. The Foreign Relations Committee learned that even the worst credible radiological attack will not be catastrophic. Few, if any, Americans will die from the radiation or even experience the symptoms of radiation poisoning. Most, if not all, of the casualties will come from the conventional explosive used to spread the radioactive material.

The bottom line on casualties is: A dirty bomb won't kill very many people.

But a dirty bomb could still be an economic crime of the first magnitude. We do not know how to decontaminate large buildings and large areas to the degree that the Environmental Protection Agency mandates.

The levels EPA uses in the case of accidents within a laboratory are extraordinary: clean-up must be so complete that out of 1,000 people living on-site 24 hours a day for about 40 years, only 1 additional person would die of cancer.

We must begin to examine the radiation protection rules in the light of homeland security in the event of an attack instead of just applying the strict environmental guidelines appropriate to peacetime.

Our witnesses estimated that if a small device, containing only a few curies of cobalt-60 or cesium-137, had been detonated in lower Manhattan on September 10, 2001, and if existing EPA rules were applied to the clean-up, more buildings would have had to be evacuated, razed, and trucked away to low-level radioactive waste dumps than were lost or damaged by the al-Qaida attack of September 11. That is more damage, more financial loss, than was caused when the Twin Towers came down, but with this difference: almost nobody would be killed. At most a few dozen people might get sick.

We must do more to prepare for an attack, and also to prevent one. Fortunately, we can, in fact, make such an attack much harder to pull off and much easier to recover from.

Proper preparation for an attack will make a world of difference; we need to begin putting response plans into place and testing them rigorously, both in the field and in table-top exercises.

First responders need the tools to act. You cannot see or smell radiation; it can only be detected with special instruments.

Small radiation detectors are the size of a pocket pager; larger ones could easily be built into a squad car.

A network of detectors in fixed locations could be erected, a few per square mile, in cities such as Washington or Wilmington at a cost of a few million dollars per city.

Such sensors might provide early warning of smuggled material on the roads and information on affected areas if somebody brings radiological terror to our cities.

Avoiding panic among the American people will be an important goal of responders, and that will require education. Claims of probable mass casualties from a radiological attack do an injustice to the American people. If repeated over and over again this doom-saying will be a self-fulfilling prophecy spreading panic if an attack actually does happen.

Should we be attacked by radiological terrorists, there are very simple things those who have been exposed can do to reduce their chances of being a casualty to nearly zero.

The first is to remain calm.

The next is to stay near the point of exposure long enough for nuclear response crews to check for radioactive contamination.

And the last, the easiest, is to put your clothes in a plastic bag and then take a good shower and shampoo. Radioactive dust washed off the body is radioactive dust no longer available to do harm to you.

We need to look to the radioactive material itself. Radioactive sources must be kept in responsible hands; but that is difficult because they are used throughout industry, for example, to take x-ray pictures of oil pipelines, and even to tell if a can of soda is properly filled.

Radioactive sources are indispensable to modern medicine, where they are used to treat cancer or to perform crucial diagnostic tests. We should not eliminate these sources from our society.

We can, however, provide greater protection for such sources.

Before September 11, the Nuclear Regulatory Commission focused its efforts on safety. It assumed that licensed users were responsible users. Since September 11, the Commission has begun to reevaluate its rules with the added assumption that some folks might seek licenses in order to gain access to the material as part of a plot to attack this country or its allies.

We need tighter rules, and we also need a bigger Federal effort to track down and secure missing radioactive sources. The fact is that sometimes sources just go astray; they are ''orphaned,'' in the jargon of that business. There are very few places where companies can safely dispose of sources they no longer need.

The Department of Energy ''Off-Site Source Recovery Program'' is supposed to take charge of excess sources. But the administration has cut this vital program from $5.7 million in fiscal year 2001 to a paltry $2.2 million requested for fiscal year 2003. Congress should fix that.

Overseas, the greatest threat is likely to come from the poorly guarded radioactive materials from the former Soviet Union.

Late in 2001, two containers containing enormous amounts of radioactive strontium-90 were found by hunters in the woods of the Republic of Georgia. The sources were so hot that they melted the snow for yards around, leading the three woodsmen to cart them off to warm their tent. By the next morning all were sick with radiation poisoning, including severe burns where they had touched the containers.

Those two radioactive sources were left over from a Soviet program to build compact, powerful, and very portable electrical generators for use in remote areas. Nobody knows where all of the Soviet-produced generators wound up, but wherever they are, they are very dangerous.

Other countries, including Brazil and Mexico, have seen old sources stolen, broken into, melted down to make reinforcing bars and patio furniture, with resulting injuries and deaths to some of their citizens.

The United States must work through the International Atomic Energy Agency to ensure the physical protection and accountability of significant radioactive sources throughout the globe. This will require additional U.S. voluntary contributions to the IAEA and may also require additional non-proliferation assistance to the states of the former Soviet Union. After all, that is where the majority of the unaccounted for hot sources are thought to have been made.

I commend the administration for yesterday's announcement of a new joint United States-Russian program to spend $20 million this year to secure and safeguard radiological materials in the former Soviet Union. The program would focus on the radioactive power generators I mentioned earlier, as well as a dozen poorly guarded storage areas for radiological materials. Of course, the former Soviet Union is not the sole overseas repository of radioactive sources attractive to terrorists. But this program may serve as a model for future efforts.

So there is plenty for us to do to lessen the risk and the impact of radiological terrorism. The United States has begun to contribute to the IAEA's Program Against Nuclear Terrorism. Today's amendment is a good step in increasing U.S. assistance in this area.

But I worry far more about something even worse than radiological terrorism. I worry about terrorists building or stealing a real atomic bomb. Our committee learned in chilling detail, in classified session, just how easy it is to make a bomb, given only a comparatively small amount of highly enriched uranium-235. In those sessions Senators were able to see and handle a full-scale mockup, complete in almost every detail, but using inert material instead of uranium.

I won't reveal the design; I don't want to give away any information that could be used against us. But building that device is easy. It could be done in a machine shop with ordinary lathes and drills and mills without any need for computer-controlled and export-controlled dual-use equipment.

And it would fit in the trunk of a compact car or the back end of a pickup.

Those who attended the briefing also saw a small tactical nuclear weapon, again a full-scale mockup of a real one once in the U.S. inventory. With one of those you don't need a fancy brief-case bomb; you can lift it with one hand.

I am not worried about American nuclear weapons going missing, but I am very worried about the tens of thousands built by the Soviet Union. Their tactical nuclear weapons are no bigger than ours, and unless Russia's security for those weapons is a lot better than for its chemical weapons, our colleagues in the Russian Duma should be as worried as I am.

Terrorists with an improvised nuclear device or a stolen weapon could kill tens or hundreds of thousands of people, not a mere handful. A crude nuclear weapon set off at Metro Center would likely kill people near the Capitol complex. A Hiroshima-sized bomb detonated near the White House would leave the Capitol in ruins.

And, talk about a dirty bomb, a small nuclear blast at ground level would spew out hundreds or thousands of times more radioactive material than the biggest dirty bomb imaginable. That much fallout would kill Americans.

We must invest in new technologies to detect bomb-grade uranium and plutonium. That is not an easy task. Neither material is particularly radioactive, at least not compared to cesium-137, cobalt-60, strontium-90 and iridium-192, the isotopes of choice for a dirty bomb. Frankly, we do not know how to detect most bomb-grade fissile material today; certainly not if the weapon is shielded a bit, concealed in a cargo container being whisked through our ports or stashed in the hold of a freight aircraft.

None of us knows how long we have to prepare for nuclear terrorism, but we know for sure that the terrorists are shaping their own plans. We, this body, must act sooner rather than later: to provide our responders the tools they need; to secure radioactive and fissile material, both here and abroad, to the greatest extent possible; and to secure our borders against smugglers who would literally flatten our cities.

The Baker-Cutler report card on Department of Energy non-proliferation programs with Russia proposed spending about $30 billion over 8 to 10 years to secure Russia's excess plutonium and bomb-grade uranium, improve security controls on its nuclear materials, and downsize its nuclear complex without leaving its weapons scientists prey to offers from rogue states or terrorists.

Senator Baker and Mr. Cutler called this ''the most urgent unmet national security threat to the United States today.'' In my view, they were absolutely right. Indeed, we must build on their recommendations: by adding support for programs to secure radioactive sources; and by securing any weapons-grade material in nuclear reactors around the world.

This amendment Senator DOMENICI, I, and our fellow co-sponsors are introducing today takes some sensible steps toward these goals. For example, the new research, development, and demonstration program I mentioned earlier will help fund efforts to assist other nations in developing means for the safe disposal of radioactive materials and a proper regulatory framework for licensing control of radioactive sources.

But we all must recognize that this amendment is only a first step to address a threat of this urgency and magnitude.

Today we spend $7 or $8 billion a year to guard against the unlikely event of Iran, Iraq, or North Korea putting a nuclear weapon on an intercontinental ballistic missile with a return address, and firing it at us despite the assurance of overwhelming retaliation. We need to show the same sense of urgency in combating the more immediate risk of a more anonymous nuclear weapon without that missile.

In the wake of the World Trade Center attacks, committees of the House and Senate are rightly asking whether more could have been done to detect and prevent that attack and how we can do a better job in the future.

What sort of investigation will we have? How will we rebuild our people's trust in government? And what will we tell our children and grandchildren, if we fail to do everything we can to prevent terrorists from doing a hundred times more harm?

Mrs. CARNAHAN. Mr. President, I am pleased to support amendment No. 4009 to the Defense Authorization Act introduced by my colleague from New Mexico.

This legislation is a significant step forward in the protection of our Nation from weapons of mass destruction.

Since the end of the cold war, the United States has taken considerable steps to reduce the spread of these weapons.

Senators Domenici and Lugar, along with former Senator Nunn, have been true visionaries in this field.

Because of their efforts, we face less of a threat from the Soviet Union's nuclear legacy than we would have otherwise.

The Department of Defense's Cooperative Threat Reduction Program and the related programs at the Department of Energy are truly ''defense by other means.''

While these far-sighted programs have been very successful, they were not designed to address some of the terrorist threats we now face.

To address these shortcomings, I introduced the Global Nuclear Security Act. This legislation attacks the problem in three ways.

First, it calls on the Departments of Energy, State, and Defense, to develop a plan to encourage countries to adhere to the highest security standards for all nuclear material.

Second, it requires the DOE to develop a systematic approach to secure radiological materials outside the United States that could be used to create a so-called ''dirty bomb.''

Third, it directs the DOE, in consultation with the Nuclear Regulatory Commission and the International Atomic Energy Agency, to develop plans for reducing the threat of terrorist attacks on nuclear power plants outside the United States.

I was pleased to work with Senators LANDRIEU, ROBERTS, LEVIN, and WARNER to incorporate this legislation into the Defense Authorization bill.

Now, I am pleased to join Senator DOMENICI, and many other colleagues in supporting legislation that will build on the accomplishments of our threat reduction programs and the Global Nuclear Security Act.

This amendment would broaden and extend several existing threat reduction programs.

Among its many provisions, it calls for the National Nuclear Security Administration to increase research efforts to identify technologies directed at protecting us from weapons of mass destruction.

It echoes my call for the NNSA to produce a plan, and to move quickly on that plan, for expanding the nuclear material protection and control program outside of the former Soviet Union, and focusing on protection and control of material that could be used to create ''dirty bombs.''

This amendment also seeks to accelerate the disposal of highly enriched uranium and plutonium found around the world through a variety of methods.

Senator DOMENICI's amendment greatly complements the Global Nuclear Security Act.

And the combination of these two pieces of legislation makes this Defense Authorization bill stronger. Not only are we authorizing the Administration to develop strategies for curbing the spread of dangerous materials, but we are mandating swift action to implement these plans.

I urge my colleagues to vote in favor of this amendment.

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

The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 4009) was agreed to.

Mr. DOMENICI. Mr. President, I thank the chairman and ranking member. I believe the cross section of Senators cosponsoring the amendment indicates the broad support for it.

There is nothing more important than the United States doing its utmost in this era of nonproliferation, where we do everything we can to make sure that terrorists now, and in the future, have the most difficult time getting their hands on weapons of mass destruction.

There is even a significant American effort in this amendment with reference to ''dirty'' bombs. The Senators and staff who have reviewed it think it gives America and the world a better chance of finding out where the components are before things happen, and sets up guidelines and criteria so that many different discernment points are available but not just in the United States.

So after a lot of work on this amendment by many, I thank the Senate for adopting it. I yield the floor.

Mr. LEVIN. Mr. President, I commend and congratulate Senator DOMENICI. He has been very active in the fight against proliferation. This gives the DOE important additional capability and authority to help us win the war against proliferation. This is a very important contribution to the nonproliferation effort. I was proud to cosponsor this amendment. Again, I commend the Senator from New Mexico.

Mr. WARNER. Mr. President, I join the chairman in that commendation.

Regarding the Domenici amendment, I move to reconsider the vote at this time.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, the Defense authorization bill has been brought to the floor by the chairman and ranking member, two Senators for whom I have high regard—Senator LEVIN and Senator WARNER. They have done a masterful job for many years dealing with defense issues. I applaud them for their work and think they do this country a great service.

Having said all that, I wish to speak about a number of issues related to this Defense authorization bill. This is a time, obviously, when the President has called for and the Congress will respond with an increase in funding for our Nation's defenses. We are at war. We have a war against terrorists, and clearly we are going to need some additional funds to prosecute that war. The President has asked for the funds, and we will provide them.

Following the attack on this country on September 11 of last year, the men and women of our Armed Forces were called on once again to travel far from home and serve in our Armed Forces to defend our country's interests and our liberties.

I have in recent months visited, as some of my colleagues have, our men and women in the Armed Forces who serve in central Asia. I have been to a former Soviet airbase in Uzbekistan. I have been to Baghram airbase in Afghanistan. I have been to see the troops in other of the countries surrounding that area of central Asia.

I have visited many defense installations during my time as a member of the Defense Appropriations Subcommittee, but I have never before seen the kind of pride that I saw in the eyes of the men and women who serve our country post 9/11, serving our country in difficult conditions, in places far from home.

At an old Soviet airbase in Uzbekistan, I saw soldiers living in tents, walking through mud and snow up to their ankles and preparing to be involved in actions and operations in Afghanistan. I could see in their eyes and hear in their voices the pride they have in serving this country in this difficult and important time.

I salute those men and women who are in the Armed Forces today who are doing dangerous work all around the world in prosecuting this war against terrorism.

The question for the Congress is not whether we will increase funding for our defense needs—we will—the question is exactly how do we use that money in a way that represents an effective investment in this country's strength and in this country's defense.

It is the case in this area, just as it is in other areas, that simply throwing money hoping some of it will stick will not necessarily improve this country's defense. So if there are areas where we just cast money about hoping enough of it makes some kind of a difference so we can say we made a difference, I think we do not serve the taxpayers very well in that circumstance. That brings me to the question of national missile defense.

I know there is disagreement about that subject. For some time there has been an appetite in the Senate to dramatically increase funds for national missile defense so we can deploy very quickly a national missile defense system.

Mr. President, from time to time I have shown my colleagues some items that I keep here in my desk. The items are a piece of a backfire bomber wing that was sawed off a Soviet bomber not too many years ago. In addition to that, I have copper wiring from a Soviet submarine. We got this copper wiring from a Soviet submarine, a Russian submarine, by grinding up the wiring under the Pentagon's Nunn-Lugar Cooperative Threat Reduction Program.

The Nunn-Lugar program allows us to destroy our one-time adversary's weapons without firing at them. We reached arms control agreements and the US and the Soviet Union agreed to reduced nuclear warheads and delivery systems. Then we used the Nunn-Lugar program to help countries of the

former Soviet Union actually destroy there excess weapons because they could not afford to do so themselves. Because of the Nunn-Lugar program there is not one missile with a nuclear warhead left in the Ukraine, Kazakhstan or Belarus, and there are lots fewer in Russia.

In Russia, and in the old Soviet Union, we have large circular metal saws cutting the wings off Backfire bombers. We did not shoot them down. We just sawed the wings off, and we paid for it because we were destroying the weapons of a former adversary and reducing nuclear weapons and reducing delivery systems.

That is one way to defend this country: Get rid of nuclear weapons and delivery systems around the world, reduce the stockpile of weapons have threatened this country—the missiles with nuclear warheads that used to be targeted on American cities. On one plot in the Ukraine where there existed an SS–20 missile that was aimed at an American city, there now exists sunflowers. I showed a picture of the sunflowers one day. There used to be a missile buried underground with a nuclear warhead aimed at America. It is now simply dirt with sunflowers. The silo is gone. It is destroyed. The missile is gone. It is destroyed. And the nuclear weapon is dismantled. That makes good sense. That is a defense program that has given us enormous rewards.

That is one part of defending our country: working on arms control and arms reduction agreements and on threat reduction programs that help pay for the destruction of delivery systems and nuclear weapons. That has been enormously successful.

Another approach is developing and building new weapon systems, most of which I support. Take the F–22 fighter, for example. We now know with respect to the gulf war a decade ago and with respect to the war in Afghanistan against the Taliban and the al-Qaida terrorists that if you control the skies, you can control virtually everything.

The F–22, for example, is expensive, but it is the next generation of fighters that will allow us to control the skies, and I support it. I think it makes sense. We must develop and fund those advanced systems that allow us anywhere in the world to defend liberty and give our Armed Forces the latest weapons technology in defense of America. That brings me to the question of national missile defense.

Missile defense has been a desire by many for a long while. Would we like to have kind of a catcher's mitt of sorts by which if someone shoots a missile at our country we can catch it before it gets here, stop it, and destroy it? I think everyone in this Chamber believes that would be advantageous. Of course, the technology does not exist at this point. It is the equivalent of hitting a bullet with a bullet. It is a technology we have spent billions of dollars trying to develop, but it does not yet exist.

Some say let's keep throwing money after it as quickly as we can possibly throw money at it. I say, no, let's invest substantial amounts of money in research and development, but lets not spend more than is justified.

The chairman of the committee authorizes $6.8 billion in this authorization bill—that is ''billion'' with a ''b''—to continue the activities on national missile defense. That is roughly $800 million short of what the administration asked for, and that is what the Senate is now debating.

It seems to me, when we take a look at the threats to this country, we should get ourselves a meter. What is the threat meter? With what are we threatened? One threat is that a terrorist, a rogue state, or a terrorist group would get access to an intercontinental ballistic missile, put a nuclear warhead on it, and shoot it at America.

We have had that threat for a long while with respect to other countries. We lived for 40 years with the Soviet Union having literally thousands of missiles with nuclear warheads aimed at America's cities. Why did they not use those missiles? Because they knew if they sent one missile with a nuclear warhead into this country, we would vaporize their country because we had a deterrent capability with so many missiles and so many warheads that anyone who attacked our country would immediately be vaporized.

Nuclear exchange is an exchange no other adversary, under any condition, could win. They knew that. We knew that. It was called mutually assured destruction.

Some say that does not work with terrorists, it does not work with rogue nations. So we must create a national missile defense system.

Now I speak with at least some small amount of authority in this Chamber because I come from the only State in the United States that had an anti-ballistic missile system built in it.

In the year 1972, following years of funding, this country built one anti-ballistic missile site. It was built in Nekoma, ND, a very small community in northeastern North Dakota. If one drives there today, they will see a huge concrete pyramid, and they will see other buildings that are now in mothballs.

In 1972, we had the one and only anti-ballistic missile site in the United States of America. Within 30 days of its activation, it was mothballed. It cost billions, was operational for 30 days, and it was mothballed.

Now, that was a different technology from the one we are discussing now. Back then they decided what we will do is if someone shoots missiles at us we will send up an interceptor missile with a nuclear warhead and we will explode that nuclear warhead up in the heavens somewhere and we will destroy everything that is coming in. It was a very different technology.

The United States decided that nuclear technology really is not something that would be workable. So now the research since 1972 has been on technology to try to find a way to hit a bullet with a bullet. We have spent billions and billions of dollars to do so.

The question today for the Congress is, Do we want to spend another $800 million above that which the authorizing committee has authorized? Some say we need that. Others say, no, that is throwing money around, and it is not an effective investment and can be more effectively used in other areas. I mentioned that one threat on the threat meter is an incoming intercontinental ballistic missile with a nuclear warhead that is sent to us by a terrorist, a terrorist group, or a rogue nation. That is perhaps the least likely threat, if we have a threat meter, that we face.

Perhaps more likely would be a terrorist, a terrorist group, or a rogue nation getting access to a cruise missile, which would be perhaps easier to get access to. It is the size of a couple of 100-pound propane tanks with a nuclear warhead. It flies very low to the ground, not very fast, following the terrain. It is more likely a terrorist might get access to a cruise missile than to an ICBM.

Would the national missile defense system, once we get it built, protect us against a terrorist's or a rogue state's cruise missile? No, it would not.

So we are planning to spend billion and billions on a national missile defense to defend against ICBMs that even if it works, and it is highly suspect whether the technology does exist today, will not help defend us from the more likely threat posed by cruise missiles.

Then what about the rest of the threat meter? Let me describe the threat meter these days since September 11. The threat meter shows that we are much more likely to face a threat that comes in at 2 miles an hour rather than something that comes through at 12,000 miles an hour. Let me describe what that is.

A suspected terrorist in the Middle East about last October or November put himself in a container and had himself loaded onto a container ship. A container ship has all of these containers. They look like the box that an 18-wheel truck hauls behind it. So container ships come into the ports of this country, they have all these containers stacked on board, and a suspected terrorist put himself in a container, got himself nailed in a container.

He had a supply of water on board. He had a GPS. He had a radio. He had a wireless computer. He had a bed. He had a toilet. He put himself in a container and put himself on a container ship to ship himself to Canada.

We have 5.7 million containers come into this country to our ports every single year; 100,000 of them are inspected, which leaves 5.6 million that are not.

I saw a container one day at a port I visited. They had opened up the back of

this container, picked one at random out of the ship. I said, what is in that container? They opened the door for me and they said that is frozen broccoli from Poland.

I said, that is interesting. Do you know anything about what is in that frozen broccoli? We see bags in the back. Do we know what is in the middle of this truck or this container?

Well, no.

Do we know the conditions under which it was grown?

No.

Do we know much about it?

No.

That was one container with frozen broccoli from Poland. We get 5.7 million containers coming into this country's ports every year, and 5.6 million are not inspected. When they pull up to the dock of an American port, they are pulling up at 2 to 3 miles an hour with a big ship. That is a much more likely delivery vehicle for a weapon of mass destruction than a terrorist getting ahold of an ICBM and putting a nuclear tip on the top of it.

So what are we doing about that? Is there anyone who suggests we ought to spend the money so we have some satisfaction and some feeling that we are going to protect ourselves against a weapon of mass destruction in a container on a container ship that comes up to a dock in Los Angeles or New Jersey or some other port in this country at 2 miles an hour, and then is loaded on a bank of tires and is pulled by a truck across the country and then sits in a lot somewhere outside a factory or outside a key installation, perhaps a nuclear power plant?

Is anybody going to do anything about that?

How much money are we going to spend on that? We are told we do not have enough money to solve that problem. So now we are debating $800 million on the issue of national missile defense. The authorizing committee says let's spend $6.8 billion, and others, including the President, say no we need to boost that by $800 million.

I look at the threat meter and I say, what are the threats and what are we doing to respond to those threats? Do we have enough to deal with the threat of the 5.7 million containers that come into our ports every year with the prospect that one of those containers might come into one of those ports with a weapon of mass destruction, sent to us by a terrorist? Everyone knows that it is far easier to do that than to find access to an ICBM with a nuclear weapon.

Before I close let me say a few words about the recent nuclear arms agreements with Russia. I give to the President my compliments that he is dealing with the right subject. When you reach an agreement with Russia with respect to nuclear weapons, that is the right subject. But it is not enough to have a new agreement to simply put nuclear weapons in storage nuclear weapons and to allow their delivery systems to be kept intact.

We need to be the world's leader, to try to stop the spread of nuclear weapons. And we need to be the world's leader in trying to achieve meaningful reductions in nuclear weapons and delivery vehicles.

Frankly, agreements just to put weapons in storage do not reduce the threat. There are over 30,000 nuclear weapons in this world, and if one nuclear weapon is missing, just one, we have a very serious problem. If just one nuclear weapon gets in the wrong hands, we have a very serious problem. If just one additional country becomes a country that is part of the club that has nuclear weapons, this country is less safe and this world is less safe. It is our responsibility, this country's responsibility, to lead in the area of arms control and arms reductions.

We need to do two things. I spoke about one today—and I compliment Senator WARNER and Senator LEVIN—we do need to increase our funding for national defense. But we need to do that in the right way that produces muscle and strength for this country. That is one area.

Second, it is just as important we be as aggressive in this country in pursuit of a world leadership role because it is our job and our role to reduce the spread of nuclear weapons, stop the spread of nuclear weapons, and reduce the number of nuclear weapons in this world. If September 11 tells us anything, it ought to tell us that.

Mr. President, the murder of thousands of innocent Americans by terrorists who want to do additional harm to this country should alert everyone once again that we must be a world leader in stopping the spread of nuclear weapons. That means we must be the world leader in not just mothballing or warehousing weapons, but also in reducing the stockpiles of nuclear weapons.

As we work our way through these discussions about defense, national missile defense, arms reductions and arms control treaties, I hope this country understands its special obligation and also its opportunity to be a leader in something that will make a big difference for this country's future and for the future of the world.

I yield the floor.

Mr. WARNER. I inquire of the distinguished majority whip, in the period of time until the chairman and I have a consensus as to how to proceed, could Senators be recognized for the purpose of just debate on the question related to this bill?

Mr. REID. I say to my friend from Virginia, I had a long conversation with the manager of the bill, the chairman of the committee. Probably about 12:30 we would be ready to offer the second-degree amendments. Staff is working as we speak.

It is my understanding that the two managers of the bill have a number of amendments that could be cleared. It would be appropriate to do that if at all possible. The more time that goes by, the more difficult it is.

Mr. DORGAN. I am unable to hear. I would like to understand what the procedure is.

Mr. REID. Senator LEVIN indicated he will offer his amendment about 12:30, a second-degree amendment. That is the next order of business.

In the meantime, the comanagers will clear a number of amendments they and their staffs have worked on the last several hours. And the Senator from Virginia asked when they completed that, prior to the time that Senator LEVIN was available to offer the second-degree amendment, would it be appropriate for others to speak on the bill. Senator LEVIN, I am sure, agrees it is totally appropriate. I want to make sure it is cleared. If he would want to speak, there is nothing wrong with that.

Mr. WARNER. I think that is constructive. We are anxious to proceed to the extent we have amendments which are cleared. Subject to the chairman's desire, we can proceed to clear those. Senators would be free to discuss any portion of the pending bill. I think they so desire.

There would be an understanding, we will put it in unanimous consent form, that no further amendments can be offered until, say, the hour of 12:30.

Mr. REID. I believe the unanimous consent request now in effect covers that.

Mr. WARNER. We will make certain.

Mr. REID. I ask the chairman.

The PRESIDING OFFICER. No amendments are in order to the Warner amendment prior to filing the Levin second-degree amendment.

Mr. WARNER. That is our understanding.

Mr. LEVIN. Mr. President, I ask unanimous consent that in the time between now and when I lay down the second-degree amendment to Senator WARNER's amendment, others be recognized to speak or we clear amendments between now and that time. Is that in order for a unanimous consent request?

The PRESIDING OFFICER. Consent is not required for that.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I rise in support of the Defense Authorization Act. I begin by congratulating and thanking Senators WARNER and LEVIN for their leadership on this important issue to ensure that our military men and women have the resources and tools to get the important job done of protecting America's homeland and our interests abroad.

I would also like to thank a colleague of ours who was called away. That is Senator MCCAIN, from Arizona. He bears the scars of battle, having served our Nation in the military. There is no one more dedicated to the defense of America than Senator MCCAIN. He was instrumental in the provisions of this bill that will make it possible for more young Americans to serve our Nation in the military. It is ironic that at this

time when we face greater national security challenges than at any time in a generation, so few Americans, particularly young Americans, have served our country in uniform.

Senator MCCAIN and I would like to change that by opening up greater avenues for Americans to serve in the military to protect this country, to attract America's best and brightest to military service. There are provisions in this bill that will do exactly that.

Specifically, we establish a shorter track for military service: 15 months of active duty following basic training with the balance of the service to be served in other capacities. In exchange for this, we will relieve up to $18,000 of student loans for each man or woman who has served in the military and goes on to higher education or has studied in higher education previously. In addition, we provide full 1-year GI benefits following leaving the military and two-thirds of GI benefits for up to 36 months following leaving active service.

This, colleagues, will serve as a powerful incentive for those in our society who want to get a higher education to first or subsequently serve in the U.S. military and the cause of protecting America.

At a time when a college degree is so important to success in the private sector, we believe it is equally important not only for our society as a whole but for the military particularly to attract more men and women with a background in college and higher education in the defense of our Nation. These provisions will accomplish exactly that.

In addition, I am hopeful we can use the national service provisions included in this bill as an additional motivation and incentive to attract more Americans to serving our country in civilian capacities as well.

The amendment of Senator MCCAIN and I will accomplish exactly that. We will extend the AmeriCorps provisions a full fivefold, from 50,000 to 250,000 Americans each and every year, so that every 4-year period 1 million of our citizens, particularly young people, will have served our Nation in capacities that are important, and half of those new AmeriCorps members will be serving America in a homeland defense capacity.

At a time when we need to secure our infrastructure, ports, airways, and railways, at a time when we need to protect our country against biological and other threats, it is important we do so to the extent we can using highly trained and motivated volunteers. It will not only help to instill the ethic of service but protect our country in tangible ways in a manner that is most cost effective.

We seek to reach out and enlist more senior citizens in the cause of putting something back in our society. On the cusp of the baby boom generation beginning their retirement, we will have more Americans living longer, healthier lives than ever before, with more energy and resources to put back into this country. We think senior citizens have a lot to offer America and will seize this opportunity to serve our country if we give it to them, as I believe we must.

We seek to challenge young people involved in our work/study programs to give back to the country that has made their higher education possible. Currently, only 7 percent of those involved in work/study are required to be involved in public service. Senator MCCAIN and I seek to expand that to a full 25 percent over the course of the next 9 years, ensuring a corps of young Americans who are not only getting a higher education but, in the process, building and rebuilding the country that has helped to make that higher education possible.

In all these capacities, we seek to harness the good intentions that have arisen from 9–11—the surge in patriotism, the desire to put something back in this country, to harness those intentions and to channel them into concrete action that will improve America for generations to come. This Defense Authorization Act will do that in terms of encouraging more young Americans to serve in uniform in ways that will tangibly protect this country from military aggression.

At the same time, we seek to enact the Call To Service Act, to channel more energy into civil service as well, to help students learn, to help senior citizens lead independent, productive lives out of their homes, and to meet the other challenges that will make our country not only safe militarily but make our Nation more decent, more compassionate, more just; to remember the challenges we face at home and meet them, just as our brave military young men and women are meeting the security challenges we face abroad.

In summary, the call to service, whether in the military or in the civilian sector, is in the finest of American traditions. It was Thomas Jefferson who once said, in reflecting upon the accomplishments of his own life:

> I would much prefer to be remembered for what I have been privileged to do for others than for what others have so kindly done for me.

This spirit of national service could not be more timely, colleagues. The eyes of the world are upon us today, and they are asking: Does this generation of Americans have what it takes to sacrifice, even for a moment, even in part, the ease and comfort to which we have been accustomed, in the cause of championing and protecting the ideals we claim to cherish? I believe we can. I believe we must.

I thank Senators Warner and Levin for including the military components of our service legislation within this authorization act. I think it will do a lot to strengthen the military in years to come and will strengthen the fabric of society as more Americans, and particularly young Americans, will have had the experience of serving in uniform, with all that that means in forming their own citizenship in future years. At the same time, I urge my colleagues to carefully consider and support our Call To Service Act, which would do exactly the same in the civilian sector, strengthening America in ways that are beyond measure.

I thank my colleagues and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MILLER. Mr. President, recently, ABC canceled country music singer Toby Keith from its July Fourth TV special. They did not want him to sing his song about the September 11 attacks. ''Courtesy of the Red, White & Blue (The Angry American).''

Earlier, a similar thing happened with PBS and Charlie Daniels.

This is a disgrace and the rankest kind of hypocrisy from these advocates of free speech.

I therefore ask unanimous consent that the lyrics of these two patriotic songs by Toby Keith and Charlie Daniels be entered into the CONGRESSIONAL RECORD. And just for good measure, I also ask to include the lyrics of another great patriotic country song from my generation, ''Fightin' Side of Me,'' by Merle Haggard.

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

COURTESY OF THE RED, WHITE AND BLUE (ANGRY AMERICAN)

(By Toby Keith)

American girls and Americans guys
Will always stand up and salute
Will always recognize
When we see Old Glory flying
There's a lot of men dead
So we can sleep in peace at night
When we lay down our head

My Daddy served in the army
Where he lost his right eye
But he flew a flag out in our yard
Till the day that he died
He wanted my Mother, my Brother,
My Sister and me
To grow up and live happy
In the land of the free

Now this nation that I love
Is falling under attack
A mighty sucker punch came flying in
From somewhere in the back
As soon as we could see clearly
Through our big black eye
Man we lit up your world
Like the Fourth of July

Chorus:
Hey, Uncle Sam put your name
At the top of his list
And the Statue of Liberty
Started shaking her fist
And the eagle will fly
And it's going to be hell
When you hear Mother Freedom

Start ringing her bell
And it will feel like the whole wide world
Is raining down on you
Brought to you courtesy
Of the Red, White and Blue

Oh, justice will be served
And the battle will rage
This big dog will fight
When you rattle his cage
You'll be sorry that you messed
With the U.S. of A.
Cause we'll put a boot in your ass
It's the American way

Chorus:
Of the Red, White and Blue
Of my Red, White and Blue

THE LAST FALLEN HERO

(By the Charlie Daniels Band)

Oh the cowards came by morning and attacked without a warning
Leaving flames and death and chaos in our streets
In the middle of this fiery hell brave heroes fell

In the skies of Pennsylvania on a plane bound for destruction
With the devil and his angels at the wheel
They never reached their target on the ground
Brave heroes brought it down

Chorus:
This is a righteous cause so without doubt or pause
I will do what my country asks of me
Make any sacrifice
We'll pay whatever price
So the children of tomorrow can be free
Lead on red, white and blue
And we will follow you until we win the final victory
God help us do our best we will not slack or rest
Till the last fallen hero rests in peace

Now the winds of war are blowing and there's no way of knowing
Where this bloody path we're traveling will lead
We must follow till the end
Or face it all again

And make no mistake about it, write it, preach it, talk it, shout it
Across the mountains and the deserts and the seas
The blood of innocence and shame
Will not be shed in vain

Chorus:
This is a righteous cause so without doubt or pause
I will do what my country asks of me
Make any sacrifice
We'll pay whatever price
So the children of tomorrow can be free
Lead on red, white and blue
And we will follow you until we win the final victory
God help us do our best we will not slack or rest
Till the last fallen hero rests in peace

God help us do our best we will not slack nor rest
Till the last fallen hero rests in peace

FIGHTIN' SIDE OF ME: MERLE HAGGARD

(Written by Merle Haggard)

I hear people talkin' bad,
About the way we have to live here in this country,
Harpin' on the wars we fight,
An' gripin' 'bout the way things oughta be.
An' I don't mind 'em switchin' sides,
An' standin' up for things they believe in.
When they're runnin' down my country, man,
They're walkin' on the fightin' side of me.
Yeah, walkin' on the fightin' side of me.
Runnin' down the way of life,
Our fightin' men have fought and died to keep.
If you don't love it, leave it:
Let this song I'm singin' be a warnin'.
If you're runnin' down my country, man,
You're walkin' on the fightin' side of me.

I read about some squirrely guy,
Who claims, he just don't believe in fightin'.
An' I wonder just how long,
The rest of us can count on bein' free.
They love our milk an' honey,
But they preach about some other way of livin'.
When they're runnin' down my country, hoss,
They're walking on the fightin' side of me.

Yeah, walkin' on the fightin' side of me.
Runnin' down the way of life,
Our fightin' men have fought and died to keep.
If you don't love it, leave it:
Let this song I'm singin' be a warnin'.
If you're runnin' down my country, man,
You're walkin' on the fightin' side of me.

Yeah, walkin' on the fightin' side of me.
Runnin' down the way of life,
Our fightin' men have fought and died to keep.
If you don't love it, leave it:
Let this song I'm singin' be a warnin'.
If you're runnin' down my country, man,
You're walkin' on the fightin' side of me.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4046 TO AMENDMENT NO. 4007

Mr. LEVIN. Madam President, I send a second-degree amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4046 to amendment No. 4007:

On page 3, strike subsection (c) and insert the following:

''(c) PRIORITY FOR ALLOCATING FUNDS.—In the expenditure of additional funds made available by a lower rate of inflation, the top priority shall be the use of such funds for Department of Defense activities for protecting the American people at home and abroad by combating terrorism at home and abroad.''

Mr. LEVIN. Madam President, just very briefly—I know the majority leader wants to be recognized if he returns to the floor—the amendment of the Senator from Virginia specifies two purposes for additional funds which would become available as a result of an adjustment to the inflation factor, a recalculation of the inflation factor.

The Senator from Virginia has been assured that at least $814 million will become available. He made that representation to us yesterday. Based on that representation, he has offered an amendment which provides that the money be spent for one of two specified purposes. These are the purposes, I emphasize, that are set forth in the Warner amendment: whichever of the following purposes the President determines the money should be spent for—''(1) Research, development, test, and evaluation for ballistic missile defense programs of the Department of Defense.'' The second purpose specified in the Warner amendment is: ''Activities of the Department of Defense for combating terrorism at home and abroad.''

What the second-degree amendment provides is that combating terrorism at home and abroad is the highest priority for allocating these funds. Protecting the American people in this way, under the second-degree amendment, should be the top priority for these funds.

We have all said that over and over again, that combating terrorism is now our No. 1 priority. And these funds, which will be made available as a result of the readjustment of inflation, should be dedicated, in our judgement, to that purpose.

The amendment does not preclude the President from spending additional funds on missile defense should he determine that is a higher priority. This amendment does not preclude the President from reaching that judgment. It expresses our judgment that, of those two specified purposes in the underlying amendment, combating terrorism is the top priority to protect the American people at home and abroad.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I thank the chairman for providing this amendment at this time, precisely at the stroke of 12:30. We will have the opportunity to examine it.

You have basically reached the point where you are saying that the President wants to follow the law. And if this were adopted, it is my understanding it is not the intention of the second-degree amendment, the proposers of it, to in any way abrogate the flexibility to allocate these funds between the two stated purposes in my amendment—namely, missile defense and homeland security—in any way. In other words, he retains full flexibility to do so. Am I correct in that?

When we talked yesterday that was the purport of the amendment the distinguished chairman was proffering yesterday. I presume this amendment continues your representation that the purpose of the amendment was not in any way to abrogate his flexibility to allocate between the two specific purposes as stated in the underlying amendment?

Mr. LEVIN. This second-degree amendment does two things which the amendment I was going to offer yesterday would have done; that is, it states that in our judgment, the top priority for the use of these funds is to combat terrorism at home and abroad. But it does not preclude the President from

spending this additional money on missile defense should that be his determination. It does both of those things. It does not preclude the President from spending the money on missile defense should he reach the judgment that is a higher priority than combating terrorism, that those additional funds above the $7.6 billion on missile defense is a higher priority than combating terrorism. This amendment would not preclude him from doing that, but the heart of this amendment remains as it was last night, expressing our judgment—that is, between these two specified purposes in the underlying amendment—that the top priority is combating terrorism at home and abroad.

The majority leader is in the Chamber.

Mr. WARNER. If I could add further, that is the proportions of the allocation—it is implicit in there—he can make the allocation in such proportions to the two accounts as he deems appropriate?

Mr. LEVIN. The President is not precluded by this language from reaching a different conclusion and allocating as he chooses. It is pretty clear what our judgment is as to the top priority. That is the purpose of this amendment.

Mr. WARNER. Madam President, I thank my colleague. We will examine this amendment. Yesterday, at one point we were willing to accept the second degree. Let's see whether or not that can be achieved in the near future.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, let me compliment the distinguished Senator from Michigan for his work in accommodating the dual priorities our two managers have attempted to address over the course of the last couple of days as we consider the issue of missile defense and the need to ensure adequate resources for homeland defense.

We are debating what may be one of the most significant amendments to one of the most important pieces of legislation to come before the Senate this year. I am surprised, frankly, that objections have been raised to the Levin amendment. Both the Warner and Levin amendments agree that if additional resources become available to the Pentagon, only two programs, missile defense and counterterrorism, would be eligible for these resources.

The only difference, as has just been described in the colloquy between our two colleagues on the Armed Services Committee, the only difference is that Senator LEVIN's amendment would put Congress on record that combating terrorism should be our top priority.

After what America and the world witnessed on September 11 and the subsequent actions discussed in reports from intelligence agencies since, I question how anybody could challenge that this should be our top priority.

How could anyone think, in the short term at least, we are more likely to be a target of a ballistic missile attack than another terrorist incident? The heinous terrorist attacks of September 11 did not involve ballistic missiles, and none of the warnings of possible future attacks issued by this administration since September 11 even mentioned the possibility of a ballistic missile attack.

The steady stream of recent warnings from this administration have warned us about crop dusters, gasoline trucks, shoe bombers, ''dirty'' bombers, attacks on our financial institutions, shopping malls, nuclear powerplants, and large apartment buildings. All of these have been cited as possible attacks. More money for ballistic missile defense would not make any of them more preventable.

This debate is about the best use of our national resources to protect our national security. It is not about whether to proceed with the construction of a missile defense facility at Fort Greeley, AK. Although I have many questions about the merit of and need for this facility, the underlying bill already fully funds the administration's proposal for constructing this test site.

This debate is not about whether to provide missile defense with billions of dollars, although I have concerns that a huge missile defense program could crowd out funding for more important security programs such as counterproliferation and homeland defense. The underlying bill already provides missile defense with $6.8 billion, easily making it the largest acquisition program in the Pentagon's entire budget.

And, if this body adopts both the Warner and Levin amendments, it will be possible for missile defense to receive additional resources if they become available.

Nor is this debate about the proper timetable for deploying missile defense. Although I have strong reservations that the administration's rush to deployment could have some negative ramifications for our security, the underlying bill does nothing that would affect the administration's timetable for deploying missile defense.

In short, this debate is not about who supports missile defense. In fact, where one stands on these amendments bears no relation to how one feels about missile defense. I strongly support a substantial missile defense program and the Levin amendment. Anyone who believes there is something inconsistent about this should read the underlying bill and the amendments before us.

Rather, the pending amendments raise a larger, more fundamental question. In particular, what is the most immediate action we can take to make America more secure? Providing the funds that will help us dismantle al-Qaida and prevent acts of terrorism, or providing funds beyond the $6.8 billion already in this bill to help us deploy a missile defense system at some point in the future? That is the question. Your answer ought to be the former, not the latter.

We should all be able to agree that terrorism is a threat that confronts us here and now. Therefore, I hope my colleagues will make fighting terrorism their first priority.

I support the Levin amendment. I congratulate him on drafting it. I urge our colleagues to support it as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I listened very carefully to the distinguished majority leader's comments. I am not so certain we have any major differences. I assure you, this administration and, indeed, the Senate as a whole is focused, as it should be, on homeland defense and taking those measures to protect the American people here at home and, indeed, abroad. There is no lack of emphasis I can find in the overall framework of legislative proposals now in law and hopefully to be enacted in law, making it very clear this President, under his leadership, is moving on a number of fronts to combat terrorism in the United States and where it affects our citizens abroad.

Yes, I listened carefully, and others have mentioned the warnings we are receiving. They do address the weaponry—the weapons that are known to be in the hands of those who have interests antithetical to our great United States, our people, our freedom, and our way of life.

But in this particular bill, as it relates to missile defense, we are looking into the future. There are many signs that clearly justify actions being taken, hopefully by this legislation, and to begin to take those steps to put in place such defenses as our technology can devise, and promptly, which would enable us to provide a limited system—not some giant umbrella but a limited system of defenses against a limited attack of missiles.

So we are looking to the future. I share with the distinguished leader the fact that we have to forewarn our citizens today with regard to the weaponry available, whether it is biological, chemical, or possibly some mocked-up type of nuclear weapon by a rogue nation or some terrorist organization. I think we are all pulling together in the same direction.

I hope we can address these amendments very promptly. I ask for a reasonable period of time within which to address the second-degree amendment.

I thank the majority leader.

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

Mr. REED. Madam President, I rise to speak about the amendment proposed by the Senator from Virginia and the second-degree amendment proposed by the Senator from Michigan.

As I understand the amendment of the Senator from Virginia, it does several things. First, it assumes there will be approximately $814 million in savings because of the inflation figures. Then it sets up two categories of funding that this extra money, if found, is

to be used for: missile defense or counterterrorism activities.

But then at the end of the amendment, it proposes to set the priorities for allocating these scarce resources. As I read the priority, it is everything that the Department of Defense does, because the priority would be activities for combating terrorism and protecting the American people at home and abroad.

I suggest—and I doubt anyone would argue—that the crew of an American nuclear submarine patrolling the depths of the Atlantic or the Pacific are protecting Americans at home and abroad. I argue that Marine guards in embassies throughout the world are protecting Americans. I argue that troops that are training for possible deployments overseas are protecting Americans at home and abroad.

The fact is that this priority is no priority at all. The fact is, this debate is a debate about whether we will use extra resources to fight terrorism or for a national missile defense shield. If you ask any American, their answer would be obvious and automatic: Protect us from terrorism. Why? I don't know if they have read the national intelligence estimate of December 2001. It says:

> In fact, U.S. territory is more likely to be attacked with [weapons of mass destruction] from non-missile delivery means—most likely from terrorists—than by missiles, primarily because non-missile delivery means are less costly, easier to acquire, more reliable and accurate. They can also be used without attribution.

They might not have read in detail the national intelligence estimate, but that is what our intelligence officials are telling us: The most likely and immediate threat is terrorists attacking us, and perhaps with weapons of mass destruction, but not an intercontinental ballistic missile attack on the United States.

On September 23, 2001, a few days after September 11, the Federal Aviation Administration grounded crop duster aircraft nationwide because of concerns that they might be used in chemical or biological terrorist attacks. This marks the third time since the September 11 terrorist attacks that crop duster aircraft have been grounded. The other two groundings were from September 11 through September 14, and from September 16 through September 17.

Again, ask yourself, is that a threat that national missile defense can prepare for? I should add that, as the Senator from Virginia said, we are concerned about the future; but this authorization is for next year. This issue is what funds will be spent next year—the extra funds that will be available. This year and next year, the American people will say unhesitatingly: Protect us from terrorism. That was September 23, 2001.

October 11, 2001: The Federal Bureau of Investigation issues a warning that there may be additional terrorist attacks in the United States and against U.S. interests overseas in the next several days.

I do not suspect that any of those warnings were tied into the use of an intercontinental ballistic missile to attack.

October 29: The Federal Bureau of Investigation issues a warning that there may be additional terrorist attacks in the United States and against U.S. interests overseas in the next several days and that Americans and police should be on the highest alert.

Again, that is not coupled with any specific indication that an intercontinental ballistic missile would be involved.

December 3, 2001: Director of the Office of Homeland Security Tom Ridge at a White House press briefing said: '' . . . the quantity and level of threats are above the norm and have reached a threshold where we should once again place the public on general alert, just as we have done on two previous occasions since September 11th.''

December 22: Flight attendants and passenger subdue a man reportedly trying to set his shoes on fire on American Airlines Flight 63 from Paris to Miami carrying 185 passengers and 12 crew members. The plane is diverted to Boston's Logan International Airport, escorted by two U.S. Air Force F–15 fighter jets. Boston Airport authorities say the man appears to have been carrying C–4, a powerful plastic explosive, in his shoes. The suspect is identified as Richard C. Reid on his British passport.

Once again, ask yourself, if you are allocating money, do you allocate it to screening passengers better, or to x-ray baggage better, or to doing things for a national missile defense?

January 29, 2001: In his State of the Union Address before Congress, President George W. Bush says U.S. forces in Afghanistan '' . . . have found diagrams of American nuclear power plants and public water facilities, detailed instructions for making chemical weapons, surveillance maps of American cities, and thorough descriptions of landmarks in America and throughout the world.'' Warning that ''thousands of dangerous killers . . . often supported by outlaw regimes, are now spread throughout the world . . . '' The President promises to continue the war on terrorism at home and abroad.

Were those plans and diagrams used to target an ICBM, or were they used to infiltrate terrorists into the U.S. to attack those facilities?

January 31, 2002: An internal alert warning that Islamic terrorists are planning a major attack against American targets appears in a classified document issued by U.S. intelligence agencies. The alert reportedly specifies several potential methods of attack and targets: a nuclear powerplant or nuclear facility bombing, bombing a U.S. warship in Bahrain, a suicide airliner attack on a building, and bombing a vehicle in Yemen.

Again, none of those threats raise an ICBM attack, or even a theater missile attack on the United States.

February 11: Federal Bureau of Investigation issues a warning that more terrorist attacks may take place within the United States and against U.S. interests in the country of Yemen on or around February 12, 2000. In its warning, the FBI specifically identifies Yemeni national Fawaz Yahya al-Rabeei and several of his associates as suspects, and Yemen as their possible target based on information gathered an detainee interrogations at Camp X-Ray on the U.S. Navy base at Guantanamo Bay, Cuba, and in Afghanistan. The warning advises Americans and law enforcement agencies to be on the highest alert and requests help in identifying these suspected terrorists.

April 19: Federal Bureau of Investigation issues a terrorist threat alert identifying U.S. financial institutions in the Northeast as possible targets.

April 24: The FBI issues a terrorist threat alert identifying shopping malls and other public places as possible targets, according to news sources.

May 13: U.S. authorities have received reports from different intelligence sources of a threatened July 4, 2002, attack against an undetermined U.S. nuclear powerplant in the Northeast by al-Qaida terrorists.

May 20: FBI Director Robert Mueller tells a gathering of the National District Attorneys Association that walk-in suicide bombings, such as those that have taken place in Israel, are likely to occur in the U.S. The Director says, ''We see that in the future. I think it is inevitable.''

News sources report that the FBI has issued informal warnings that terrorists might rent apartments at large apartment complexes, pack the apartments with explosives, and detonate them.

Ask yourself: How much will a missile defense system protect us against a suicide bomber walking into a mall or walking in and exploding an apartment building?

May 21: The FBI issues a terrorist threat warning to New York law enforcement agencies that it has received ''unsubstantiated and uncorroborated information that terrorists are considering attacks against landmarks in New York City.''

May 28: Hans Beth, director of the antiterrorism and organized crime division at Germany's BND foreign intelligence service, says at a conference in Bonn, Germany, that the al-Qaida terrorist network is active, regrouping, and recruiting new members, according to the Associated Press. The director says:

> We believe that bin Laden himself and several of his confidants are still around to give the impulses for attacks.

May 29: Customs Commissioner Robert Bonner, in an Associated Press interview, says that every Customs inspector will be equipped by January 2003 with a pocketsize radiation detector, and that Customs is working with

other countries to screen cargo containers before they are shipped to the United States. The Commissioner cautions, however, that ''there are no guarantees'' that improved border security will prevent a terrorist from smuggling a nuclear weapon into the United States.

Again, this is not something with which a national missile defense system could cope and for which it is not even designed.

May 30: New sources report that the Federal Bureau of Investigation issued an alert on May 22, 2002, to Federal, State, and local law enforcement agencies warning that al-Qaida terrorists may be trying to target commercial aircraft by using shoulder-fired antiaircraft missiles. Reportedly, the warning was issued after U.S. military personnel found a spent portable missile tube outside the Prince Sultan Air Base in Saudi Arabia earlier in May 2002.

May 31: The Washington Times reports that classified U.S. Government intelligence reports indicate that Islamic terrorists may have smuggled portable shoulder-fired Russian SA–7 surface-to-air missiles or U.S. Stinger antiaircraft missiles into the United States.

Again, ask yourself how we should be allocating extra funds to protect the people of the United States if those funds become available.

June 7: Reuters News Service reports that CDR Jim McPherson, a U.S. Coast Guard spokesman, says the Coast Guard issued a warning to all of its units to be on alert during the June 7 through 9 weekend for ''possible acts of terrorism targeting the Nation's ports, bays, rivers, and shores.''

June 10: Attorney General John Ashcroft announces the disruption of ''an unfolding terrorist plot to attack the United States by exploding a radioactive 'dirty bomb.' ''

June 12: CBS News reports the Immigration and Naturalization Service issued a June 6, 2002, security alert instructing INS agents at U.S. airports, borders, and ports to do ''[a] complete and thorough search of all baggage'' carried by Yemeni travelers, except those carrying diplomatic passports, and make ''an inventory of all effects.'' The order was reportedly prompted by the discovery of several thermos bottles—some rigged with batteries and wire—during a raid in the northeastern United States of an apartment that housed several Yemeni nationals. The alert instructed agents to look for ''large sums of currency, night vision goggles, or devices.'' It also warned against agents opening any thermos bottles.

June 14: A suicide bomber drives a car filled with explosives into a guard post outside the U.S. Consulate in Karachi, Pakistan, killing 11 Pakistanis and injuring at least 45 people, including one U.S. marine who was slightly wounded by flying debris.

June 16: The Washington Post reports that three Saudis seized in Morocco told interrogators that they fled Afghanistan and came to Morocco on a mission to use bomb-laden speedboats for suicide attacks on U.S. and British warships in the Strait of Gibraltar. The three Saudi men were captured in May 2002 in a joint Moroccan-Central Intelligence Agency operation.

June 21: The Federal Bureau of Investigation issues a terrorist threat alert warning that terrorists might be plotting to use fuel tankers to attack undetermined Jewish neighborhoods and synagogues, according to the Associated Press.

June 25: The New York Times reports that, according to congressional officials, Capitol Police in Washington, DC, are stockpiling up to 25,000 gas masks to protect tourists, lawmakers, and their staffs in case of a terrorist attack.

If you ask the American people how this money should be prioritized, the answer is clear, overwhelming, and irrefutable. The highest priority should be the war against terrorism, certainly at this moment and certainly in this next fiscal year. As a result, I believe Senator LEVIN's amendment is not only crucial but essential so that the direction, at least the sense of this Congress, is clear. I hope we will support this second degree amendment.

In addition, I should point out again that we are robustly funding missile defense activities. We have done that. Our proposal is $6.8 billion for fiscal year 2003. We expect an additional $4 billion to be available since it was not spent last year. This gives us in the next fiscal year over $10 billion to use on national missile defense—theater missile programs, national missile programs, boost phase, midcourse phase, terminal phase, the latest system which this administration is pursuing. That is adequate and sufficient in our view, but in addition, as Senator LEVIN pointed out, recognizing the top priority of terrorism, the language still would allow, even as amended, some resources to be devoted to additional national missile defense activity, if the President determines that.

Having listened to this litany of warning emanating from the administration itself, it is hard to think that there is a higher priority at this moment and next year than counterterrorism.

We have supported robust activities to test and deploy missile defense systems. There is full support for the Alaskan system. There is full support for research, experimentation, and testing. In fact, we have added money to these categories.

We have added money for the Arrow missile, an important theater missile system we are developing jointly with the Israelis.

We have added money for radars for Navy sea-based systems.

What we have cut are those ill-defined, duplicative programs that are not going to advance, we feel, the development of this missile system, and we are looking to the future.

A $10 billion investment next year, a combination of our authorization and residual funds, is an important downpayment, a substantial, robust downpayment on a future system that will counter future threats.

What we are suggesting in this bill is that when you look closely at the suggestions and recommendations of the Department of Defense with respect to terrorism operations and contingencies, there is a long list of items not funded. Senator LEVIN's priority and my priority would be to fund these counterterrorism activities.

There is, for example, $871 million for improved security on the list of unfunded priorities by the services. The Special Operations Command found an additional shortfall of $42 million in items that they could not provide to protect units fully, from their perspective, against terrorism on their installations.

The second item, for example, on the Air Force list of unfunded items is $149 million for improved physical security at its bases.

The Navy's list included an additional $263 million for improvements to Navy installations.

The Army identified $110 million of unfunded force protection needs.

These funds will be used to protect military installations, naval stations, shipyards, fencing off installations, airfields, and keeping intruders away. All of them are very necessary. But because we were making difficult judgments about priorities—and that is what our job is—we could not fund these compelling needs. I suggest if there are inflation savings, that is where they should go, and that is what the Levin amendment will direct, suggest, at least make as the policy of this Congress: That our highest priority is counterterrorism.

In addition to this $914 million of unfunded force protection requirements, the services and Special Operations Command identified $184 million in unfunded priorities for defending against and managing the consequences of attacks using weapons of mass destruction.

As a national intelligence estimate suggests, if such an attack takes place within the foreseeable future, it will not be as a result of a missile strike, but terrorists detonating some type of weapon of mass destruction in the United States. Our services are asking us for $184 million to respond, to defend against, and manage the consequences of such an attack. The Marine Corps, for example, identified over $27 million in shortfalls for their chemical and biological incident response force. The Air Force had an unfunded priority of $92 million for equipping installation first responders to manage WMD attacks.

The Navy had a $20 million unfunded priority of this same line, the first responders within the services to respond to a weapons of mass destruction attack. The Air Force also had a $33 million unfunded requirement for bolstering the defenses of their personnel

against weapons of mass destruction attack, and Special Operations Command had a $12 million shortfall for counterterrorism activities. If we add the $914 million of unfunded priorities related to protecting the Armed Forces by attack from terrorists to the $184 million of unfunded priorities related to defeating and managing WMD attacks, we reach a total of over $1 billion.

So it is clear that the Special Operations Command have urgent, indeed critical, need to combat terrorism.

So when we pass legislation that says there are two categories of spending for additional resources made available through inflation savings, one is missile defense, and one is combating terrorism, I think we need the Levin amendment to say our highest priority is combating terrorism, equipping our military forces to protect themselves and to protect us, at a minimum. But we also understand, even if we are able to provide these resources to our Department of Defense, where are the additional resources for the Department of Commerce to make sure that all of their activities complement and supplement the activities of the Department of Defense? What about the Coast Guard? Do they have enough resources to protect all of our ports? What about the FAA installing additional security measures in airports? All of these priorities are immediate, extraordinarily important, and have to be addressed.

We have the opportunity today to make it clear that if these resources are available, they will be going to the most immediate, the most dire, threat we face, based upon our intelligence estimates, based upon the numerous statements by the administration, and we should do that confident we are providing a robust funding source for national missile defense development in every phase of their multilayered operation.

I hope my colleagues will support enthusiastically the Levin amendment. I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I sometimes think we are like ships in the night as we discuss this issue and what the priorities of this country ought to be. I know Senator REED is an esteemed colleague and a capable advocate, but I would like to talk about a few of the things he said that I think really do not give us the right perspective.

Of course, terrorism is the No. 1 issue. We voted on a $40 billion FY01 supplemental budget. We have an FY02 supplemental in conference. A huge part of what we are spending in defense, transportation, and in all agencies of our Government, from the FBI to the CIA, is focused on securing this homeland. The arguments the Senator from Rhode Island make that suggests any other expenditure is not as valuable as homeland defense and that we can spend on nothing else apparently but homeland defense I do not believe are sound.

In other words, are we going to stop all R&D for missile defense? Are we going to stop developing the future combat system we have been working on down the road that may be a decade in development? Are we just going to stop that because we have an immediate threat? The Navy's DD(X)program or other weapons systems we are developing, the new and superbly efficient precision guided munitions, should we continue to develop them? Well, of course we should.

We cannot stop all that because we are into this war on terrorism. We need to fund every dime that is needed on homeland defense. As a matter of fact, I just left a hearing in Judiciary where we heard from Governor Ridge as he laid out the proposal to completely reorganize our Government, one of the biggest reorganizations in the history of the U.S. Government. The homeland security Cabinet agency that is being proposed by President Bush would be an unprecedented move to focus a host of existing Federal agencies on one thing: Making sure their top priority is defending America.

Back in 1999, a study done by a commission authorized by Congress came back and unanimously concluded we are under a growing threat from nations around the world, that 16 nations now have missile capability—many of them are developing long-range capability—and that by 2005 this Nation will be faced with and vulnerable to a missile attack. That is a reality with which we are faced.

We voted in this Senate 97 to 3—and I quote—to deploy a national missile defense system as soon as technologically feasible. President Clinton signed that and supported it. Vice President Gore supported it during the past campaign. Senator JOE LIEBERMAN, his Vice Presidential candidate, has been a champion of establishing a national missile defense system. President Bush made it a priority in his campaign, and he spoke openly about it. I submit this past election by the American people affirmed that commitment.

So the President proposed a larger budget. Last year, he proposed $7.8 billion for national missile defense, $2.5 billion more than President Clinton had proposed over his $5.3 billion budget.

This year, he is proposing roughly $200 million less for national missile defense, but fundamentally the President has laid out a sophisticated, long-term plan to get us prepared by the rapidly approaching time when we will be vulnerable to a potential missile attack.

I know one of my colleagues quoted from the National Intelligence Estimate by the CIA on foreign missile developments that was issued earlier this year, and some other things in that report that I think are noteworthy. This is what the report says:

> The probability that a missile with a weapon of mass destruction will be used against the United States forces or interests is higher today than during most of the cold war.

That was when we were facing the Russians and their missiles.

> And it will continue to grow as the capabilities of our potential adversaries mature.

Is there anybody in this body who is sorry we invested money in precision guided munitions? Are they sorry we invested money in developing a satellite system that has been the key to our communications and our military capabilities in Afghanistan? Are they sorry we developed bombers capable of delivering those things in the past, recognizing it would be necessary in the future? So that is what we are talking about: How do we get ready for this?

The report adds further comments:

> Some of the states—these are countries—armed with missiles have exhibited a willingness to use chemical weapons with other delivery means. In addition, some non-state entities are seeking chemical, biological, radiological and nuclear materials and would be willing to use them in other ways than employing them simply on a missile. In fact, the U.S. territory is more likely to be attacked on the ground with these materials primarily because a non-missile delivery system is less costly, easier to acquire and more reliable and accurate. They can also be used without attribution. Nevertheless, the missile threat will continue to grow, in part because missiles have become important regional weapons in the arsenals of numerous countries. Moreover, missile systems provide a level of prestige, coercive diplomacy and deterrence that non-missile systems do not.

We are dealing with a threat that is developing and is really here to some degree right now. We need to recognize that.

I point out some of the other testimony we have heard in the Armed Services Committee. In addition to the 1999 Rumsfeld report, we have received a number of other bits of information and important reports in the Armed Services Committee and I am sure in the Intelligence Committee and Foreign Affairs Committee. These are areas I share with Members as we think about the question of the type of threats we face from hostile nations with missiles.

Vice Admiral Wilson, the Director of the Defense Intelligence Agency, in his testimony about Iran, said that they continue ''the development and acquisition of longer range missiles and weapons of mass destruction''—that is nuclear, biological, chemical weapons—''to deter the United States and to intimidate Iran's neighbors.'' Also, he says: Iran is buying and developing longer range missiles.

They are buying these missiles and developing these missiles right now. This is a nation the President referred to as part of the ''axis of evil,'' a nation whose government is not in the hands of its people, and a nation which could veer off into the extreme at any time. Admiral Wilson further notes that Iran already has chemical weapons and is ''pursuing biological and nuclear capability.''

Admiral Wilson concludes on Iran that it will ''likely acquire a full range of weapons of mass destruction capabilities, field substantial numbers of ballistic missiles and cruise missiles, including perhaps an ICBM,'' capable of reaching this country. That is what they are seeking to do. That is what we need to prepare for today. We do not need to end up in 2005, 2006, or 2007 being totally vulnerable to a missile attack from Iran.

With regard to Iraq, Admiral Wilson said:

> Baghdad continues to work on short-range 150 kilometer missiles and can use this expertise for future long-range missile development.

Is that not a threat to us? It troubles me. He adds:

> Iraq may also have begun to reconstitute a chemical and biological weapons program.

That seems to be clear. He has rejected any inspection that he at one time agreed to.

Admiral Wilson continues:

> It is possible that Iraq could develop and test an ICBM capable of reaching the United States by 2015.

On North Korea, Admiral Wilson said:

> North Korea continues to place heavy emphasis on the improvement of its military capabilities and continues its robust efforts to develop more capable ballistic missiles. They made a good deal of progress, as everyone knows and read in the papers, about the launches they have demonstrated.

Specifically, as to North Korea, Admiral Wilson said:

> It is developing an ICBM capability with its Tapeo Dong 2 missile, judged capable of delivering a several hundred kilogram payload to Alaska or Hawaii and a lighter payload to the western half of the United States.

This is one of the most bizarre nations in the world, or in the history of the world. I was in South Korea in January 2002. I was on the DMZ. I saw what was occurring. It is one of the most dramatic demonstrations anyone could ever see on the difference between a free society and a totalitarian Communist society. The people of North Korea cannot feed themselves. Yet their obsessed leadership is driving the nation to spend more and more money on missiles, technology, and war while their people cannot feed themselves. Go just south of that DMZ in South Korea. I was in Seoul and traveled around that country. We visited our military people. It is a nation of impressive progress. They are producing some of the finest materials and products the world knows. I was pleased this year South Korea announced they would invest $1 billion in my State of Alabama to build an automobile plant. They continue to have greater increases in sales than almost any other automobile country.

This is free South Korea compared to the totalitarian north.

I asked why we could not send messages to the group in North Korea, do a Radio Free Europe-type message, to get our message out and maybe destabilize this regime. I was told the television stations only have two or three channels, and those are all government channels. You cannot even turn to another channel. The same is true with the radio. It is virtually impossible to get an outside message in there. People are afraid that the leadership in North Korea could act in a bizarre and illogical way and even trigger an attack on the United States.

For example, Admiral Wilson noted that North Korea ''probably has the capability to field an ICBM within the next couple of years.''

That is frightening. When our President gets into a dispute, an argument, a disagreement with the leadership in North Korea or Iraq or Iran, and they end up in the final analysis saying: You do that, and we are going to launch our missiles, and you know we can hit your cities and you have no defense.

It affects our foreign policy and affects deeply the ability of the President to lead and be bold and courageous on behalf of the just interests of the United States and freedom in the world.

He also noted with regard to North Korea that they continue to ''proliferate weapons of mass destruction, especially missile technology.'' So they are selling missile technology around the world to countries, leaving them, although they may not have the development capability, leaving them capable of threatening us.

CIA Director George Tenet, March 19 of this year—and the reports I have been reading from earlier this year—March 19, Director Tenet said this about the Chinese military: They announced a 17.6-percent increase in defense spending replicating last year's increase of 17.7 percent. If this trend continues, China could double its announced defense spending between 2000 and 2005.

Tenet, on China, continues that they are near ''toward fielding its first generation of road mobile strategic missiles, the DF–31, a longer range version capable of reaching targets in the United States that will become operational later in the decade.''

Those are some of the reasons we made a decision in 1999 to start now to develop a missile defense system. We have a clear threat to our military in the field. They are subject to the shorter range missiles, the 150-kilometer type missiles. Those type threats are also important. The proposal floated earlier that came out of committee, unfortunately, on a party line vote, would have cut our research into THAAD, our theater missile defense system. We cannot put our troops in the battlefield and have them subject to missile attack. We lost more people from missile attack in the gulf war than anything else. It is definitely a threat to us and our allies in the region. We need our allies to know we can deploy missile defense systems in the case of combat in their region that can give them hope of being protected from attack, or how can they support us when they go forward? We need to go forward with this.

I believe if we can give the President the authority to go forward, we will have done a good day's work.

Frankly, I do not want to vote, and I hope we are not required to cast a vote that says this is less important than other defense spending items. I think it is part of the whole defense bill. I think it is critical to our national defense. I think it is an integral part of it.

I would not like to have a vote here to say we think it is not critical, that it is not somehow as important as any other effort to defend America. But I do say it appears we are making some progress. I hope we can reach an agreement on this.

The American people expect us to protect this country. The American people still do not fully understand we have absolutely no defense against incoming missiles. When they are told that, and when this matter is discussed with them, and when they are told that we have an officer such as Lieutenant General Ron Kadish, directing this program providing it extraordinary leadership, professionalism, and production, and that he is moving this national missile defense program forward and will soon be able to deploy a successful missile defense system, they are frustrated some might try and slow down the progress needed to provide the nation the protection it requires. That is where we need to go.

Let's protect our homeland through attacks on terrorism around the globe. Let's harden our defenses here at home in every way possible. Let's also continue this steady development of a national missile defense system that can save the lives of innocent Americans who are now vulnerable to attack.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, as chairman of the Readiness Subcommittee, I rise in support of the Levin second degree to Senator WARNER's amendment restoring $814 million either to the President's missile defense request or to combating terrorism. Senator LEVIN's amendment clarifies what we know to be true, that the need to address the scourge of terrorism is urgent and is the top priority of our Nation.

I want to mention that I do have some concerns about Senator WARNER's amendment. I am not aware of the committee receiving any information from the administration that the suggested savings from inflation might in fact be realized. I sincerely hope that we are not just talking about ''funny money,'' and that we could be sure that the funds are there before we start talking about how to spend them.

The Levin amendment makes clear that, while both missile defense and efforts to defeat terrorism are important, our priorities are obvious. Let me be clear, I do understand the need to defend our country against missile attack. I believe that all of us here in

this chamber would do everything in our power to ensure that U.S. citizens are protected against vicious attacks from those who would do us harm, including those who would launch those attacks with missiles. However, I believe that the reductions taken in this bill to the President's fiscal year 03 budget request for the missile defense program are judicious and based on sound reasoning. I support a missile defense effort that is sensible, thoroughly tested, and progresses in a rational manner. I believe that the $6.8 billion included in this bill provides ample funding for reasonable missile defense efforts.

I also believe that there are many immediate threats that we know all too well. The horror of September 11 is seared forever in our minds and shows what these terrorists are capable of. If additional funds become available, I believe we have no choice but to direct them to actions we can take immediately to help us win the war on terror.

As chairman of the Readiness Subcommittee, I am acutely aware of the costs incurred by the Department of Defense as we continue to send our military men and women around the globe to hunt down terrorists. Even beyond the supplemental appropriations which may be provided this year and funds for the war already included in this bill, the military services still have war-related needs that are not being met. When we began consideration of the fiscal year 2003 budget, the Chiefs of Staff of the Army and Air Force, the Chief of Naval Operations, and the Commandant of the Marine Corps provided us with a prioritized list of those needs that remain unfunded.

For those who may not have had a chance to review those lists, let me note just a few examples. Over the last few years, we have suffered repeated attacks on U.S. embassies overseas, on the USS Cole, and on Khobar Towers. These attacks make clear that terrorists will strike U.S. assets all over the world, and that we have been engaged in this war for longer than we realized. September 11 showed us that we can no longer assume we are safe within our own borders, and that they will try to attack us here at home as well. We are a trusting nation, and, after the earlier attacks, had expected to improve the security of our military installations over time. The atrocities of September 11 made it clear that time may be a luxury we no longer have. If in fact these inflation savings are real, one of the key areas where the money could go is for anti-terrorism and force protection improvements to our bases and installations.

The Service Chiefs agree—the Army, Navy and Air Force included $863 million for improved security for our installations in their list of unfunded priorities for fiscal year 2003. The second item on the Air Force's list was $491 million to improve physical security systems at its bases, to enhance its detection capabilities with night vision devices and thermal imagers, to strengthen its facilities to minimize the impact of possible explosions, and to improve security measures at nuclear security storage areas.

The Navy's list included an additional $263 million for improvements to Navy installations. These funds would be spent strengthening the gates at various naval stations and shipyards, fencing off installations and airfields so that intruders would face some obstacle before just walking on to military property, establishing emergency operations centers, and installing better lighting to deter and improve detection of possible incursions.

The remaining $110 million would go to fund the Army's unmet force protection needs, number eight on General Shinseki's list of priorities. This includes installing fencing, more robust gates and barriers, and improving lighting for active, guard and reserve posts.

There are other key war-related needs as well. When the Department developed the budget for the coming fiscal year about 2 years ago, DOD obviously did not know that we would be at war. Therefore, the budget included assumptions about fuel prices that were based on normal training and deployments needs, and about where that fuel would be purchased.

The global war effort has changed the reality underlying those assumptions. For example, the Defense Logistics Agency, which is responsible for providing fuel to all of the military services, has had to deploy its personnel to areas in and around Afghanistan to make fuel purchases. Moving fuel to and from areas that do not have adequate infrastructure and where there is little competition has proven extremely expensive. In its latest estimates, the General Accounting Office, which monitors fuel prices, projects that DOD will face a fuel-related shortfall of $1.5 billion by the end of the next fiscal year. If these funds are not restored, DOD will be forced to reallocate funds from other sources so that the military continues to have adequate fuel supplies. This is an immediate need, made worse by the war, where any potential savings could easily be redirected.

The Service Chiefs included other priorities on their list of unfunded needs that also deserve consideration. For example, the Air Force needs an additional $92 million to purchase protective equipment, chemical senors, medical treatment materials, and training for the teams that respond to nuclear, chemical, or biological weapons attacks. Improving security at the sites where the Army stores chemical weapons would cost an additional $103 million. The Marine Corps needs an additional $39 million for ammunition, and the Army's ammunition shortfalls total over $500 million more. These bullets would be used to support deployed troops and to train the soldiers and Marines who will replace them in future operations. The Navy, whose ships have been out on surge deployments since the September 11 attacks, needs an additional $164 million to maintain the fleet so that it can continue to support future operations.

These are just a few examples of the costs of this war that remain unfunded because of resource constraints. If savings materialize in the mid-session review, I believe they are better spent on programs that our forces need right now. They need better protection on the installations where they live and work. They need more ammunition, and they need enough fuel to chase terrorists down wherever they are hiding.

This budget provides for an adequate missile defense. Senator LEVIN's amendment ensures that funds are used where they are needed most urgently. We know where those needs are, because the Nation's top military leaders have told us. We need these funds to fight the scourge of terrorism. I urge my colleagues to support Senator LEVIN's amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

I rise to respond to some of the arguments made today.

First, my colleague, the Senator from Alabama, at least suggested the Levin amendment somehow would curtail additional spending on future combat systems, on R&D, and on technology. Frankly, if there is any curtailment, as has been suggested, it is the underlying amendment by Senator WARNER. It is very clear. He said, if we have additional savings from inflation adjustments, they will go to two categories of spending: Missile defense, or counterterrorism.

The Levin amendment simply says: Listen, we want to prioritize those expenditures. The President has the right to decide, but it should be the law and the view of Congress—that the most pressing and urgent need of those two is counterterrorism. That is the essence of the Levin amendment.

There is also a suggestion made that somehow this underlying legislation is oblivious to the missile threats we face. That is not at all correct.

Let me go back to the intelligence estimates. I suggested—and, in fact, I read—that U.S. territories are more likely to be attacked using materials from nonmissile delivery means—most likely from terrorists—than by missiles, primarily because nonmissile delivery means are less costly, easier to acquire, more reliable, and accurate.

I suggest if the national intelligence is already telling us the most immediate and the most dire threat we face is a terrorist attack using unconventional munitions, that goes a long way in suggesting the priorities we should adopt in spending the money.

Let me quote further.

They also can be used without attribution. Nevertheless, the missile threat will continue to grow in part because missiles have become important regional weapons.

Here we are talking about regional missiles, which were referred to in the old parlance as theatre missiles or medium-ranged missiles.

We are funding and supporting robustly the development of a missile defense for the United States.

The PAC–3 system—our most advanced development—is fully funded in this proposal, both R&D and procurement. We propose in fiscal year 2003 to buy 72 of these missiles. The first set of operational tests is scheduled for this year. They will complete the first set of operational tests. Soldiers are already operating these systems. And it is capable of prompt deployment to protect U.S. troops from the types of regional missile threats that have been identified by national intelligence assessments. These regional missile threats are different from the long-range, intercontinental ballistic missiles that are the sum and substance of the rationale for a national missile defense.

So we are fully cognizant of the missile threat we face, and we are robustly funding missile defense systems.

Let me also suggest with respect to THAAD—that is another theater missile defense we are developing—that this legislation fully funds the testing and development program. First flight tests are scheduled for fiscal year 2005. That is fully funded at $985 million—almost $1 billion.

What we don't support in the proposal by the administration that they want to buy 10 extra missiles before the first missile is flight-tested. That is not the way you effectively develop a system that will protect the people of the United States. It makes some sense, I think, to at least have the first test flight before you acquire the additional missile.

We have increased the resources available for the sea-based, mid-course—formerly, Navy theatre-wide.

We have added $40 million for the shipboard radar system, which we believe is important if this is ever to work properly.

We increased the administration's request for the Arrow missile, precisely the type of system that will counter a threat from Iran and from Iraq, because long before those missiles could effectively reach the United States, they would likely be targeted on Israel. The Arrow missile system is an Israeli-United States partnership designed to counter some of those threats. We added $40 million.

No one would suggest—at least I won't suggest—that the administration was oblivious to the real needs of defense in that region of the world when they requested $66 million. But I would suggest that we were more sensitive, in a way, to the regional missile threat. So we added $40 million to that. This legislation fully supports and is consistent with the threat.

One of other things I think we have to understand—again, it goes to the point of why we should, if we have to prioritize, be more sensitive in this year and the next fiscal year to terrorism—is that, frankly, our opponents, much to our dismay, are clever, cunning, calculating, ruthless people. They know where our strengths are. They do not attack us on our strength. They find our weaknesses and our vulnerabilities. They will look for these vulnerabilities. As a result, they will conduct, I think, unconventional means of attack. They will challenge us in a host of different ways.

What we are simply saying is, if there are additional resources, and if the choice, as suggested by the amendment from the Senator from Virginia is between missile defense and counterterrorism, the obvious answer, I believe, is counterterrorism. That is what the Levin amendment does. That is what the American people, I believe, will demand.

I think it is also illustrative that the military professionals, the uniformed officers, the men and women who have sworn their lives to protect this country, have a long list of unfunded needs just to protect the security of DOD installations and to respond to incidents of mass destruction caused by some type of weapon. You could fund those needs upwards of $1 billion with the extra moneys available.

So, again, I rise not only to respond, but to place in perspective the point that before we adopt this Levin amendment as a second-degree amendment we must look very closely at what the Senator from Virginia is proposing. Simply, he is saying if we have extra money through savings, through inflation adjustments, then they will apply to two categories—missile defense or counter-terrorism. Of course, our highest priority is everything the Department of Defense has requested in the President's budget. I think we have to make it clear our highest priority today and for fiscal year 2003 is countering the obvious, immediate, dramatic threat of terrorism here at home and abroad in the context, of course, of robust and full funding for national missile defense, and in particular theater missile defense, that precisely responds to the issues raised by the Intelligence Estimate of the growing regional threat from missiles.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I rise to discuss a few items. The inflation index is an index that is in all of our budgetary projections. We figure out how our budget is going to be. When that index altered, it did free up some money previously committed to inflationary cost increases. It left that money available.

I point out that in our Armed Services Committee, as we discussed this, we did not hear, when the budget passed, that we had to have more money for homeland defense or any particular item that amendments were offered on and voted down. It was only after this index became altered and funds were freed up. The President said: I will accept what the Senate Democrats offered in the Armed Services Committee for extra spending. He said: The money they took from missile defense—that he requested and was spent on other items that they wanted—I will allow that to go. I suggest we use this extra money so I can complete my projections for national missile defense.

That is where we are today. Hopefully, we will be able to work through this and be happy with it. But I think we will have that inflation index money. I think it will be available.

There is strong bipartisan support in this country for developing a national missile defense program and keeping it on track.

The House passed their Defense authorization bill recently. They increased the President's request for national missile defense by $21 million. The House bill passed by a huge margin, 359 to 58. It is a totally bipartisan bill. Liberals, Conservatives, Democrats, and Republicans supported it. It had more in it for national missile defense than the President is asking for or that Senator WARNER has asked for.

I suggest that before we get real pure about spending money for a critical national need such as national missile defense, and developing this program, that we ask ourselves what we did a few weeks ago when the President asked for a $28 billion fiscal year 2002 emergency supplemental for homeland defense and the war on terrorism. Members of the body have increased that supplemental to $32 billion and it has all kind of pork and special interest items in it. So I do not know where we are going to go on that supplemental, but the President is very concerned about this additional spending and pork that went into that. Those are just some comments I wanted to make.

I believe we are on track to maintain the steady development of national missile defense. It is something I support.

I point out, with regard to the threat, that threats are not exclusive. In our Armed Services Committee, which Senator LEVIN chairs so ably, the Director of CIA, George Tenet, testified that we don't have the luxury of choosing between threats. He noted that missile defense threats have sometimes developed more rapidly than the intelligence community has predicted. And, indeed, the Rumsfeld commission, in 1999, unanimously concluded that missile programs of some of the rogue nations, and some other nations hostile to the United States, were developing far faster than had previously been predicted.

Then there is this question about the money that is building up in to the counter-terrorism account. There is

some $10 billion available for missile defense in the year 2003 if the bill is approved as is. But I think to do so would really be creative bookkeeping.

The new budget authority for missile defense in this bill is $6.8 billion. That is $1 billion less than was appropriated last year. And the President proposed a modest reduction this year. There is another $814.3 million by the committee. That is a big cut by any standard.

Senator REED gets his $10 billion figure by mixing apples and oranges or, precisely, old fiscal year 2002 funding and new fiscal year 2003 funding. All funding for the Missile Defense Agency is for research and development. Research and development is what we are funding. R&D funding is available for obligations for 2 years and for expenditures over 5 years. That is the way we do it. We do not give money for research and development and say you have to spend it all this year, ready or not. That is by design because R&D projects, by their nature, require some flexibility in execution and stability in funding and planning.

If Senators disagree with that, we can take away that extended availability of funds. But most Senators, I suspect, would say that the flexibility in execution and stability in funding and planning is a good thing. I think that is the way we need to continue to proceed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Armed Services Committee conducted an exhaustive examination of the proposed missile defense budget request. We held two strategic subcommittee hearings on missile defense under Senator REED's leadership. We reviewed 400 pages of missile defense budget documentation, participated in more than 25 hours of staff briefings by the Department of Defense. Based on that exhaustive review, the committee recommended funding the vast majority of the Department's missile defense request, an amount that is sufficient to aggressively fund all the specific systems that the Department wants to develop.

At the same time, the committee identified roughly $810 million of the missile defense request—about 11 percent—that the Department did not justify, after a detailed review of available documentation and repeated hearings and briefings.

For example, the budget request included $1.1 billion in the ballistic missile defense program element, an increase of $258 million over the current funding level. The major purpose of this program element is to develop integrated architecture ballistic missile defense systems.

While this is an important goal, most of the systems that will comprise the ballistic missile defense architecture are years away from being deployed, making the development and definition of a detailed BMD architecture impossible at this point.

After receiving more than $800 million for this program element in fiscal year 2002, the Missile Defense Agency has yet to provide Congress any indication of what the overall BMD architecture might be. In fact, the committee determined that of the $800 million appropriated for this program element in 2002, only $50 million—5–0—of the $800 million appropriated had been spent halfway through the fiscal year.

Because of that slow execution, the Missile Defense Agency informed us that $400 million of these funds will be available for expenditure in fiscal year 2003. Under these circumstances, it is hard to see why the Department would need a $250 million increase in the program element in 2003.

So we made a choice. We made a choice to make some careful and well-justified reductions in missile defense requests of $7.6 billion. Our bill provides the Missile Defense Agency as much money as can reasonably be executed for the Missile Defense Program in the year 2003 and would ensure that this money is expended in a sound manner.

The Senator from Virginia has assured this body that the midyear review will make sufficient funds available to cover added spending which would be authorized by his amendment. We assume that would be the case, based on what he has been told and based on his statement to this body.

The underlying amendment of Senator WARNER provides that the additional $800 million, approximately, would be spent as the President determines in one of two ways—and they are very specific—one, research, development, test, and evaluation for ballistic missile defense programs, or, two, activities of the Department of Defense for combating terrorism at home and abroad. Those are the two specific programs on which the President could spend this authorized additional money under the underlying Warner amendment.

Under my second-degree amendment, we simply state our view that the highest priority at this time is the war against terrorism. The amendment states that, in the expenditure of additional funds made available by a lower rate of inflation, the top priority shall be the use of such additional funds for combating terrorism at home and abroad.

Our second-degree amendment does not preclude the President from spending some or all of the money for missile defense. It does not preclude him from spending that additional money on missile defense, if the President determines that the additional money on missile defense is more necessary, more vital than combating terrorism at home and abroad.

I believe we should put the money into the fight against terrorism because we have no higher priority than the war against terrorism. Over and over again we are informed and we believe—I think every Member of this body believes—that we are vulnerable to a terrorist attack. We hear warnings of attacks against our cities, our banks, our nuclear powerplants, sporting events. We hear warnings about more attacks by aircraft, about car bombs, about truck bombs, ''dirty'' bombs. As a member of the Intelligence Committee, a member of the Armed Services Committee, I believe there is a good reason to be concerned about these threats.

The likelihood of these threats is far greater than the likelihood of being attacked by a missile from North Korea when such an attack would lead to the immediate destruction of North Korea, of the attacker. North Korea can attack us with a truck bomb or a car bomb or an envelope full of anthrax, if she chose, with greater accuracy, far cheaper and with a much lesser possibility of our identifying the attacker so as to respond with a massive attack of our own.

These are real threats. The war on terrorism is here and now. We have not adequately funded the war on terrorism. With all the funds we have put in here, there are additional places that we can usefully spend money in the war against terrorism.

To give some specific examples of where the Department of Defense has identified areas where it needs additional funds which could be funded by this $800 million—these are what we call the ''unfunded priorities list''; in other words, where there is a priority of the Department of Defense that they have identified but we have not been able to find the funds to put into these priorities so they have given us the unfunded priorities list—$491 million for improved security at Air Force facilities, including the security of nuclear weapons areas; $92 million to help prepare our first responders to help address weapons of mass destruction. These are just two of the items which total about $1 billion in what are the unfunded priorities list of the Department of Defense.

We should be making a choice, at least expressing a preference and a judgment as to where the highest priorities are. That is our responsibility. We serve on these committees. We listen to testimony. We should make a judgment. If $891 million is available for additional spending, which we hope it will be, then the question is, What is the greatest need at this time?

We express that need in the second-degree amendment. We say the war on terrorism; of those two identified, specified items in this underlying amendment, the war on terrorism is the highest priority this country faces. And we have unmet needs in meeting this priority.

The President can make a different choice. We do not preclude that. I emphasize that.

The President, if he determines it is more essential to spend even more

money on missile defense than we provide, more than the almost $7 billion we provide, if the President determines that spending additional funds on missile defense is a higher priority than the war on terrorism, we do not preclude him from doing so. But we express our perspective and our point of view that the war on terrorism is the highest priority.

Should we address all threats that face us? Of course, we should address all threats that face us. And we do. But we have to allocate resources. We should allocate resources against the greatest threats that we face. Those greatest threats are the terrorist threats. We have had so much evidence of this that we have all reached that basic conclusion. I hope we express that perspective by adopting the second-degree amendment which has been offered.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. LEVIN. Mr. President, while Senator SESSIONS is still here as comanager of the bill, I ask unanimous consent, in the event Senator BILL NELSON, who I believe is working with Senator SMITH and Senator ROBERTS on an amendment which we support, gets to the floor before we dispose of the Warner amendment and the second-degree amendment, that we set aside the Warner amendment temporarily to allow them to offer their amendment. I ask unanimous consent that we do that, while my comanager is on the floor.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, we have a number of cleared amendments which Senator ALLARD and I can now offer and hopefully dispose of. We understand Senator NELSON and Senator ROBERTS are on their way to offer an amendment which previously by unanimous consent we have agreed they could offer, and I also believe has been cleared on both sides. So perhaps we can start down the road I described to offer some cleared amendments, get those adopted but then perhaps interrupt if Senator NELSON and Senator ROBERTS come to the floor.

Mr. ALLARD. Mr. President, that is agreeable with me.

AMENDMENT NO. 4087

Mr. LEVIN. Mr. President, I send to the desk an amendment which provides additional funding for the development of solar cell technology for the military, and I believe it has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4087.

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

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

The amendment is as follows:

(Purpose: To increase the amount provided for RDT&E, Air Force, for silicone substrates for flexible solar cells (PE 62601F), and to offset the increase by reducing the amount provided for RDT&E, Army, for countermobility systems (PE 62624A))

On page 23, line 24, increase the amount by $2,000,000.

On page 23, line 22, reduce the amount by $2,000,000.

Mr. LEVIN. Mr. President, this amendment authorizes an additional $2 million for Air Force applied research to develop new substrate materials for solar cells. The Air Force Space Power Generation program is working on novel high-temperature materials in order to develop advanced flexible thin film solar cells for military applications. New materials will enable lighter, cheaper, and more efficient solar arrays that are critical to achieving Air Force technology performance goals. I urge my colleagues to support this amendment.

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

The amendment (No. 4087) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4088

Mr. ALLARD. Mr. President, on behalf of Senator WARNER, I offer an amendment that authorizes $2 million for the analysis of emerging threats at the Marine Corps Warfighting Laboratory. I believe this amendment has been cleared on both sides.

Mr. LEVIN. It has been cleared. We have no objection.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. WARNER, proposes an amendment numbered 4088.

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

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

The amendment is as follows:

(Purpose: To authorize, with an offset, $2,000,000 for research, development, test, and evaluation for the Navy for the Marine Corps Advanced Technology Demonstration (ATD) (PE0603640M) for analysis of emerging threats)

At the end of subtitle B of title II, add the following:

SEC. 214. ANALYSIS OF EMERGING THREATS.

(a) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $2,000,000 with the amount of the increase to be allocated to Marine Corps Advanced Technology Demonstration (ATD) (PE0603640M).

(b) AVAILABILITY.—(1) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), $2,000,000 may be available for analysis of emerging threats.

(2) The amount available under paragraph (1) for analysis of emerging threats is in addition to any other amounts available under this Act for analysis of emerging threats.

(c) OFFSET.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby reduced by $2,000,000, with the amount of the reduction allocated as follows:

(1) $1,000,000 may be allocated to Weapons and Munitions Technology (PE0602624A) and available for countermobility systems.

(2) $1,000,000 may be allocated to Warfighter Advanced Technology (PE0603001A) and available for Objective Force Warrior technologies.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I urge that the Senate adopt this amendment.

The PRESIDING OFFICER. Is there further debate? Without objection, the amendment is agreed to.

The amendment (No. 4088) was agreed to.

Mr. ALLARD. 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. 4089

Mr. LEVIN. Mr. President, on behalf of Senator KENNEDY and seven other Senators, I send an amendment to the desk which concerns the Department of Defense Medical Free Electron Laser Program.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. KENNEDY, for himself, Mr. HELMS, Mr. EDWARDS, Mr. FRIST, Mr. THOMPSON, Mr. KERRY, Mrs. BOXER, and Mrs. FEINSTEIN, proposes an amendment numbered 4089.

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

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

The amendment is as follows:

(Purpose: To prohibit the transfer of the Medical Free Electron Laser program (PE0602227D8Z) from the Department of Defense)

At the end of subtitle B of title II, add the following:

SEC. 214. PROHIBITION ON TRANSFER OF MEDICAL FREE ELECTRON LASER PROGRAM.

Notwithstanding any other provision of law the Medical Free Electron Laser Program (PE0602227D8Z) may not be transferred from the Department of Defense to the National Institutes of Health, or to any other department or agency of the Federal Government.

Mr. KENNEDY. I am proposing this amendment, along with Senators KERRY, HELMS, THOMPSON, EDWARDS, FRIST, BOXER and FEINSTEIN, which will retain the Medical Free Electron Laser Program, (MFEL); in the Department of Defense. This program was initiated in 1985 and the benefit to military personnel and all Americans was realized immediately. This successful and visionary program has benefited the military in many ways. For example, new and innovative methods developed in the MFEL program to diagnose and treat burns, the number one combat casualty injury, are now in practical application. Current research involving tissue-welding and tissue-bonding is going to be of great value for treating battlefield injuries by allowing for the immediate repair of soft tissue and vascular wounds.

This technology also has some special applications, such as for pilots with ocular injuries. Of particular interest to me, however, is its potential to help diagnose and deactivate other types of biological contamination and injury. This research has yielded very promising results.

The Office of Management and Budget is attempting to move the program from the Department of Defense to the National Institutes of Health. Moving the program from DoD would be detrimental to the MFEL program and would jeopardize many promising research and development efforts. A proposed transfer of the MFEL program to the NIH is ill-advised since so much of the work centers around combat injury and specifically targets biological injury. The program has a track record of success, and moving it would disrupt, delay and possibly impede this crucial research. The Department of Defense is without question the best place for the MFEL program.

Congressional intent is clear on this subject. This peer-reviewed, competitive MFEL program must remain in DoD, where it was originally included and funded.

I am pleased to offer this amendment, along with my colleagues, on behalf of this most worthy program.

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

The amendment (No. 4089) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4090

Mr. ALLARD. Mr. President, on behalf of Senator WARNER, I offer an amendment which would authorize the Secretary of the Army to convey property at the engineering proving ground, Fort Belvoir, VA.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. WARNER, proposes an amendment numbered 4090.

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

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

The amendment is as follows:

(Purpose: To authorize land conveyances at the Engineer Proving Ground, Fort Belvoir, Virginia)

At the end of subtitle C of title XXVIII, add the following:

SEC. 2829. LAND CONVEYANCES, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) CONVEYANCE TO FAIRFAX COUNTY, VIRGINIA, AUTHORIZED.—(1) The Secretary of the Army may convey, without consideration, to Fairfax County, Virginia, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 135 acres, located in the northwest portion of the Engineer Proving Ground (EPG) at Fort Belvoir, Virginia, in order to permit the County to use such property for park and recreational purposes.

(2) The parcel of real property authorized to be conveyed by paragraph (1) is generally described as that portion of the Engineer Proving Ground located west of Accotink Creek, east of the Fairfax County Parkway, and north of Cissna Road to the northern boundary, but excludes a parcel of land consisting of approximately 15 acres located in the southeast corner of such portion of the Engineer Proving Ground.

(3) The land excluded under paragraph (2) from the parcel of real property authorized to be conveyed by paragraph (1) shall be reserved for an access road to be constructed in the future.

(b) CONVEYANCE OF BALANCE OF PROPERTY AUTHORIZED.—The Secretary may convey to any competitively selected grantee all right, title, and interest of the United States in and to the real property, including any improvements thereon, at the Engineering Proving Ground, not conveyed under the authority in subsection (a).

(c) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (b), the grantee shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by the Secretary, of the property conveyed under that subsection.

(2) In-kind consideration under paragraph (1) may include the maintenance, improvement, alteration, repair, remodeling, restoration (including environmental restoration), or construction of facilities for the Department of the Army at Fort Belvoir or at any other site or sites designated by the Secretary.

(3) If in-kind consideration under paragraph (1) includes the construction of facilities, the grantee shall also convey to the United States—

(A) title to such facilities, free of all liens and other encumbrances; and

(B) if the United States does not have fee simple title to the land underlying such facilities, convey to the United States all right, title, and interest in and to such lands not held by the United States.

(4) The Secretary shall deposit any cash received as consideration under this subsection in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) REPEAL OF SUPERSEDED AUTHORITY.—Section 2821 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1658), as amended by section 2854 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 568), is repealed.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of each such survey shall be borne by the grantee.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

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

Mr. ALLARD. The amendment is cleared on this side.

Mr. LEVIN. The amendment has been cleared.

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

The amendment (No. 4090) was agreed to.

Mr. ALLARD. 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. 4091

Mr. LEVIN. Mr. President, on behalf of Senator INOUYE, I offer an amendment which would increase the grade of the heads of the Nurse Corps of each of the services to major general or rear admiral, upper half.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. INOUYE, proposes an amendment numbered 4091.

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

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

The amendment is as follows:

(Purpose: To amend title 10, United States Code, to increase the grade provided for the heads of the nurse corps of the Armed Forces)

On page 100, between lines 3 and 4, insert the following:

SEC. 503. INCREASED GRADE FOR HEADS OF NURSE CORPS.

(a) ARMY.—Section 3069(b) of title 10, United States Code, is amended by striking ''brigadier general'' in the second sentence and inserting ''major general''.

(b) NAVY.—The first sentence of section 5150(c) of such title is amended—

(1) by inserting ''rear admiral (upper half) in the case of an officer in the Nurse Corps or'' after ''for promotion to the grade of''; and

(2) by inserting ''in the case of an officer in the Medical Service Corps'' after ''rear admiral (lower half)''.

(c) AIR FORCE.—Section 8069(b) of such title is amended by striking ''brigadier general'' in the second sentence and inserting ''major general''.

Mr. INOUYE. Mr. President, today I propose a timely and important amendment to increase the grade for the Chief Nurses of the Army, the Navy, and the Air Force to that of two stars. The existing law limits the position of Chief Nurse of the three branches of the military to that of brigadier general in the Army and Air Force, and rear admiral, lower half, in the Navy.

Chief Nurses have a tremendous responsibility—their scope of duties include peacetime and wartime health care delivery, plus establishing standards and policy for all nursing personnel within their respective branches. They are responsible for thousands of Army, Navy, and Air Force officers and enlisted nursing personnel in the active, reserve, and guard components of the military. The military medical mission could not be carried out without nursing personnel. They are crucial to the mission in war and peace time, at home and abroad.

Organizations are best served when the leadership is composed of a mix of specialties—of equal rank—who bring their unique perspectives to the table when policies are established and decisions are made. This increased rank would guarantee that the nursing perspective is represented on critical issues that affect the military medical mission, patient care, and nursing practice. I believe it is time to ensure that the military health care system fully recognize and utilize the leadership ability of these outstanding patient care professionals.

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

Mr. ALLARD. Mr. President, it has been cleared on this side.

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

The amendment (No. 4091) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4092

Mr. ALLARD. Mr. President, on behalf of myself and Senator REID, I offer an amendment that would require that the chief of the Army Veterinary Corps be appointed as a brigadier general.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself and Mr. REID, proposes an amendment numbered 4092.

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

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

The amendment is as follows:

(Purpose: To prescribe the composition and leadership of the Veterinary Corps of the Army)

On page 200, between lines 14 and 15, insert the following:

SEC. 905. VETERINARY CORPS OF THE ARMY.

(a) COMPOSITION AND ADMINISTRATION.—(1) Chapter 307 of title 10, United States Code, is amended by inserting after section 3070 the following new section 3071:

''§ 3071. Veterinary Corps: composition; Chief and assistant chief; appointment; grade

''(a) COMPOSITION.—The Veterinary Corps consists of the Chief and assistant chief of that corps and other officers in grades prescribed by the Secretary of the Army.

''(b) CHIEF.—The Secretary of the Army shall appoint the Chief from the officers of the Regular Army in that corps whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. An appointee who holds a lower regular grade may be appointed in the regular grade of brigadier general. The Chief serves during the pleasure of the Secretary, but not for more than four years, and may not be reappointed to the same position.

''(c) ASSISTANT CHIEF.—The Surgeon General shall appoint the assistant chief from the officers of the Regular Army in that corps whose regular grade is above lieutenant colonel. The assistant chief serves during the pleasure of the Surgeon General, but not for more than four years and may not be reappointed to the same position.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3070 the following new item:

''3071. Veterinary Corps: composition; Chief and assistant chief; appointment; grade.''.

(b) EFFECTIVE DATE.—Section 3071 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2002.

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

The amendment (No. 4092) was agreed to.

Mr. ALLARD. 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. 4093

Mr. LEVIN. Mr. President, on behalf of Senator AKAKA, I offer an amendment which I send to the desk to shift $2.5 million to the demonstration of renewable energy use from the facilities improvement line to the Navy energy program line within the Navy R&D account.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. AKAKA, proposes an amendment numbered 4093.

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

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

The amendment is as follows:

(Purpose: To provide for the amount for the demonstration or renewable energy use of the Navy to be available within the Navy energy program (PE 0604710N) and not within Navy facilities improvement (PE 0603725N))

On page 26, after line 22, and insert the following:

SEC. 214. DEMONSTRATION OF RENEWABLE ENERGY USE.

Of the amount authorized to be appropriated by section 201(2), $2,500,000 shall be available for the demonstration of renewable energy use program within the program element for the Navy energy program and not within the program element for facilities improvement.

Mr. LEVIN. I believe the amendment has been cleared.

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

The amendment (No. 4093) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4094

Mr. ALLARD. Mr. President, on behalf of Senator COLLINS, I offer an amendment which would extend the authority for the Navy to enter into multiyear contracts for DDG–51 destroyers by 2 years until fiscal year 2007.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Ms. COLLINS, proposes an amendment numbered 4094.

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

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

The amendment is as follows:

(Purpose To extend multiyear procurement authority for DDG–51 class destroyers)

On page 17, strike line 14 and insert the following:

SEC. 121. EXTENSION OF MULTIYEAR PROCUREMENT AUTHORITY FOR DDG–51 CLASS DESTROYERS.

Section 112(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2446), as amended by section 122 of Public Law 106–65 (113 Stat. 534) and section 122(a) of the Floyd D. Spence National Defense Authorization act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–24), is further amended by striking ''October 1, 2005'' in the first sentence and inserting ''October 1, 2007''.

Mr. ALLARD. The amendment has been cleared.

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

The amendment (No. 4094) was agreed to.

Mr. ALLARD. 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. 4095

Mr. LEVIN. On behalf of Senator LANDRIEU and Senator ROBERTS, I offer an amendment concerning the Defense Experimental Program to Stimulate Competitive Research. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. LANDRIEU and Mr. ROBERTS, proposes an amendment numbered 4095.

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

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

The amendment is as follows:

(Purpose: To authorize additional activities for the Defense Experimental Program to Stimulate Competitive Research, and to require an assessment of the program)

On page 71, between lines 9 and 10, insert the following:

SEC. 246. ACTIVITIES AND ASSESSMENT OF THE DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) AUTHORIZED ACTIVITIES.—Subsection (c) of section 257 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 2358 note), is amended—

(1) in paragraph (1), by striking ''research grants'' and inserting ''grants for research and instrumentation to support such research''; and

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

''(3) Any other activities that are determined necessary to further the achievement of the objectives of the program.''.

(b) COORDINATION.—Subsection (e) of such section is amended by adding at the end the following:

''(4) The Secretary shall contract with the National Research Council to assess the effectiveness of the Defense Experimental Program to Stimulate Competitive Research in achieving the program objectives set forth in subsection (b). The assessment provided to the Secretary shall include the following:

''(A) An assessment of the eligibility requirements of the program and the relationship of such requirements to the overall research base in the States, the stability of research initiatives in the States, and the achievement of the program objectives, together with any recommendations for modification of the eligibility requirements.

''(B) An assessment of the program structure and the effects of that structure on the development of a variety of research activities in the States and the personnel available to carry out such activities, together with any recommendations for modification of program structure, funding levels, and funding strategy.

''(C) An assessment of the past and ongoing activities of the State planning committees in supporting the achievement of the program objectives.

''(D) An assessment of the effects of the various eligibility requirements of the various Federal programs to stimulate competitive research on the ability of States to develop niche research areas of expertise, exploit opportunities for developing interdisciplinary research initiatives, and achieve program objectives.''.

Mr. ALLARD. It has been cleared on this side.

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

The amendment (No. 4095) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4096

Mr. ALLARD. Mr. President, on behalf of Senator INHOFE and Senator AKAKA, I offer an amendment which would increase the maximum amount of assistance the Secretary of Defense may provide to a tribal organization to carry out a procurement and technical assistance program. I believe this amendment has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. INHOFE and Mr. AKAKA, proposes an amendment numbered 4096.

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

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

The amendment is as follows:

(Purpose: To increase the maximum amount of assistance that the Secretary of Defense may provide to a tribal organization or economic enterprise to carry out a procurement technical assistance program in two or more Bureau of Indian Affairs service areas)

On page 194, between lines 13 and 14, insert the following:

SEC. 828. INCREASED MAXIMUM AMOUNT OF ASSISTANCE FOR TRIBAL ORGANIZATIONS OR ECONOMIC ENTERPRISES CARRYING OUT PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS IN TWO OR MORE SERVICE AREAS.

Section 2414(a)(4) of title 10, United States Code, is amended by striking ''$300,000'' and inserting ''$600,000''.

Mr. LEVIN. The amendment has been cleared.

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

The amendment (No. 4096) was agreed to.

Mr. ALLARD. 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. 4097

Mr. LEVIN. Mr. President, on behalf of Senators CLELAND and THURMOND, I send an amendment to the desk which will repeal a prohibition on the use of Air Force Reserve AGR personnel for Air Force base security functions.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND and Mr. THURMOND, proposes an amendment numbered 4097.

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

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

The amendment is as follows:

(Purpose: To repeal a prohibition on use of Air Force Reserve AGR personnel for Air Force base security functions)

On page 101, between the matter following line 14 and line 15, insert the following:

SEC. 513. REPEAL OF PROHIBITION ON USE OF AIR FORCE RESERVE AGR PERSONNEL FOR AIR FORCE BASE SECURITY FUNCTIONS.

(a) REPEAL.—Section 12551 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1215 of such title is amended by striking the item relating to section 12551.

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

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

The amendment (No. 4097) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4098

Mr. ALLARD. On behalf of Senators HELMS and CLELAND, I offer an amendment that would require the Secretary of Defense to establish a policy and a risk mitigation plan for testing and certification requirements for telecommunications switches connected to the Defense Switch Network. I believe this amendment has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. HELMS and Mr. CLELAND, proposes an amendment numbered 4098.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of Defense to establish clear and uniform policy and procedures regarding the installation and connection of telecom switches to the Defense Switch Network)

On page 90, between lines 19 and 20, insert the following:

SEC. 346. INSTALLATION AND CONNECTION POLICY AND PROCEDURES REGARDING DEFENSE SWITCH NETWORK.

(a) ESTABLISHMENT OF POLICY AND PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish clear and uniform policy and procedures, applicable to the military departments and Defense Agencies, regarding the installation and connection of telecom switches to the Defense Switch Network.

(b) ELEMENTS OF POLICY AND PROCEDURES.—The policy and procedures shall address at a minimum the following:

(1) Clear interoperability and compatibility requirements for procuring, certifying, installing, and connecting telecom switches to the Defense Switch Network.

(2) Current, complete, and enforceable testing, validation, and certification procedures needed to ensure the interoperability and compatibility requirements are satisfied.

(c) EXCEPTIONS.—(1) The Secretary of Defense may specify certain circumstances in which—

(A) the requirements for testing, validation, and certification of telecom switches may be waived; or

(B) interim authority for the installation and connection of telecom switches to the Defense Switch Network may be granted.

(2) Only the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, after consultation with the Chairman of the Joint Chiefs of Staff, may

approve a waiver or grant of interim authority under paragraph (1).

(d) INVENTORY OF DEFENSE SWITCH NETWORK.—The Secretary of Defense shall prepare and maintain an inventory of all telecom switches that, as of the date on which the Secretary issues the policy and procedures—

(1) are installed or connected to the Defense Switch Network; but

(2) have not been tested, validated, and certified by the Defense Information Systems Agency (Joint Interoperability Test Center).

(e) INTEROPERABILITY RISKS.—(1) The Secretary of Defense shall, on an ongoing basis—

(A) identify and assess the interoperability risks that are associated with the installation or connection of uncertified switches to the Defense Switch Network and the maintenance of such switches on the Defense Switch Network; and

(B) develop and implement a plan to eliminate or mitigate such risks as identified.

(2) The Secretary shall initiate action under paragraph (1) upon completing the initial inventory of telecom switches required by subsection (d).

(f) TELECOM SWITCH DEFINED.—In this section, the term ''telecom switch'' means hardware or software designed to send and receive voice, data, or video signals across a network that provides customer voice, data, or video equipment access to the Defense Switch Network or public switched telecommunications networks.

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

The amendment (No. 4098) was agreed to.

Mr. ALLARD. 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. 4099

Mr. LEVIN. Mr. President, on behalf of Senators BILL NELSON, MCCAIN, CLELAND, ROBERTS, and DASCHLE, I offer an amendment which would provide for the disclosure to the Department of Veterans Affairs of information on the shipboard hazard and defense project of the Navy.

I ask that the clerk report the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. NELSON of Florida, for himself, Mr. MCCAIN, Mr. CLELAND, Mr. ROBERTS, and Mr. DASCHLE, proposes an amendment numbered 4099.

The amendment is as follows:

(Purpose: To provide for the disclosure to the Department of Veterans Affairs of information on the Shipboard Hazard and Defense project of the Navy)

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

SEC. 1065. DISCLOSURE OF INFORMATION ON SHIPBOARD HAZARD AND DEFENSE PROJECT TO DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN FOR DISCLOSURE OF INFORMATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a comprehensive plan for the review, declassification, and submittal to the Department of Veterans Affairs of all medical records and information of the Department of Defense on the Shipboard Hazard and Defense (SHAD) project of the Navy that are relevant to the provision of benefits by the Secretary of Veterans Affairs to members of the Armed Forces who participated in that project.

(b) PLAN REQUIREMENTS.—(1) The records and information covered by the plan under subsection (a) shall be the records and information necessary to permit the identification of members of the Armed Forces who were or may have been exposed to chemical or biological agents as a result of the Shipboard Hazard and Defense project.

(2) The plan shall provide for completion of all activities contemplated by the plan not later than one year after the date of the enactment of this Act.

(c) REPORTS ON IMPLEMENTATION.—(1) Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter until completion of all activities contemplated by the plan under subsection (a), the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a report on progress in the implementation of the plan during the 90-day period ending on the date of such report.

(2) Each report under paragraph (1) shall include, for the period covered by such report—

(A) the number of records reviewed;

(B) each test, if any, under the Shipboard Hazard and Defense project identified during such review;

(C) for each test so identified—

(i) the test name;

(ii) the test objective;

(iii) the chemical or biological agent or agents involved; and

(iv) the number of members of the Armed Forces, and civilian personnel, potentially affected by such test; and

(D) the extent of submittal of records and information to the Secretary of Veterans Affairs under this section.

The PRESIDING OFFICER. Is there further debate? Without objection, the amendment is agreed to.

The amendment (No. 4099) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4100

Mr. ALLARD. Mr. President, on behalf of Senator WARNER, I offer an amendment which would authorize $5 million to conduct a preliminary engineering study and environmental analysis for an alternate road to Woodlawn Road, which was closed as a force protection measure at Fort Belvoir. The funding would be offset by a reduction to increase in the M-Gator program authorized in this bill.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. WARNER, proposes an amendment numbered 4100.

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

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

The amendment is as follows:

(Purpose: To require an engineering study and environmental analysis of road modifications to address the closure of roads in the vicinity of Fort Belvoir, Virginia, for force protection purposes)

At the end of subtitle D of title III, add the following:

SEC. 346. ENGINEERING STUDY AND ENVIRONMENTAL ANALYSIS OF ROAD MODIFICATIONS IN VICINITY OF FORT BELVOIR, VIRGINIA.

(a) STUDY AND ANALYSIS.—(1) The Secretary of the Army shall conduct a preliminary engineering study and environmental analysis to evaluate the feasibility of establishing a connector road between Richmond Highway (United States Route 1) and Telegraph Road in order to provide an alternative to Beulah Road (State Route 613) and Woodlawn Road (State Route 618) at Fort Belvoir, Virginia, which were closed as a force protection measure.

(2) It is the sense of Congress that the study and analysis should consider as one alternative the extension of Old Mill Road between Richmond Highway and Telegraph Road.

(b) CONSULTATION.—The study required by subsection (a) shall be conducted in consultation with the Department of Transportation of the Commonwealth of Virginia and Fairfax County, Virginia.

(c) REPORT.—The Secretary shall submit to Congress a summary report on the study and analysis required by subsection (a). The summary report shall be submitted together with the budget justification materials in support of the budget of the President for fiscal year 2006 that is submitted to Congress under section 1105(a) of title 31, United States Code.

(d) FUNDING.—Of the amount authorized to be appropriated by section 301(a)(1) for the Army for operation and maintenance, $5,000,000 may be available for the study and analysis required by subsection (a).

Mr. LEVIN. The amendment has been cleared.

Mr. ALLARD. It has been cleared on this side, too.

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

The amendment (No. 4100) was agreed to.

Mr. ALLARD. 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 see Senator NELSON of Florida is on the floor with Senator ROBERTS. Under the previous unanimous consent order, it was understood that Senator NELSON would be recognized at this time to offer an amendment, that we would set aside the Warner amendment and the second-degree amendment pending thereto so Senator NELSON could offer his amendment.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 4101

Mr. NELSON of Florida. Mr. President, I send to the desk, amendment No. 3952, and ask for its immediate consideration. My understanding is the clerk will give it another number, so I simply send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. ROBERTS, Mr. DASCHLE, Mr. SMITH of New Hampshire, and Mr. GRAHAM, proposes an amendment numbered 4101.

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

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

The amendment is as follows:

(Purpose: To require reports on efforts to resolve the whereabouts and status of Captain Michael Scott Speicher, United States Navy)

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

SEC. 1035. REPORTS ON EFFORTS TO RESOLVE WHEREABOUTS AND STATUS OF CAPTAIN MICHAEL SCOTT SPEICHER, UNITED STATES NAVY.

(a) REPORTS.— Not later than 60 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall, in consultation with the Secretary of State and the Director of Central Intelligence, submit to Congress a report on the efforts of the United States Government to determine the whereabouts and status of Captain Michael Scott Speicher, United States Navy.

(b) PERIOD COVERED BY REPORTS.—The first report under subsection (a) shall cover efforts described in that subsection preceding the date of the report, and each subsequent report shall cover efforts described in that subsection during the 90-day period ending on the date of such report.

(c) REPORT ELEMENTS.—Each report under subsection (a) shall describe, for the period covered by such report—

(1) all direct and indirect contacts with the Government of Iraq, or any successor government, regarding the whereabouts and status of Michael Scott Speicher;

(2) any request made to the government of another country, including the intelligence service of such country, for assistance in resolving the whereabouts and status of Michael Scott Speicher, including the response to such request;

(3) each current lead on the whereabouts and status of Michael Scott Speicher, including an assessment of the utility of such lead in resolving the whereabouts and status of Michael Scott Speicher; and

(4) any cooperation with nongovernmental organizations or international organizations in resolving the whereabouts and status of Michael Scott Speicher, including the results of such cooperation.

(d) FORM OF REPORTS.—Each report under subsection (a) shall be submitted in classified form, but may include an unclassified summary.

Mr. NELSON of Florida. Mr. President, Senator ROBERTS and I come to the floor to offer this amendment. I ask unanimous consent that Senator GRAHAM of Florida be added as a cosponsor. I believe Senator BOB SMITH of New Hampshire is already a cosponsor. If he is not, I ask unanimous consent he be added as a cosponsor as well.

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

Mr. NELSON of Florida. Mr. President, we walked away from a downed flier. There were a series of mistakes that occurred. Senator ROBERTS can give you the detail of that. But the fact is, CDR Scott Speicher, who, by the way, our Armed Services Committee and this Senate has now promoted to Captain, was the first U.S. serviceman shot down in the gulf war. Then there was a series of incredible mistakes. For example, his buddies flying with him gave the proper coordinates, but when the coordinates were transmitted for our surveillance assets to look, the numbers were transposed so they didn't look in the right place.

Through one thing and another, suddenly a press conference is held in Washington with the then-Secretary of Defense DICK CHENEY, and the then-Chairman of the Joint Chiefs of Staff, GEN Colin Powell. Out of that press conference came the statement that Commander Speicher was dead. In fact, we have since learned that through this series of mistakes we never looked in the right place. Testimony was convoluted. Then, lo and be hold, years later comes forth an eye witness account that someone actually drove him to a hospital. Through several corroborations, that testimony was determined to be true.

So, what we want to do, as Senator ROBERTS has done so eloquently and so courageously over the years, is keep this matter alive and find out what happened and where is CDR Scott Speicher, and is he living? And, if he is not, then to have proof. Because what we have back in Jacksonville, FL, is a family wanting to know what is the fate of their loved one. That is the very least the U.S. Government can do.

So the question now comes up about what we are going to do in Iraq. That is something that Senator ROBERTS and I do not know. But we do know that there is the question of a delegation going to Iraq. Should it be a low level delegation or a high level delegation? What we want are some answers.

I have taken every opportunity—where I have been in a place that I sensed was the right place at the right time—to talk about Commander, now CAPT Scott Speicher and the need of us to press the issue, to find out from Iraq about his status.

I talked to the young President of Syria in Damascus about him and asked him to use his intelligence apparatus to help us. I talked to the King of Jordan. I have talked to the Secretary of Defense and the Assistant Secretary of Defense. I have talked to the Secretary of State and the Deputy Secretary of State.

When there was someone to talk to, I tried to bring the loss and possible abandonment of Navy fighter pilot CAPT Scott Speicher to their attention.

With that introduction, I ask unanimous consent that after Senator ROBERTS has finished his statement, I be allowed to conclude my statement. We would like for him to share with our colleagues what has transpired over the past several years. I ask unanimous consent that I be able to finish my statement after Senator ROBERTS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank the distinguished Senator from Florida, who has joined what I call the Speicher Team. I thank him for his interest, for his leadership, for his perseverance, and for his very aggressive action with regard to legislation I am cosponsoring as of today in behalf of Scott Speicher.

I rise today in support of the amendment. The amendment simply requires frequent reports by the Department of Defense on their efforts to determine the fate of CAPT, Select, Scott Speicher.

Why on Earth would we have to pass legislation requiring the Department of Defense to report back to Congress with periodic reports?

It is all about Scott Speicher—Scott Speicher—a lieutenant commander who was shot down in his Navy F–18 fighter within the first few hours of the start of the gulf war. He was streaking towards Baghdad on a strike mission. Within 24 hours, he was declared a fatality by the U.S. Navy and the Department of Defense—our first casualty in the Persian Gulf war.

Unfortunately for Scott, as we have learned since that time through a series of mistakes and still very unexplained action—and when I say a ''series of mistakes,'' I am talking about an unbelievable set of circumstances that are so bizarre and so unexplainable that it is difficult to imagine. At any rate, through this series of mistakes, there was no confirmation—no confirmation—that Scott Speicher died in the shootdown. Tragically, there was not 1 minute of search and rescue effort made in behalf of Scott Speicher. He was declared a fatality based solely on the report of a fellow flier who saw a bright fireball in the direction of Scott's plane and determined that nobody could have survived that hit.

That was relayed up the command to the point that the Secretary of Defense—Vice President CHENEY, today—was told that he was a casualty, which he announced on national television.

So Scott was dead. He was killed in action. And he remained dead in the eyes of the Department of Defense and the Department of the Navy until investigations forced upon the DIA—the Defense Intelligence Agency—and the CIA by Congress made it so obvious that the probability was that he survived the shootdown and ended up in the hands of Iraqis, as has been pointed out by the distinguished Senator.

But even with this information, the Department of Defense and the Department of the Navy again had to be pressured to change his status from killed in action—i.e., KIA—to missing in action. Finally, in January of 2001—10 years later—the Secretary of the Navy changed the status of Scott from KIA to missing in action. It took a lot of effort to get that done on the part of

some of my colleagues and what I call the Scott Speicher Team.

In February of this year, I wrote to the Secretary of Defense and requested that CAPT, Select, Scott Speicher be designated not as missing in action but as a prisoner of war.

My request was based upon ''The Intelligence Community Assessment of the Lieutenant Commander Speicher Case.'' That is what it is called. That is the title. That assessment actually concluded that ''Scott Speicher probably survived the loss of his aircraft, and, if he survived, he was most certainly captured by the Iraqis.''

My colleagues, today is the 25th of June, and yet the Department is still delaying on the obvious. CAPT, Select, Scott Speicher was, and is, and should be a prisoner of war.

Let me be clear. I don't know if Scott is alive today. I hope and I pray so. But let me be equally clear. There is no evidence that he is dead either. Either way, colleagues, ''prisoner of war'' is the appropriate designation for the warrior we left behind.

Today, we are not here to argue the status of Scott Speicher but, rather, whether or not Senator NELSON, I, others who support this bill, and the Senate go on record as requiring the Department of Defense to report frequently on their efforts to resolve his whereabouts and status.

Sadly, my colleagues, my history with the Scott Speicher case says we must keep pressure on the Department if we are to finally determine the fate of an American warrior we left behind in the desert of Iraq.

This Nation prides itself on the commitment to our men and women who sacrifice for our freedom. My colleagues, we saw that commitment in the effort to recover the remains of the victims of the 9/11 terrorist attack. We saw that effort on a hilltop in Afghanistan in our efforts to recover a lost Special Forces member. We saw that commitment in the streets of Mogadishu when a Blackhawk helicopter was shot down. We saw that effort in Kosovo and in Bosnia when downed airmen were heroically rescued.

In each of our wars or conflicts, the American servicemen were told they would never be left behind. We owe no less to Scott Speicher.

If we are to maintain any credibility with the fighting men and women of our military today—that is why it has special pertinence today in the war on terrorism—we must honor our commitment to leave no one behind.

I urge my colleagues to support this amendment to keep the pressure on the Department of Defense to determine the fate of Scott Speicher.

Senator NELSON indicated that I have a story to tell. Actually, Senator SMITH, I, and Senator Grams, who is no longer a Member of the Senate, and others of us became interested in this case by accident.

By the way, it is quite a chronology of trying to piece together what happened to Scott with some cooperation or degree of lack of cooperation from the authorities. Let me go over a short history, if I might.

January 18, 1991: Secretary of Defense CHENEY—as I referred to earlier in my remarks—received word that he was a casualty, and it was announced over national television. He referred to the ''death'' of Commander Speicher.

January 26, 1991: His status was established as ''missing in action,'' however, by his commanding officer.

May 22, 1991: While the law requires a 1-year interval—let me repeat that. While the law requires a 1-year interval before changing an MIA determination to ''killed in action,'' Commander Speicher's status changed to ''killed in action.'' The Office of Naval Intelligence available evidence did support the KIA status at that particular time—clear back in 1991.

January 13, 1993: We have moved ahead 2 years. The report of the Senate Select Committee on POW–MIA Affairs concludes that the Defense Intelligence Agency's POW–MIA Office—now called DPMO, the acronym we use—has historically—I am not talking about today's operation, I am talking about the operation back in the early 1990s—has historically been, No. 1, guilty of overclassification; No. 2, defensive toward criticism; No. 3, handicapped by poor coordination with other elements of the intelligence community, i.e., not asking for it; and, No. 4, slow to follow up on live-sighting and other reports.

September 30, 1996—another 3 years—May 22, 1991, presumptive finding of death ''was determined to have been in error after a thorough analysis of classified information and status review procedures.'' Chief of Naval Personnel backdated—backdated—the presumptive finding of death. Navy staff states to Senator SMITH, on June 22, 1999, that they did not review the intelligence community's information for this finding—did not review the intelligence community's information for this finding, did not take into consideration the available intelligence.

Let's move to December 7, 1997 and a front page, New York Times article by Tim Weiner, titled ''Gulf War's First Casualty Leaves Lasting Trail of Mystery,'' in which he writes the story about Scott.

When asked by Weiner if Speicher could have survived the crash, he said, ''We don't know.'' That was from ADM Stanley Arthur, Vice Chief of Naval Operations at the time of the loss. He is quoted as believing that ''Commander Speicher had ejected successfully and survived.''

Arthur also said, ''The Warriors believed they had a responsibility . . . You lose one of your own, you go back and get him.''

Move ahead to January 5, 1998: Our Committee on Intelligence in the Senate tasked the Director of Central Intelligence for an intelligence community chronology of the Speicher case.

February 19 of 1998: The head of DPMO, the Department of Missing in Action, Mr. Liotta, updates our Senate Committee on Intelligence on the Speicher case and concludes that this loss is the only unresolved U.S. case of Desert Storm.

July 1, 1998: Restatement of Federal regulations—a finding of presumptive death is made by the Secretary of the Navy when a survey of all available sources of information indicates beyond doubt that the presumption of continuance of life has been overcome for the purpose of Naval administration that he is no longer alive, that the person is no longer alive.

That was not done with Scott Speicher. That was a clarification that came back.

It took us until September 9 of 1998: The Senate Committee on Intelligence receives the report of the Director of Central Intelligence in regards to the chronology of the Speicher case.

March 12, 1999: Our staff in the Intelligence Committee receives an update on the Speicher case and requested additional rigor by the Defense Intelligence Agency.

May 13, 1999: The committee letter to the Director of Central Intelligence. We say the September 1998 chronology report does not enable Senator SMITH, Senator Grams, Senator ROBERTS to make informed judgments about the intelligence process nor the analysis. We request additional data.

July 30, 1999: I ask the Intelligence Committee to conduct an inquiry into the Speicher matter, stating that it is my understanding that it is a primary role of U.S. intelligence to assist our military commanders in making informed decisions, and suggest that the assignment of the killed in action status may be in error. Scott's wife, Joanne Speicher Harris, asks the Senate Committee on Intelligence for a full accounting regarding the fate of her former husband. This is some 10 years later.

September 15, 1999: The Senate Intelligence Committee holds a member-level briefing with the head of the Defense Intelligence Agency, Admiral Wilson, the Department of State, and the Secretary of the Navy. Followup questions for the record are sent to the executive branch.

October 28 of 1999: We hold a closed, on-the-record hearing with the same folks, and ask them followup questions for the record, and sent that to the executive branch.

May 4 of 2000: I author legislation to force the Pentagon and the U.S. intelligence community to better handle cases of military personnel missing in action or unaccounted for. It was passed by this body in the intelligence authorization bill.

Then we initiated in the committee to task the Director of Central Intelligence for an assessment.

Finally, after learning there was no intelligence wrapped up in this particular case on the fate of Scott Speicher, we ask the DCI, we ask the head of the CIA: Please, please, come in

and make an assessment on the fate of Commander Speicher.

I also had the committee request the CIA and the DOD inspectors general to jointly and expeditiously examine the intelligence to support the Speicher case.

July 25, 2000: The committee holds another on-the-record briefing in regards to the Speicher case. Questions for the record then follow.

September of 2000: Congress receives the Intelligence Committee's first ever assessment of the fate of Commander Speicher. I believe the preponderance of evidence does not support the KIA status.

Since that time he has been changed to MIA. I might point out that just before President Clinton left office, he reported to the country that he may be alive.

Now, since that time, we have followed very closely, in the Intelligence Committee, all of the intelligence assessments that have come in. And let me say the people in charge today are doing that with due diligence. I am not trying to point any fingers of blame. I just do not understand how on Earth this case could have been so badly handled over an 11- or 12-year period. Without really pointing any fingers of blame, we are receiving good cooperation from those people in charge now.

But what this legislation will do, what the Nelson-Roberts-Smith legislation will do is make sure that, on a timely basis, we have these reports.

I ask unanimous consent to have printed in the RECORD my letter to Secretary Rumsfeld, dated February 12, 2002, because I think it is very clear that Scott Speicher should be classified a POW. And I feel in my heart—as I say, again, I do not know whether he is alive or not, but I feel in my heart, with continuing intelligence assessment and open-source assessments that we are receiving on a roller coaster timely basis, and more and more publicity and attention given to this issue, and all of the foreign policy discussion and military mission discussion in regards to Iraq, he may be alive. I say he may be alive. I do not know if Scott is alive. But, my colleagues, we must press ahead in behalf of everybody who wears the uniform to determine his fate.

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

FEBRUARY 12, 2002.

Hon. DONALD RUMSFELD,
Secretary of Defense, Department of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: I write to request that you designate and use the title Prisoner-of-War (POW) for Captain Michael Scott Speicher. Captain Speicher was the first and only Coalition pilot shot down the first night of the Persian Gulf War in January 1991. He was not returned with all other POWs at the end of the war. After being listed improperly as Killed-in-Action (KIA) in May 1991, and reaffirmed in that status in 1996, Captain Speicher's status was changed to Missing-in-Action (MIA) in January 2001. President Clinton stated on January 11, 2001 that Captain Speicher ''might be alive,'' and ''if he is, where he is; and how we can get him out. . . . Because since he was a uniformed service person, he's clearly entitled to be released, and we're going to do everything we can to get him out.''

I wrote to Secretary of Defense Cohen on October 2, 2000, requesting that Captain Speicher's status be changed to a category less decisive and final than KIA (see attachment). At the time, I felt that there was considerable evidence that Captain Speicher had not been killed during the crash of his aircraft. This was based on The Intelligence Community Assessment of the Lieutenant Commander Speicher Case, that concluded ''LCDR Speicher probably survived the loss of his aircraft, and if he survived, he was almost certainly captured by the Iraqis.'' This strongly suggested the more appropriate designator or status of POW. However, I find it odd that Title 10, USC 1513(2)(D) does not identify POW as an officially recognized status although it does define a subcategory under ''missing'' status as ''captured.'' Captain Speicher clearly fits the term ''missing, captured.'' Subparagraph E2.1.20.4 of DOD Instruction 2310.5, the regulation that implements the statute, contains identical language.

Common usage of the status of ''missing, captured'' is that of POW.

There is a precedent for maintaining the status of an American as POW many years after a war. Long after virtually all Vietnam War MIA's had been given a presumptive finding of death, one American, Colonel Charles Shelton, USAF, remained listed as a POW for symbolic reasons, although U.S. analysts felt that available evidence suggested that Shelton died in captivity. He remained in POW status to indicate that the U.S. Government had not ruled out the possibility that POWs might still be alive in Southeast Asia after the end of the war. Colonel Shelton's status was finally changed to KIA on September 20, 1994.

Mr. Secretary, the Shelton precedent establishes that clear evidence of continued survival is not required for identifying the status of a captured American as a POW. Therefore, I am asking that Captain Speicher's designator or status be that of POW and that the Department use the term ''POW'' in all future references regarding Speicher.

As often happens on the battlefield, this matter relates very much to what happens in the hearts as well as the minds of those who serve, and those on whose behalf they serve. By stating to the world that we indeed believe that Captain Speicher survived—at least for some period of time—in Iraqi custody, we would acknowledge his unique and honored service as an American Gulf War POW. A change in status and terminology would add credibility and urgency to efforts to secure his release. Finally, if Captain Speicher lives, we must make every effort to attain for him the freedom he has so long been denied. His case reaffirms to our nation, albeit somewhat belatedly, that we will never abandon our soldiers even if some embarrassment befalls to our Government. It would render its service-maybe Captain Speicher's greatest service—in the inevitable next war. If the natural tendency of a bureaucracy is to take the easy way out and to declare an American soldier dead, when in fact it is really not clear what happened to him, then this is not the America our forefathers envisioned, nor one I proudly support.

I believe the status of POW sends a symbolic message not only to the Iraqis, but to other adversaries, current and future—and most importantly, to the men and women of the U.S. Armed Forces and the American people. It would tell the Iraqis what we now believe that they have much more to tell us about his fate and increases our leverage of accountability. It tells our military that we will not stand for anything less than full disclosure.

Sincerely,

PAT ROBERTS.

Mr. ROBERTS. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized under the previous order.

Mr. NELSON of Florida. Thank you, Mr. President. And thanks to Senator ROBERTS, the distinguished Senator from Kansas, for his perseverance and for his dedication.

I am glad that Senator SMITH has come to the Chamber so we can hear from him and his perspective, as he has been one of the leaders over the years in calling this matter to the attention of the American people.

As I said earlier, I have spoken with a number of world leaders, including the Prime Minister of Lebanon, asking them to task their intelligence apparatus to see if they can get any kind of information about Scott Speicher. And while intelligence is central to the potential for our success in resolving his fate, it is not the only aspect of this situation that certainly merits the congressional attention that we are trying to give it right now.

This amendment that is offered by me, Senator ROBERTS, Senator SMITH, Senator GRAHAM of Florida, as well as the majority leader, Senator DASCHLE—and his name should be on the amendment. If it is not, I ask unanimous consent that he be added as a cosponsor of this amendment.

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

Mr. NELSON of Florida. This amendment sets in place a firm schedule of updates on actions taken by the Departments of Defense and State as well as the Central Intelligence Agency. It sets a firm schedule of reports to determine the fate of Captain Speicher; a schedule of accountability, if you will, that puts the department squarely and clearly within the view of Congress and America so that we can take the measure of their efforts and their progress. And they must make progress.

In American military philosophy, no one is left behind on the battlefield. That is particularly the creed among pilots. If a pilot goes down, you know that there is a rescue team coming in to get you.

Our effort today, through this amendment, is to encourage those whose responsibility it is in government to find our missing and to leave no effort unturned in the search for Captain Speicher.

To that end, this amendment requires regular updates to the Congress on contacts with the Government of Iraq, on contacts with foreign governments and intelligence services, and on current leads in the case, and efforts to coordinate with groups such as the United Nations and the International Committee of the Red Cross.

We expect to see action and progress in these reports. We expect to shake loose any bureaucratic inaction that has slowed the search until now.

I spoke as recently as 2 hours ago with the Deputy Secretary of State and the Deputy Secretary of Defense on this matter. As a nation, we have come a long way in living up to our philosophy over the years of not leaving anyone downed behind. There are nearly 79,000 Americans still missing from World War II. There are almost 8,000 missing from Korea. There are fewer than 2,000 still missing from Vietnam. Slowly but surely, we have reduced these numbers as the new information, the new evidence on the remains of those missing is recovered from around the world.

Scott Speicher is the only American missing from the gulf war. Over 11 years after, his fate still remains unknown. The horrors of war and the frailty of the human body make it impossible to guarantee that we know with certainty the fate of every American who may be lost in battle. Nonetheless, Americans must have the confidence that the sons and daughters, the brothers and sisters, the fathers and mothers we send into harm's way will find their way home, even if it is only to their final honored resting place. We owe this to those who go and those they leave behind.

I am confident some day we will know what happened to Scott Speicher. I hope it is soon. I pray that he will return to us safe and sound, alive. In the meantime, we must watch this effort closely and pray that resolution will bring peace to the shipmates and the Navy squadron and the family of CAPT Scott Speicher.

I thank the Senate for what they will do in a few minutes, which is adopt this amendment. I look forward to the comments of the distinguished Senator from New Hampshire.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I compliment my colleagues, Senators NELSON and ROBERTS, for their continued leadership on this issue. I rise in strong support of the amendment.

The case of Scott Speicher is a terrible tragedy that never should have happened. I know my distinguished colleague is not familiar with all of the background I have had on the issue. I began in the mid-1990s to question our Government based on information I was receiving from my own sources within the intelligence community, which, much to their consternation, they have not been able to identify yet, thankfully, that there was something wrong, that there may be information suggesting that Speicher may not, should not have been declared KIA or killed in action.

As has been said, Speicher was shot down on the first night of the gulf war and immediately declared killed in action. The truth is, as I stand here today, that a search and rescue mission for Commander Speicher, now Captain Speicher, was never launched.

At a Department of Defense press conference shortly after the shootdown, it was announced that he was killed in action and that was it.

We told Saddam Hussein and the world that Speicher was dead and, therefore, there would have been absolutely no incentive for Hussein to provide him to us or any information on him to us.

It was a mistake. That announcement, pure and simple, was a mistake. It was based on incomplete information which can happen in wartime. We understand that. But it was passed up the chain of command, and it was a mistake. Mistakes can be rectified. We didn't rectify it. Mrs. Speicher and the children were told that he was killed in action. There is a big difference between being killed in action and missing in action. Missing in action, there may be some hope, or POW there may be some hope you may be found alive. She made her decisions in life based on that information which was never corrected, never changed until recently.

At the conclusion of the war, the Iraqis returned remains. I don't know if my colleague mentioned this; I was not in the Chamber at the time. They sent remains back that they claimed belonged to a pilot named Michael. When we tested the DNA, it was not Speicher. You have to ask yourself, why would the Iraqis return remains that were not Speicher if they didn't have some ulterior motive.

In spite of that, Speicher was officially declared killed in action in May of 1991, and the status was reaffirmed again in August of 1996.

Supposedly, all of these decisions were based on a comprehensive review of the case. The truth is, there was not a comprehensive review. I can assure you these decisions were a terrible mistake.

When the U.S. Government finally visited the crash site in December of 1995, it was determined that Speicher had ejected from his aircraft. There was no information given to Mrs. Speicher about that. Our investigators were able to determine that, despite the fact that the Iraqis clearly tampered with the crash site to confuse us. We had that information. Navy statistics show that 90 percent of pilots who eject from an F–18 survive the ejection. Speicher was flying an F–18. He ejected. The ejection seat came out of the plane.

In over 7 years that I have been involved in this case, I have never seen—I want to be clear about this—any information remotely suggesting that Scott Speicher was killed in action. I don't say that in any way to encourage anybody or enhance anybody's hopes. I am telling you that there has never been any information I have seen that would suggest that Scott Speicher was killed in action.

Under the laws and rules of the Defense Department and the way we determine the definition of KIA, he should not have been declared killed in action. Yet he was. In spite of the fact that month after month, year after year, more and more information was coming forth, they still left him killed in action.

In March of 1999, I sent a letter to then-Secretary of the Navy Danzig requesting that the ''finding of death'' determination made by the Navy in May of 1991 be changed because there was no evidence supporting the determination that Speicher was killed in action. In fact, there is information to the contrary—a lot of information to the contrary, which my colleagues have already discussed.

I encourage my colleagues—and I know the Senator from Florida has done this, and I am not suggesting that this could be done prior to the vote. I think this amendment will pass overwhelmingly. I encourage colleagues to read the intelligence on this case. It is a fascinating case. Some of the things we cannot talk about. But I can tell you that there is an overwhelming amount of evidence out there that suggests Speicher could have survived. There is no evidence that suggests he was killed. There is a very important distinction here. Yet he was declared killed, and his wife made decisions in life that people do make, such as getting remarried and so forth, based on that information.

In spite of the fact that I challenged it month after month, year after year, beginning in the mid-1990s, to try to get more information from my own sources who were saying, They are not telling you the truth in the intelligence community or giving you all the information—in spite of that, they would not change the designation.

As a matter of fact, I say to my colleague—because I know this is his constituent—I was trashed by some in the agency to the family directly. The family will tell Senator NELSON that if he talks to them. They said I was a troublemaker, causing undue stress to the family. This was given by bureaucrats in this Government in the DPMO office. They provided information to Mrs. Speicher that I was a troublemaker for getting involved in this because, as one who lost his dad in the Second World War and was raised without a father, I wanted the son and daughter of Mrs. Speicher to know what happened to their father. That is what I was declared a troublemaker for.

After working closely with Danzig for a number of months, the Secretary, to his credit, prior to the Clinton administration leaving office, changed the status of Commander Speicher from KIA to MIA. That is exactly what it should be. It should never have been otherwise.

I think this has been read into the RECORD, but I will give one paragraph of the intelligence community's assessment of the Speicher case. This is unclassified:

We assess that Iraq can account for Lieutenant Commander Speicher, but that Baghdad is concealing information about his fate. Lieutenant Commander Speicher probably survived the loss of his aircraft, and if he survived, he almost certainly was captured by the Iraqis.

We know, because there is a lot of information to indicate, that he could have survived the ejection from the aircraft and that there is all kinds of intelligence information about what may or may not have happened to him afterwards. We also know that the Iraqis know the answer. They could return Speicher one way or the other, dead or alive, or give us information that would indicate one way or the other.

I don't know if Commander Scott Speicher is alive, but I do know there is no information that he is dead. A lot of information suggests he may be alive. I want to again re-encapsulate this because it is very important. In spite of all the information we had at our disposal up until the last 2 or 3 years, from the early nineties, crossing two administrations, the previous Bush administration and the Clinton administration—in spite of the fact that information was in the DPMO office and in the intelligence office and the Navy, in spite of all of that information that showed an overwhelming amount of evidence that he may have survived, they still declared him KIA and refused to change the status.

When I asked to change the status, I was declared a troublemaker in the secret conversations and documents to which I was not privy. I don't care because the issue is not me. If we can find out that Scott Speicher is alive and could come home to his family, I would like to join my colleague in Jacksonville for that homecoming. But we owe nothing less to the Speicher family than that. All the men and women who serve in uniform in our Nation's military deserve nothing less than that—that the U.S. Government finds out what happens.

We realize we are dealing with a nation and a leader who isn't exactly willing to cooperate and is not the greatest humanitarian the world has ever seen. I don't blame the U.S. Government for that. I do blame the U.S. Government for not sharing this with me. I was not a member of the Intelligence Committee, so I was basically kept from getting the information, frankly, by the chairman of the committee. I wasn't able to get it.

Finally, after raising enough ruckus, I began to challenge the intelligence reports and documents and evidence we were getting, and I was able to get before the committee—even though I am not a member—and ask some questions, and then, subsequently, all this information began to come out. It is amazing.

We know the Iraqis do hold prisoners. They released an Iranian pilot in 1998 who had been held for 18 years. So it is not unprecedented. I hope sincerely that we will move forward. I think the Senator's bill will help. I just caution one thing, which is that we don't turn this thing into a 90-day reporting period and get off focus. The main focus should be, let's find him, or find out what happened to him. And let's do it quickly so that the Senator's legislation will be over with quickly because, hopefully, in the first 90 days we will get the answers. I hope it will not be a series of 90-day reports in succession as we see years and years go by.

If Scott Speicher is alive, the thought of him languishing in some prison cell somewhere in Iraq—God knows what is going on—is a horrible thing to even think about. If he is dead, then Saddam Hussein should tell us what happened to him.

I want to make it clear, before I conclude, that the current intelligence community, starting in the previous administration and then into this one, Admiral Wilson of DIA, and others have been very helpful and very responsive in helping us to get the answers. We have had a number of occasions where we could do that. So I am optimistic and I know the Senator's legislation will help.

NINTH CIRCUIT COURT OF APPEALS RULING

Before I yield the floor, this has an impact here. I want my colleagues to know this because here we are talking now about a missing pilot who was shot down in 1991 in the Persian Gulf war, fighting for his country, for the flag, fighting for this Nation under God, the flag we salute every single day, ''one nation under God.'' I want to announce to my colleagues a decision that just came down from the Ninth Circuit Court—the infamous Ninth Circuit court. Listen to this article on the ruling:

A federal appeals court ruled Wednesday that the Pledge of Allegiance is an unconstitutional endorsement of religion and cannot be recited in schools.

That is the wording of the Ninth Circuit Court.

The 9th U.S. Circuit Court of Appeals overturned a 1954 act of Congress inserting the phrase ''under God'' after the words ''one nation'' in the pledge. The court said the phrase violates the so-called Establishment Clause in the Constitution that requires a separation of church and state.

I will be very brief in deference to my colleague. But they further said:

A profession that we are a nation ''under God'' is identical, for Establishment Clause purposes, to a profession that we are a nation ''under Jesus,'' a nation ''under Vishnu,'' a nation ''under Zeus,'' or a nation ''under no god,''
fessions can be neutral with respect to religion,'' Judged Alfred T. Goodwin wrote for the three-judge panel.

I wonder what Scott Speicher would have to say about that. Unbelievable.

I sponsored, in 1999, at the request of a constituent of mine, legislation to require the Senate—which ironically was not doing it—to cite the Pledge of Allegiance before convening every day. Until 1999, we never recited the Pledge of Allegiance. A constituent was watching C–SPAN one day and said: What in the world is going on? Why don't you guys salute the flag?

I said: I don't know; let's find out.

We implemented it. The House of Representatives recites the Pledge every day. We had a unanimous resolution that passed the Congress. I wish to recite from the resolution because it shows we ought to be pretty outraged by that judicial decision:

Whereas the Flag of the United States of America is our Nation's most revered and preeminent symbol. . . .

And it goes on to talk about the flag and it even talks about the Pledge.

Here we are talking about a Naval officer who may or may not be alive in Iraq who is basically not looked for by his own Government for 10 years, and now we get an appeals court decision in the Ninth Circuit that says we have to take ''under God'' out of the Pledge of Allegiance to the flag of the United States of America.

Frankly, to Judge Goodwin: May God bless us all and pray for us.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, we are going to wind up the debate on our amendment having to do with Scott Speicher, but since the distinguished Senator has told me of two events, I want to comment.

First, the Senator from New Hampshire told me that certain bureaucrats label him a troublemaker. If that is the case, I like that kind of troublemaker.

Second, the Senator from New Hampshire referred to a recent decision by a Federal district court of appeals, of which I was not aware, to take the words ''under God'' out of the Pledge of Allegiance.

I have faith in our judicial system. Senator BYRD, the distinguished senior Senator from West Virginia, reminds all of us to carry around a copy of the Constitution and a copy of the Declaration of Independence. I remind my colleagues the second paragraph of the Declaration of Independence has these immortal words:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

Whether it be the judicial system that would correct a decision by a court of appeals which absolutely stuns me or whether it would be the checks and balances found in this Constitution of the United States, to which constitutional amendments can be initiated by this body, then I have the confidence to know that the constitutional system will work under this time-tested document.

I thank the Senator from New Hampshire for bringing that to our attention.

Mr. President, I know of no further debate on the Scott Speicher amendment. I ask the Presiding Officer to put the question.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, Senator LEVIN is not here. I cannot allow that to happen.

Mr. NELSON of Florida. If the Senator will yield, Senator LEVIN has just come into the Chamber.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I understand the pending amendment is the amendment of Senator NELSON of Florida; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. Which Senator ROBERTS and Senator SMITH have cosponsored. I commend them on their amendment and their continuing efforts to remind us of the missing hero of whom we can never lose sight. As long as there is hope, we are going to remain targeted on trying to locate our wonderful American who is always on our minds.

I do not know if there is further debate on the amendment. If not, I hope that amendment can be adopted at this time.

The PRESIDING OFFICER. Is there further debate? The Senator from Colorado.

Mr. ALLARD. Mr. President, I believe that amendment has been cleared on this side. I also compliment my colleagues on their tenacity in sticking with this issue. I was on the Intelligence Committee when this was called to our attention. I believe Senator SMITH was one of the first to get involved, as well as Senator ROBERTS and then Senator NELSON from Florida.

We need to get to the bottom of this matter. I think this amendment is something the Senate needs to adopt. There is no objection on this side.

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

The amendment (No. 4101) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I think we will return to offering amendments which have been approved by both sides.

AMENDMENT NO. 4102

Mr. LEVIN. Mr. President, I start by sending an amendment to the desk on behalf of Senators BIDEN and CARPER which will extend the Work Safety Demonstration Program through the end of fiscal year 2003.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BIDEN, for himself and Mr. CARPER, proposes an amendment numbered 4102.

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

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

The amendment is as follows:

(Purpose: To extend the work safety demonstration program of the Department of Defense)

At the end of subtitle D of title III, add the following:

SEC. 346. EXTENSION OF WORK SAFETY DEMONSTRATION PROGRAM.

(a) EXTENSION OF DEMONSTRATION PROGRAM.—Section 1112 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–313) is amended—

(1) in subsection (d), by striking ''September 30, 2002'' and inserting ''September 30, 2003''; and

(2) in subsection (e)(2), by striking ''December 1, 2002'' and inserting ''December 1, 2003''.

Mr. LEVIN. I believe the amendment has been cleared by the other side.

Mr. ALLARD. It has been cleared on this side.

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

The amendment (No. 4102) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4103

Mr. ALLARD. Mr. President, on behalf of Senator WARNER, I offer an amendment that would amend the National Defense Authorization Act for fiscal year 2000 to modify the requirement for the Secretary of Defense to submit a master plan on the use of the Navy Annex.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. WARNER, proposes an amendment numbered 4103.

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

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

The amendment is as follows:

(Purpose: To provide for a master plan for the use of the Navy Annex, Arlington, Virginia)

At the end of subtitle C of title XXVIII, add the following:

SEC. 2829. MASTER PLAN FOR USE OF NAVY ANNEX, ARLINGTON, VIRGINIA.

(a) REPEAL OF COMMISSION ON NATIONAL MILITARY MUSEUM.—Title XXIX of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 880; 10 U.S.C. 111 note) is repealed.

(b) MODIFICATION OF AUTHORITY FOR TRANSFER FROM NAVY ANNEX.—Section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (113 Stat. 879) is amended—

(1) in subsection (b)(2), as amended by section 2863(f) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1332), by striking ''as a site—'' and all that follows and inserting ''as a site for such other memorials or museums that the Secretary considers compatible with Arlington National Cemetery and the Air Force Memorial.''; and

(2) in subsection (d)—

(A) in paragraph (2), by striking ''the recommendation (if any) of the Commission on the National Military Museum to use a portion of the Navy Annex property as the site for the National Military Museum'', and inserting ''the use of the acres reserved under (b)(2) as a memorial or museum''; and

(B) in paragraph (4), by striking ''the date on which the Commission on the National Military Museum submits to Congress its report under section 2903'' and inserting ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 2003''.

(c) CONSTRUCTION OF AMENDMENTS.—The amendments made by subsections (a) and (b) may not be construed to delay the establishment of the United States Air Force Memorial authorized by section 2863 of the Military Construction Authorization Act for Fiscal Year 2002 (115 Stat. 1330).

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

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

The amendment (No. 4103) was agreed to.

Mr. ALLARD. 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. 4104

Mr. LEVIN. Mr. President, on behalf of Senator DURBIN, I offer an amendment which would provide authority for nonprofit organizations to self-certify for treatment as qualified organizations employing the severely disabled for purposes of the DOD Mentor-Protege Program. I send the amendment to the desk. I believe it has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. DURBIN, proposes an amendment numbered 4104.

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

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

The amendment is as follows:

(Purpose: To provide authority for nonprofit organizations to self-certify eligibility for treatment as qualified organizations employing the severely disabled for purposes of the Mentor-Protege Program)

At the end of subtitle C of title VIII, add the following:

SEC. 828. AUTHORITY FOR NONPROFIT ORGANIZATIONS TO SELF-CERTIFY ELIGIBILITY FOR TREATMENT AS QUALIFIED ORGANIZATIONS EMPLOYING SEVERELY DISABLED UNDER MENTOR-PROTEGE PROGRAM.

Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note) is amended by adding at the end the following new subsection:

''(n) SELF-CERTIFICATION OF NONPROFIT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS EMPLOYING THE SEVERELY DISABLED.—(1) The Secretary of Defense may, in accordance with such requirements as the Secretary may establish, permit a business entity operating on a non-profit basis to self-certify its eligibility for treatment as a qualified organization employing the severely disabled under subsection (m)(2)(D).

''(2) The Secretary shall treat any entity described in paragraph (1) that submits a self-certification under that paragraph as a qualified organization employing the severely disabled until the Secretary receives evidence, if any, that such entity is not described by paragraph (1) or does not merit treatment as a qualified organization employing the severely disabled in accordance with applicable provisions of subsection (m).

''(3) Paragraphs (1) and (2) shall cease to be effective on the effective date of regulations prescribed by the Small Business Administration under this section setting forth a process for the certification of business entities as eligible for treatment as a qualified organization employing the severely disabled under subsection (m)(2)(D).''.

Mr. ALLARD. Mr. President, it has been cleared on this side.

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

The amendment (No. 4104) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4105

Mr. ALLARD. Mr. President, on behalf of Senator KYL, I offer an amendment which would authorize the transfer of the DF–9E Panther aircraft to the Women Air Force Service Pilots Museum.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. KYL, proposes an amendment numbered 4105.

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

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

The amendment is as follows:

(Purpose: To authorize the transfer of a DF–9E Panther aircraft to the Women Airforce Service Pilots Museum)

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

SEC. 1065. TRANSFER OF HISTORIC DF–9E PANTHER AIRCRAFT TO WOMEN AIRFORCE SERVICE PILOTS MUSEUM.

(a) AUTHORITY TO CONVEY.—The Secretary of the Navy may convey, without consideration, to the Women Airforce Service Pilots Museum in Quartzsite, Arizona (in this section referred to as the ''W.A.S.P. museum''), all right, title, and interest of the United States in and to a DF–9E Panther aircraft (Bureau Number 125316). The conveyance shall be made by means of a conditional deed of gift.

(b) CONDITION OF AIRCRAFT.—The aircraft shall be conveyed under subsection (a) in ''as is'' condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) REVERTER UPON BREACH OF CONDITIONS.—The Secretary shall include in the instrument of conveyance of the aircraft under subsection (a)—

(1) a condition that the W.A.S.P. museum not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary; and

(2) a condition that if the Secretary determines at any time that the W.A.S.P. museum has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the W.A.S.P. museum.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. LEVIN. Mr. President, the amendment has been cleared.

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

The amendment (No. 4105) was agreed to.

Mr. ALLARD. 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. 4106

Mr. LEVIN. Mr. President, on behalf of Senator KERRY, I offer an amendment which would require the Army to report to Congress on the impact that a proposed reorganization of contracting authority will have on small business. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. KERRY, for himself, Mr. BOND, and Mrs. CARNAHAN, proposes an amendment numbered 4106.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of the Army to submit a report on the effects of the Army Contracting Agency on small business participation in Army procurement)

On page 194, between lines 13 and 14, insert the following:

SEC. 828. REPORT ON EFFECTS OF ARMY CONTRACTING AGENCY.

(a) IN GENERAL.—The Secretary of the Army shall submit a report on the effects of the establishment of an Army Contracting Agency on small business participation in Army procurements during the first year of operation of such an agency to—

(1) the Committee on Armed Services of the House of Representatives;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Small Business of the House of Representatives; and

(4) the Committee on Small Business and Entrepreneurship of the Senate.

(b) CONTENT.—The report required under subsection (a) shall include, in detail—

(1) the justification for the establishment of an Army Contracting Agency;

(2) the impact of the creation of an Army Contracting Agency on—

(A) Army compliance with—

(i) Department of Defense Directive 4205.1;

(ii) section 15(g) of the Small Business Act (15 U.S.C. 644(g)); and

(iii) section 15(k) of the Small Business Act (15 U.S.C. 644(k));

(B) small business participation in Army procurement of products and services for affected Army installations, including—

(i) the impact on small businesses located near Army installations, including—

(I) the increase or decrease in the total value of Army prime contracting with local small businesses; and

(II) the opportunities for small business owners to meet and interact with Army procurement personnel; and

(ii) any change or projected change in the use of consolidated contracts and bundled contracts; and

(3) a description of the Army's plan to address any negative impact on small business participation in Army procurement, to the extent such impact is identified in the report.

(c) TIME FOR SUBMISSION.—The report under this section shall be due 15 months after the date of the establishment of the Army Contracting Agency.

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

The amendment (No. 4106) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4107

Mr. ALLARD. Mr. President, on behalf of Senator SANTORUM, I offer an amendment that would authorize an increase of $1 million for procurement of M821A1 high explosive insensitive munition and would authorize a decrease of $1 million for the procurement of the CH–47 crashworthy seat modification.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. SANTORUM, proposes an amendment numbered 4107.

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

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

The amendment is as follows:

(Purpose: To add $1,000,000 for the Army for procurement of M821A1 High Explosive (HE) insensitive munition for the 81-millimeter mortar, and to offset the increase by reducing the amount provided for the Army for aircraft procurement for CH–47 cargo helicopter modifications, for the procurement of commercial, off-the-shelf, crashworthy seats by $1,000,000)

On page 13, line 18, increase the amount by $1,000,000.

On page 13, line 14, reduce the amount by $1,000,000.

Mr. LEVIN. The amendment has been cleared.

Mr. ALLARD. It has been cleared on this side also.

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

The amendment (No. 4107) was agreed to.

Mr. ALLARD. 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. 4108

Mr. LEVIN. On behalf of Senators CLELAND, HUTCHINSON, and KENNEDY, I offer an amendment which would authorize the Secretary of Defense to pay interest on student loans of service members for 3 years during their first term of service.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND, for himself, Mr. HUTCHINSON, and Mr. KENNEDY, proposes an amendment numbered 4108.

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

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

The amendment is as follows:

(Purpose: To authorize the payment of interest on student loans of members of the Armed Forces)

On page 148, after line 22, add the following:

SEC. 655. PAYMENT OF INTEREST ON STUDENT LOANS.

(a) AUTHORITY.—(1) Chapter 109 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2174. Interest payment program: members on active duty

''(a) AUTHORITY.—(1) The Secretary concerned may pay in accordance with this section the interest and any special allowances that accrue on one or more student loans of an eligible member of the armed forces.

''(2) The Secretary of a military department may exercise the authority under paragraph (1) only if approved by the Secretary of Defense and subject to such requirements, conditions, and restrictions as the Secretary of Defense may prescribe.

''(b) ELIGIBLE PERSONNEL.—A member of the armed forces is eligible for the benefit under subsection (a) while the member—

''(1) is serving on active duty in fulfillment of the member's first enlistment in the armed forces or, in the case of an officer, is serving on active duty and has not completed more than three years of service on active duty;

''(2) is the debtor on one or more unpaid loans described in subsection (c); and

''(3) is not in default on any such loan.

''(c) STUDENT LOANS.—The authority to make payments under subsection (a) may be exercised with respect to the following loans:

''(1) A loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.).

''(2) A loan made under part D of such title (20 U.S.C. 1087a et seq.).

''(3) A loan made under part E of such title (20 U.S.C. 1087aa et seq.).

''(d) MAXIMUM BENEFIT.—The months for which interest and any special allowance may be paid on behalf of a member of the armed forces under this section are any 36 consecutive months during which the member is eligible under subsection (b).

''(e) FUNDS FOR PAYMENTS.—Appropriations available for the pay and allowances of military personnel shall be available for payments under this section.

''(f) COORDINATION.—(1) The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Transportation shall consult with the Secretary of Education regarding the administration of the authority under this section.

''(2) The Secretary concerned shall transfer to the Secretary of Education the funds necessary—

''(A) to pay interest and special allowances on student loans under this section (in accordance with sections 428(o), and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o), 1087e(a), and 1087dd(j)); and

''(B) to reimburse the Secretary of Education for any reasonable administrative costs incurred by the Secretary in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965.

''(g) SPECIAL ALLOWANCE DEFINED.—In this section, the term 'special allowance' means a special allowance that is payable under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087–1).''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''2174. Interest payment program: members on active duty.''.

(b) FEDERAL FAMILY EDUCATION LOANS AND DIRECT LOANS.—(1) Subsection (c)(3) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended—

(A) in clause (i) of subparagraph (A)—

(i) by striking ''or'' at the end of subclause (II);

(ii) by inserting ''or'' at the end of subclause (III); and

(iii) by adding at the end the following new subclause:

''(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (o);'';

(B) in clause (ii)(II) of subparagraph (A), by inserting ''or (i)(IV)'' after ''clause (i)(II)''; and

(C) by striking subparagraph (C) and inserting the following:

''(C) shall contain provisions that specify that—

''(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and

''(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan, and payments of any special allowance payable with respect to the loan under section 438 of this Act, that are made under subsection (o); and''.

(2) Section 428 of such Act is further amended by adding at the end the following new subsection:

''(o) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

''(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest and any special allowance on a loan to a member of the Armed Forces that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

''(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV).

''(3) SPECIAL ALLOWANCE DEFINED.—For the purposes of this subsection, the term 'special allowance', means a special allowance that is payable with respect to a loan under section 438 of this Act.''.

(c) FEDERAL PERKINS LOANS.—Section 464 of the Higher Education Act of 1965 (20 U.S.C. 1087dd) is amended—

(1) in subsection (e)—

(A) by striking ''or'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting ''; or''; and

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

''(3) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j), except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j).''; and

(2) by adding at the end the following new subsection:

''(j) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

''(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

''(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(3).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest, and any special allowance under section 438 of the Higher Education Act of 1965, that accrue for months beginning on or after October 1, 2003, on student loans described in subsection (c) of section 2174 of title 10, United States Code (as added by subsection (a)), that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of title 10, United States Code) on or after that date.

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

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

The amendment (No. 4108) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4109

Mr. ALLARD. Mr. President, on behalf of Senator SANTORUM, I offer an amendment which provides key enabling robotics technologies that will support Army, Navy, and Air Force robotics and unmanned military platforms.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. LEVIN. Mr. President, I ask that the clerk withhold the reading of that for one moment.

The PRESIDING OFFICER. The clerk will withhold.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Colorado.

Mr. ALLARD. Mr. President, I have an amendment on behalf of Senator SANTORUM, which I believe is at the desk, which authorizes $1 million for the Civil Reserve Space Service, and to offset by a million dollars the CH–47 cargo helicopter commercial, off-the-shelf, crashworthy seats.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. SANTORUM, proposes an amendment numbered 4109.

The PRESIDING OFFICER. The clerk will report the amendment.

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

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

The amendment is as follows:

(Purpose: To add $1,000,000 for the Air Force for RDT&E for space and missile operations, Civil Reserve Space Service (CRSS) initiative (PE 305173F), and to offset the increase by reducing the amount provided for the Army aircraft procurement, CH–47 cargo helicopter COTS crashworthy seats by $1,000,000)

On page 23, line 24, increase the amount by $1,000,000.

On page 13, line 14, reduce the amount by $1,000,000.

Mr. LEVIN. The amendment has been cleared.

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

The amendment (No. 4109) was agreed to.

Mr. ALLARD. 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. 4110

Mr. LEVIN. Mr. President, on behalf Senator REID, I offer an amendment which would revise the language in section 2841 of the bill authorizing transfer of funds from the Air Force to the U.S. Fish and Wildlife Service to carry out the terms of a provision in the National Defense Authorization Act for fiscal year 2000 relative to a land withdrawal at Nellis Air Force Base, NV.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. REID, proposes an amendment numbered 4110.

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

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

The amendment is as follows:

(Purpose: To provide alternative authority regarding the transfer of funds for the acquisition of replacement property for National Wildlife Refuge system lands in Nevada)

Strike section 2841, relating to a transfer of funds in lieu of acquisition of replacement property for National Wildlife Refuge system in Nevada, and insert the following:

SEC. 2841. TRANSFER OF FUNDS FOR ACQUISITION OF REPLACEMENT PROPERTY FOR NATIONAL WILDLIFE REFUGE SYSTEM LANDS IN NEVADA.

(a) TRANSFER OF FUNDS AUTHORIZED.—(1) The Secretary of the Air Force may, using amounts authorized to be appropriated by section 2304(a), transfer to the United States Fish and Wildlife Service $15,000,000 to fulfill the obligations of the Air Force under section 3011(b)(5)(F) of the Military Lands Withdrawal Act of 1999 (title XXX of Public Law 106–65; 113 Stat. 889).

(2) Upon receipt by the Service of the funds transferred under paragraph (1), the obligations of the Air Force referred to in that paragraph shall be considered fulfilled.

(b) CONTRIBUTION TO FOUNDATION.—(1) The United States Fish and Wildlife Service may grant funds received by the Service under subsection (a) in a lump sum to the National Fish and Wildlife Foundation for use in accomplishing the purposes of section 3011(b)(5)(F) of the Military Lands Withdrawal Act of 1999.

(2) Funds received by the Foundation under paragraph (1) shall be subject to the provisions of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), other than section 10(a) of that Act (16 U.S.C. 3709(a)).

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

The amendment (No. 4110) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4111

Mr. ALLARD. Mr. President, on behalf of Senator LOTT, I send an amendment to the desk to authorize the Secretary of Defense to waive the time-in-grade requirement for officers in the grades of 0–4 and above as set forth in section 1370 of title 10, United States Code.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. LOTT, proposes an amendment numbered 4111.

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

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

The amendment is as follows:

(Purpose: To add restrictions on the proposed authority for reducing the minimum period of service in grades above 0-4 for eligibility to be retired in highest grade held)

On page 2, strike lines 4 through 6, and insert the following:

(a) OFFICERS ON ACTIVE DUTY.—Subsection (a)(2)(A) of section 1370 of title 10, United States Code, is amended—

(1) by striking ''may authorize'' and all that follows and inserting ''may, in the case of retirements effective during the period beginning on September 1, 2002, and ending on December 31, 2004, authorize—''; and

(2) by adding at the end the following:

''(1) the Deputy Under Secretary of Defense for Personnel and Readiness to reduce such 3-year period of required service to a period not less than two years for retirements in grades above colonel or, in the case of the Navy, captain; and

''(2) the Secretary of a military department or the Assistant Secretary of a military department having responsibility for manpower and reserve affairs to reduce such 3-year period to a period of required service not less than two years for retirements in grades of lieutenant colonel and colonel or, in the case of the Navy, commander and captain.''.

(b) RESERVE OFFICERS.—Subsection (d)(5) of such section is amended—

(1) in the first sentence—

(A) by striking ''may authorize'' and all that follows and inserting ''may, in the case of retirements effective during the period beginning on September 1, 2002, and ending on December 31, 2004, authorize—''; and

(B) by adding at the end the following:

''(A) the Deputy Under Secretary of Defense for Personnel and Readiness to reduce such 3-year period of required service to a period not less than two years for retirements in grades above colonel or, in the case of the Navy, captain; and

''(B) the Secretary of a military department or the Assistant Secretary of a military department having responsibility for manpower and reserve affairs to reduce such 3-year period of required service to a period not less than two years for retirements in grades of lieutenant colonel and colonel or, in the case of the Navy, commander and captain.'';

(2) by designating the second sentence as paragraph (6) and realigning such paragraph, as so redesignated 2 ems from the left margin; and

(3) in paragraph (6), as so redesignated, by striking ''this paragraph'' and inserting ''paragraph (5)''.

(c) ADVANCE NOTICE TO THE PRESIDENT AND CONGRESS.—Such section is further amended by adding at the end the following new subsection:

''(e) ADVANCE NOTICE TO CONGRESS.—(1) The Secretary of Defense shall notify the

Committees on Armed Services of the Senate and House of Representatives of—

''(A) an exercise of authority under paragraph (2)(A) of subsection (a) to reduce the 3-year minimum period of required service on active duty in a grade in the case of an officer to whom such paragraph applies before the officer is retired in such grade under such subsection without having satisfied that 3-year service requirement; and

''(B) an exercise of authority under paragraph (5) of subsection (d) to reduce the 3-year minimum period of service in grade required under paragraph (3)(A) of such subsection in the case of an officer to whom such paragraph applies before the officer is credited with satisfactory service in such grade under subsection (d) without having satisfied that 3-year service requirement.

''(2) The requirement for a notification under paragraph (1) is satisfied in the case of an officer to whom subsection (c) applies if the notification is included in the certification submitted with respect to such officer under paragraph (1) of such subsection.

''(3) The notification requirement under paragraph (1) does not apply to an officer being retired in the grade of lieutenant colonel or colonel or, in the case of the Navy, commander or captain.''.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 4111) was agreed to.

Mr. ALLARD. I move to reconsider the vote.

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

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. LEVIN. Mr. President, I ask unanimous consent the proceedings under the quorum call be rescinded.

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

Mr. LEVIN. I ask unanimous consent Senator NELSON be recognized as in morning business and that we then return immediately to the pending amendment.

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

The Senator from Florida.

THE PLEDGE

Mr. NELSON of Florida. Mr. President, a few minutes ago, late-breaking news was called to our attention. As a matter of fact, it was while we were debating the Scott Speicher amendment, which was adopted unanimously on this Defense authorization bill. Sadly, I have confirmed that that news is accurate. A Reuters statement says:

> A Federal appeals court found the U.S. Pledge of Allegiance unconstitutional on Wednesday, saying it was illegal to ask U.S. schoolchildren to vow fealty to one Nation under God.

The Ninth Circuit Court of Appeals in San Francisco overturned a 1954 act of Congress that added ''under God'' to the pledge, saying the words violated the basic constitutional tenet of separation of church and state.

It is with a heavy heart that I would have to take the floor—I imagine I am just the first of many—to call to the attention of the Senate, and indeed to call to the attention of the courts, that I think there is substantial legal justification. There is a huge difference between separation of church and state—which we all support—and the separation of the state and of God. There is a huge difference.

The opening ceremony of the U.S. Senate each morning that we go into session is a very solemn occasion. Overlooking this Chamber are the words inscribed in gold, above the middle entrance into this Chamber, above the two stately columns—inscribed in gold: ''In God We Trust.''

The opening ceremony, for those who have not participated in it, is a most solemn occasion about which the historian of this Chamber, one of our own, the distinguished senior Senator from West Virginia—who has been in Congress, if not over a half a century, certainly close to it, Senator BYRD—has taken it upon himself to educate the freshman Senators as to the dignity, the decorum, and the solemnity of the opening ceremony.

When the opening bells ring and those two doors to the left of the rostrum open, in walks the Presiding Officer accompanied by the Senate Chaplain or the especially designated Chaplain for the day.

As the Presiding Officer walks in and starts to mount the rostrum, the Presiding Officer steps up three of the four steps but does not ascend on the fourth step, which is the level of the Presiding Officer's desk and chair. Rather, the Presiding Officer remains on the third step as the Chaplain ascends to the higher level, the level of the rostrum.

This is the symbolic act. It is a symbolic act of raising the dignity of the position of the Chaplain of the Senate, or the designated Chaplain of the Senate for the day, recognizing and elevating the deity, or the representative of divine providence to that position. We do that each day in the Senate.

Mr. JOHNSON. Mr. President, will the Senator yield for a question?

Mr. NELSON of Florida. I am happy to yield to the distinguished Senator from South Dakota.

Mr. JOHNSON. I share the shock and dismay expressed by my colleague, my friend from Florida, over the ruling of the Ninth Circuit Court relative to the Pledge of Allegiance in our schools.

Without having read the decision, other than what has been released within the hour through the media, it would appear that ruling of the three-judge panel of the Ninth Circuit—the Senator will concur that this is only one of our appellate circuits—applies only to the States of that circuit.

Certainly, it would be my hope that this matter would be appealed to the U.S. Supreme Court, and that the Supreme Court would not accept this decision and, hopefully, in my view, overrule the Ninth Circuit Court of Appeals.

Is that the progression of events that my friend and colleague from Florida hopes will be the next step that this particular controversy might take?

Mr. NELSON of Florida. Indeed, under our constitutional system—that is part of what I wanted to point out, and I pointed out to the Senate earlier today—we have a mechanism of checks and balances. The check and balance here is the right of appeal from this court of appeals in San Francisco to the U.S. Supreme Court.

I have the confidence that the Supreme Court's nine Justices representing the entire Nation would understand the difference between separation of church and state as being the difference between the separation of the state and God.

As I was saying, the dignity of this institution is started off each day under the watchful words inscribed in gold above the center door, ''In God We Trust,'' with an opening ceremony in which the position of the Chaplain is actually elevated above the Presiding Officer until the Chaplain delivers the opening prayer which opens the business of the Senate.

Furthermore, I point out to our colleagues that as part of our constitutional heritage—including the Constitution—one of the most important documents in our governmental archives is the Declaration of Independence. I call to the attention of the Senate the words of the second paragraph:

> We hold these truths to be self-evident, that men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

Then I point out that there are similar words at the end of the Declaration:

> And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

I have the confidence to know that when there is a judicial opinion that I think so violates the national understanding and national sense of the proper perspective of a state and divine providence as opposed to the issue that we all support, the separation of church and state so that anyone can worship as they wish if at all, then I think that distinction needs to be clearly made as well as it needs to be reminded of all of the historical significance of our reliance upon divine providence that is a part of the very fabric of this Nation, of this Government, and of the documents upon which this Government was founded.

I see the great Senator from Connecticut standing and I am anxious to hear what he has to say. Should all else fail, even in a judicial interpretation, there is another check and balance given to us by this document; that is, the will of this Nation can be expressed by the amending or an addition to this document, the Constitution. We can start right here in this legislative body by the process of adding to the Constitution, amending the Constitution