complete their degree and be successful in the world rather than becoming frustrated or becoming a discipline problem, and maybe even dropping out of school because they know they are so far behind they cannot keep up.

That is what we focused on when we crafted the No Child Left Behind Act. That is ultimately one of the keys to American movement in this new century; and that is, are our children reaching their highest possible level of achievement. The more children who achieve their highest and greatest potential, the greater the benefit will be for our country.

I see my time is up. We are about ready to go to the defense bill. I again express my appreciation to Senator ALEXANDER for his insights and commitment to education. There is much we can do to make our system better.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 2400, which the clerk will report.

The assistant legislative clerk read as follows:

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

Mr. WARNER. Mr. President, in connection with the work on this bill, which is scheduled for this week, Senator LEVIN and I ask unanimous consent that the staff members of the committee on the Armed Services, those names appearing on the list which is attached to this request, be extended the privilege of the floor during consideration of S. 2400, the National Defense Authorization Act for fiscal year 2005.

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

The list is as follows:

Judith A. Ansley, Richard D. DeBobes, Charles W. Alsup, Michael N. Berger, June M. Borawski, Leah C. Brewer, Alison E. Brill, Jennifer D. Cave, L. David Cherington, Christine E. Cowart, Daniel J. Cox, Jr., Madelyn R. Creedon, Kenneth M. Crosswait, Marie Fabrizio Dickinson, Regina A. Dubey, and Gabriella Eisen.

Evelyn N. Farkas, Richard W. Fieldhouse, Andrew W. Florell, Brian R. Green, Creighton Greene, William C. Greenwalt, Jeremy L. Hekhuis, Bridget W. Higgins, Ambrose R. Hock, Gary J. Howard, Jennifer Key, Gregory T. Kiley, Maren R. Leed, Gerald J. Leeling, and Peter K. Levine.

Thomas L. MacKenzie, Sara R. Mareno, Michael J. McCord, Elaine A. McCusker, William G.P. Monahan, Lucian L. Niemeyer, Cindy Pearson, Paula J. Philbin, Lynn F. Rusten, Arun A. Seraphin, Joseph T. Sixeas, Scott W. Stucky, Diana G. Tabler, Richard F. Walsh, Bridget E. Ward, Nicholas W. West, and Pendred K. Wilson.

Mr. WARNER. Mr. President, it is my privilege to again address the Senate on this bill, which I commend the Committee on the Armed Services for marking up in a record period of time. I first wish to thank my distinguished colleague, these now 26 years working together, the senior Senator from Michigan, Mr. LEVIN, and his staff who worked very diligently, such that the two of us together, with the tremendous support of each and every member of the Armed Services Committee, were able to proceed through the year with our series of hearings and to do a very thorough and expeditious markup.

So we bring to the floor the National Defense Authorization Act for fiscal year 2005 for the Senate's consideration. This bill was unanimously reported out of committee on May 6. I believe it is a testament to the strong support of our men and women in uniform by the Senate if adopted.

As we begin debate on this bill today, over 300,000 soldiers, sailors, airmen, and marines, Active and Reserve, and countless civilians are serving bravely around the world, including the Persian Gulf region, Iraq, and Afghanistan, in the cause of freedom. All Americans are proud of what the U.S. Armed Forces and their coalition partners have accomplished thus far in Iraq and in the global war on terrorism. We are ever mindful that the defense of our homeland begins on the distant battlefields of the world.

As we begin this debate, we must pause to remember that military success is not achieved without significant sacrifice. We, the members of the committee—indeed, all Members of the Senate—extend our sympathies to the families and the loved ones of those who sacrificed their lives or were injured in operations to make America and the world safer. We will forever honor their service.

The military successes in Operation Enduring Freedom and Operation Iraqi Freedom are a testament to the dedication and professionalism of the U.S. Armed Forces and to the support and sacrifice of their families. It is also a tribute to American technology and ingenuity. The U.S. military is the most capable military force in the world today, a model of excellence, and the standard by which others are to be measured.

As I have said repeatedly over the past few weeks, the horrific evidence of abuse of Iraqi prisoners perpetrated by a small number—and I repeat, thus far to the comparison of the totality of our Armed Forces, a very small number of our Armed Forces—together with a number of civilian contractors, is an aberration, a total departure from the high standards and the professionalism that we have in our U.S. military. That series of incidents must never be permitted to happen again.

I am very proud of what the Committee on the Armed Services has done thus far by way of its oversight responsibilities of this tragic situation, and we will continue, in consultation with my distinguished ranking member and all the members of the committee, to pursue the facts.

These incidents are counter to every human value that every American has been taught. It is counter to what this country stands for, and it is counter to what the U.S. Armed Forces are fighting to protect. These acts of a few in some respect diminish us all. Nonetheless, we must not permit these acts to tarnish the honor of the many dedicated men and women in the Armed Forces, the 99.99 percent who are vigilantly upholding the values for which this country stands, and who are doing a great mission, wherever it is in the world, often at high personal risk.

With Senate passage of the bill before us, we have the opportunity to send a strong message of support to our men and women in uniform. The bill contains much deserved pay raises and benefits for our military personnel and their families, much needed increases in family housing, and quality-of-life projects on military installations, as well as prudent investments in the equipment and technology our military needs to address future threats. I urge my colleagues to debate this bill in a constructive spirit and to support its rapid adoption.

The President's budget for defense for fiscal year 2005 continues a momentum of recent years in providing real increases in defense spending to combat terrorism and secure the homeland, to enhance the quality of life of our military personnel and their families, and to modernize and transform the U.S. Armed Forces to meet current and future threats.

The bill before us provides $422.2 billion for the Department of Defense and the defense programs of the Department of Energy, an increase of $20.9 billion, or 3.4 percent in real terms, over the amount authorized in fiscal year 2004.

This bill reflects six priorities we established to guide our work on the National Defense Authorization Act for fiscal year 2005.

First, our committee wanted to provide our men and women in uniform with the resources, training, and technology and equipment they need.

Second, enhance stability of the Department of Defense to fulfill its homeland defense responsibilities.

Third, continue to improve the quality of life for the men and women of the Armed Forces—Active, Reserve, Guard, and Retired—and their families.

May I say at this point, having had many an association with the Armed Forces—and I use that term collectively to include the Guard and Reserve—they have performed magnificently, the Guard and Reserve, and

have earned the respect of the regular forces who look upon them now as coequal partners.

Fourth, sustain the readiness of our Armed Forces to conduct a full spectrum of military operations against current and anticipated threats.

Fifth, support efforts to develop the innovative capabilities necessary to modernize and transform the Armed Forces.

And sixth, continue active oversight of Department programs and operations, particularly in the areas of acquisition reform and contract management, to ensure proper stewardship of the taxpayers' hard-earned dollars.

The committee's first priority was to provide the Department of Defense with the resources it needs to combat terrorism and win the war on global terrorism. This bill authorizes a temporary increase in the active-duty end strength of the Army of up to 30,000 soldiers from the 2005 through 2009 fiscal years. This authorization is consistent with the manpower plans of the Army.

In addition, the bill authorizes an increase of almost $1.2 billion over the budget request for programs to help our troops in the field. Funding highlights include, for the Army: $1.2 billion for helicopters to support Army aviation and modernization, in order to get needed airlift and attack helicopters to troops in the field; $272.2 million for aircraft survivability equipment to ensure all aircraft used in combat operations have the best possible protection; $905 million to continue procuring the Stryker armored vehicles that are already proving valuable in military operations in Iraq; and almost $1.1 billion for up-armored HMMWVs, including an increase of $925 million to accelerate procurement of up-armored HMMWVs, as well as add-on ballistic armor for medium and heavy trucks, to protect our troops on patrol in hostile environments.

To improve the ability of special operations forces, a major component of the war on terror, the bill authorizes an increase of $65.4 million above the President's budget request to accelerate the availability of important new capabilities.

For naval forces, the bill authorizes an increase of $150 million to accelerate fielding of an amphibious assault ship that will greatly improve the mobility and lethality of the U.S. Marine Corps operations, increases the amount requested for amphibious assault vehicles by $23.2 million, and it adds almost $50 million for personal protection equipment for the Army, Navy, Air Force, and Marines.

Overall, the bill adds over $600 million for force protection gear and combat clothing, such as improved body armor, to meet urgent requirements of the Armed Forces. The committee fully supports the budget request of $2.9 billion for C–17 new aircraft, to add to the existing fleet which is performing magnificently all over the world. This will improve the global mobility of our U.S. forces.

To enhance the Department's homeland defense capabilities, the bill fully supports the President's budget request of $8 billion and authorizes an additional $46.9 million for seven additional weapons of mass destruction civil support teams. With this increase, the committee has reached the goal of funding 55 teams which will support local and regional first responders in every State and territory of the United States. May I add, our committee has had a long history of strong support for this program and increases the budget amounts each of the fiscal years to make certain that all 50 States are given this capability.

In addition, the committee has added an additional $33.9 million for innovative technologies to combat terrorism and defeat emerging asymmetric threats, and $26.5 million for the development of chemical and biological agent detection and protection technologies. To protect America from ballistic missile threats, the bill authorizes $10.2 billion for missile defense.

This bill continues our commitment to improve the quality of life of our men and women in uniform, and their families, by authorizing a 3.5-percent across-the-board pay raise for all uniformed service personnel, as well as increases in housing allowances that will eliminate average out-of-pocket expenses for off-base housing for service members. The bill authorizes a permanent increase in the monthly family separation allowance from $100 per month to $250 per month, and a permanent increase, from $150 a month to $225 a month, for special pay for duty subject to hostile fires or imminent danger. The bill also supports the initiatives taken by the Department to increase the pay of troops whose tours of duty have been extended for more than 12 months in the Iraq theater.

In a significant health care initiative for members of the Reserves and National Guard, this bill authorizes permanent increases in coverage before and after mobilization, and a new health care option which would make TRICARE coverage available to all members of the Select Reserve and their families, in an affordable way. I urge my colleagues to support this innovative approach to enhancing health care benefits for members of the Reserve and National Guard and their families.

The administration requested $9.4 billion for military construction and family housing. The bill before the Senate includes an overall increase of $342.4 million in military construction, including increases of more than $100 million in critical unfunded projects identified by the military services, and an additional $172 million to fund improvements to the facilities supporting our National Guard and Reserve Forces.

Over the past several years, the Armed Services Committee has worked with the Department of Defense to ensure that necessary modernization, transformation, and long-range research are maintained, even in times of high operational tempo.

This bill continues support for these transformational activities, for example, by authorizing $131.1 million for tactical UAVs that have proven so valuable in recent military operations, an increase to $30.6 million above the budget request; and more than $11 billion for cutting-edge science and technology programs, an increase of $445 million above the budget request. These increases are in the critical areas of force protection equipment and devices, counterterrorism technologies, information assurance unmanned systems, and training innovations for the future defense force.

With our Armed Forces deployed on distant battlefields and countless others standing watch at home, we are committed to providing the resources needed for the men and women of the Armed Forces, and their families. The Congress's past support for increased defense spending has proven to be a wise investment. There is no greater evidence than the successes witnessed on the battlefields, where the courage of our men and women are displayed in Afghanistan and Iraq, and elsewhere in the world.

This National Defense Authorization Act for the year 2005 builds on the advances made in recent years. I urge my colleagues to join me and send a strong message of bipartisan support for our troops at home and abroad. We honor your service. We stand with you now and we will stand with you always in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I join with our chairman of the Senate Armed Services Committee, Mr. WARNER, in bringing S. 2400, the National Defense Authorization Act for fiscal year 2005 to the Senate floor. This bill is the product of 45 hearings, 3 days of markup, and countless hours of hard work by the members and the staff of the Armed Services Committee.

Throughout this process, Senator WARNER has led the committee with his usual fairness and graciousness. There was a unanimous vote of our members in support of this bill, which is a tribute to the able leadership of my dear friend and the balanced approach which Senator WARNER takes always in matters under consideration by our committee. He chairs this committee in the finest tradition of the Senate Armed Services Committee, and I commend him for it. I wish every Senator could see him in action as he chairs our committee.

Senator WARNER has balanced the committee's legislative and oversight responsibilities over the last several weeks so there has been an additional challenge that Senator WARNER has had to face as we have worked to report out this bill while at the same

time beginning vital oversight over the abuses of Iraqi detainees at Abu Ghraib prison. Without delaying the markup schedule, Senator WARNER promptly scheduled a series of briefings and hearings on the prison abuse issue, with more to come. That means more work for all of us, for our staff, but it was the right and the necessary thing to do.

Senator WARNER has an equal determination, which I join, to have a comprehensive and prompt, hopefully, series of hearings into all aspects of this issue.

The bill reported by the Senate Armed Services Committee will promote the national defense, improve the quality of life of our men and women in uniform, and make the investments we need to meet the challenges of the 21st century.

First and foremost, the bill before us continues the increases in compensation and quality of life that our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world. For instance, the bill authorizes a 3.5-percent increase across the board for military personnel in terms of their pay, and it authorizes a permanent increase in the rate of special pay for duties subject to hostile fire and imminent danger. We authorize a permanent increase in the rate of family separation allowance.

The bill authorizes a new benefit option under TRICARE which makes available for the first time an opportunity for all members of the selected Reserve and their families to participate in TRICARE. The bill authorizes an increase of $400 million over the President's budget request for enhanced health benefits for reservists.

Second, the bill would make key investments that are needed to help address the challenges our military faces today and will continue to face in the future. I am particularly pleased that the bill would add $900 million to the President's budget to fund additional up-armored Humvees and add-on ballistic protection to provide force protection for our soldiers in Iraq and Afghanistan. The bill adds $600 million to the President's budget for additional force protection gear and combat clothing for service members. Our bill adds $450 million to the President's budget for advanced research that will help enhance force protection, combat terrorism, and counter the threat of proliferation of weapons of mass destruction. The bill adds $47 million to the President's budget to field an additional seven weapons of mass destruction civil support teams, which fulfills a requirement established in last year's bill.

Third, our bill contains a number of important provisions designed to improve the efficiency and the transparency of the operation of the Department of Defense. For instance, the bill would direct the Secretary of Defense to develop comprehensive DOD policy and procedures for the prevention of and response to incidents of sexual assault involving military members. The bill requires the Secretary to take specific steps to improve the management and oversight of contractors performing security, intelligence, law enforcement, and criminal justice functions in Iraq and other areas where U.S. forces are engaged in military operations. The bill establishes a commission on the National Guard and Reserve which will study the roles and missions of the Reserve components, and the bill strengthens the framework for oversight for addressing the Department's continuing financial management problems.

Finally, the bill before us appropriately does not include two particularly troublesome legislative proposals. It does not include a provision that would delay or water down the base closure process. The committee continues to support the senior military and civilian leadership of the Department of Defense in concluding that another round of base closures is critical to meeting our future national security needs, and the bill does not include proposals advanced by the administration that would exempt certain military activities from key environmental requirements, including the Clean Air Act, the Resource Conservation and Recovery Act, and the Superfund law.

There are, of course, provisions in this bill on which there are disagreements, as we would expect. I would like to mention a few areas in which I have serious concerns. I am disappointed that the bill, like the President's initial budget submission, fails to provide the money that we all know will be needed to support our day-to-day military operations in Iraq and Afghanistan. From the beginning of this year, the administration insisted that because we do not yet know the exact cost of our operations in Iraq and Afghanistan next year, that it would be premature to include any cost for those operations in the budget. The exact costs of a military operation, or even the normal operations of the Department of Defense, for that matter, are never known. That is not an adequate reason for not submitting a budget, and it is an inadequate reason for failing to include in that budget costs that we believe can be reasonably estimated and that we believe will be incurred in the next fiscal year.

If Congress does not act to provide substantial funding for ongoing military operations this year, there is a significant risk that the military services will find themselves in serious financial difficulty earlier next year. The Pentagon has some flexibility to move funds to pay for ongoing operations, but shifting funds away from other priorities can only take the military so far. That is why the Senate Budget Committee included $30 billion for ongoing military operations in the Senate budget resolution earlier this year, and that is why the administration finally has acknowledged the problem, a week and a half ago, and agreed to submit a proposal for a $25 billion budget amendment. This money is needed to support our troops in the field, and they deserve more than just an IOU.

I commend our chairman for holding a hearing in this matter. I think it was a very useful hearing. There was almost a consensus in our committee, or close to it, that there should be an amendment which would be offered, hopefully on this bill, which would provide the funds that are necessary for our troops for the operations we know will be taking place next year but to do it in a responsible manner where the Congress carries out its role of being a check and a balance on the executive branch and not just issuing a blank check. The chairman's initiative in holding this hearing and having the witnesses there who were called I believe will lead to the proper resolution of this matter—hopefully in an amendment that everybody can support.

Mr. WARNER. Mr. President, if the Senator will yield?

Mr. LEVIN. I am happy to.

Mr. WARNER. I thank him for his full cooperation. We are now studying a draft by which the two of us would put forward to the committee a suggested amendment on this full amount of $25 billion.

Mr. LEVIN. I thank the chairman. We are indeed doing that.

Another thing the bill does that it should not do, in my judgment, is to provide more than $10 billion for missile defense, including more than a half billion dollars for additional interceptors, without imposing basic ''fly before you buy'' requirements on the program.

In the course of the markup, an amendment was offered that would have required the missile defense program to comply with the same operational testing requirements that are applicable to other acquisition programs of the Department of Defense. It was defeated. Another amendment was offered that would have cut the funding for the production of additional interceptors or to fence that funding, restrict that funding until operational testing and evaluation of these interceptors is completed. That amendment was also defeated, as was the first, on a closely divided vote.

It is unfortunate that the administration is so insistent on deploying a missile defense system as soon as possible that it is unwilling to comply with even the most basic operational test and evaluation requirements. If we want a missile defense that works rather than one that sits on the ground and soaks up money, we should not shy away from realistic testing requirements. The law and common sense require realistic testing requirements. Right now, they are not going to be followed.

Another problem: The bill contains full funding of $27 million for the robust nuclear earth penetrator and the

advanced nuclear weapons concept initiative, an increase of over $7.5 million authorized for these programs last year. The administration's budget for the outyear reflects a commitment to developing an earth penetrator, which is likely to cost on the order of $1 billion to produce and deploy. The bill also includes $9 million—a 50-percent increase over fiscal year 2004—for the advanced nuclear weapons concepts initiative to look at new options for nuclear weapons.

By pursuing this earth penetrator and the new nuclear weapons concepts, the administration continues to send the wrong message about weapons proliferation. At a time when the United States is trying to dissuade other countries from going forward with nuclear weapons development—we oppose North Korea's pulling out of the nuclear nonproliferation treaty, and we are spending over $1 billion to prevent the spread of nuclear weapons material and technology—these actions that are proposed by the administration send a terrible message.

We are telling others not to go down the road to more and more nuclear weapons. But instead of being a leader in the effort to prevent the proliferation of nuclear weapons, we are recklessly driving down that same road. In short, the United States is following a policy we would not tolerate and do not accept in others.

I hope the Senate will reverse the administration's proposals as leaving us and the world less secure and more likely to face the proliferation of nuclear weapons, and the proliferation of those weapons is the greatest threat we face.

Finally, the bill contains two troubling provisions that would erode more than 30 years of congressional policy relative to high-level radioactive waste. These provisions were adopted on closely divided votes. One provision provides that the Department of Energy will have virtually unchecked discretion to reclassify or decree that high-level radioactive waste in South Carolina is not high-level radioactive waste. This ability to reclassify the waste opens the door to the Department of Energy to leave high-level radioactive waste in the ground in South Carolina and could lead to the same result in other States. That is because the second provision I referred to would require the States of Idaho and Washington to acquiesce in the Department of Energy's desire to reclassify high-level radioactive waste as they want to do in South Carolina before Idaho and Washington could continue to receive money to pump liquid high-level radioactive waste out of the tanks that are present in those States.

Taken together, these two provisions begin to undo years of effort to make sure high-level radioactive waste will be disposed of safely to protect the public and the environment. It is disingenuous to pretend that high-level radioactive waste is anything other than high-level radioactive waste. The cavalier treatment of high-level radioactive waste could pose a very real risk environment to the health of our citizens down the line.

As we begin consideration of this bill, the men and women of our Armed Forces—both Active and Reserve—remain deployed in harm's way in many areas of the globe and are being subjected to almost daily arms attacks in Iraq and Afghanistan. We join together—every Member of this body—in standing behind our troops and expressing pride in their extraordinary accomplishments on the battlefield. This bill will help provide them with the equipment they need and the compensation and benefits they deserve.

Let me again conclude by thanking Senator WARNER for the leadership he has shown in bringing this bill to the floor, and I know we look forward to receiving amendments and considering amendments on this bill as the week progresses.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we welcome other Senators coming to the floor and discussing this bill. The bill is now open for amendment. We anticipate the senior Senator from Texas will come forward shortly with a very important amendment which is subject to leadership concurrence and which could be the subject of the vote that is now, according to leadership, scheduled for around 5:30. Senator HUTCHISON will probably be on the floor shortly after 4 o'clock to discuss that.

As we commence the floor debate this afternoon, I think we are obligated to bring to the attention of the American public who haven't already heard it the disturbing news about a threat posed to our forces in the Iraqi region. Indeed, it could be elsewhere in the world but for the moment in this particular region; that is, the use of a weapon which would fall within the definition of a weapon of mass destruction and used in Iraq on Saturday.

News reports from Baghdad, confirmed by the Iraqi Survey Group—as you know, that is a group which was specifically tasked by the Secretary of Defense and specifically budgeted by the Congress of the United States to work on weapons of mass destruction issues. The report today, confirmed by the Iraqi Survey Group, indicated that on Saturday a roadside bomb was implanted on the road by terrorists who obviously attempted to use an artillery shell filled with deadly Sarin gas as an improvised explosive device. They are referred to as IEDs. This shell had no distinctive marks. Fortunately, the device only partially operated. There was an explosion, but fortunately only a small amount of the deadly nerve gas agent was produced by the explosion.

Two U.S. demolition experts were treated for exposure to Sarin, and the reports are they are, fortunately, recovering.

It is important to note, however, that this was an Iraqi military round. In other words, it was apparently identified clearly as one made some years before or sometime before our invasion. Its origin is unclear. What is clear is it was part of the Iraqi military arsenal that was not declared as required by the United Nations inspectors and that regime when they were operating in that region.

We all know Saddam Hussein's regime had chemical weapons in the early 1990s. We also know his regime continued the aggressive development activities on chemical and biological weapons. David Kay confirmed that as he reported to the Congress. Under the terms of the 1991 gulf war cease-fire, some chemical weapons were destroyed but tons of chemical and biological agents remain unaccounted for as to whether they were destroyed or are still in existence. Apparently, Iraq did have undeclared weapons as well.

The discovery of this weapon is troubling and begs the question: How many more chemical weapons—weapons of potential mass destruction—are in Iraq and could fall into the hands of terrorists and other antagonists to the coalition forces named to bring freedom to the people of Iraq? Where are these various caches of weapons hidden? The question must be answered. It is the reason the important work of the Iraq Survey Group must go on.

It has certainly been my opinion throughout that weapons of mass destruction materials and technology is the greatest threat to our Nation, and indeed all nations in the free world today. But materials or technology in the hands of terrorists could bring unimaginable destruction.

Winning the global war on terrorism depends on stopping this proliferation. We have taken an important step forward in Afghanistan and an important step forward in Iraq.

I hope that rapid passage of this bill will send a strong message because it reinforces our efforts worldwide to interdict weapons of mass destruction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, let me say that the remarks of the distinguished chairman of the Armed Services Committee, the senior Senator from Virginia, are indeed disturbing because it would be the first evidence in this conflict that the chemical weapons Saddam Hussein once had and which we had no evidence of destruction might now be surfacing and might be used against our troops. It is, as he said, important that we continue to pursue this. We hope it is a single event rather than something that will repeat itself. But in any event, it brings home the seriousness of the proposition.

I commend him for not only bringing it to our attention today but also for the work he and the committee have put into bringing this Defense authorization bill to the floor.

It is a difficult time. We are not only focusing on the multiyear transition of our force structure but also the bringing of new technology to our military in an evolutionary way at the same time we are trying to provide the resources necessary to fight the war in Iraq and Afghanistan and other resources for the war on terror and building up our intelligence capabilities through the Defense Intelligence Organization and others.

This is a very complicated and difficult time in defense planning. The bill the committee has put together is a very well-structured and a very forward-leaning bill, as well as a bill that takes care of the troops who are being put in harm's way today. I commend the chairman and members of the committee for the fine product they have put before us.

I will speak today primarily about one aspect. It is not the war on terror but rather the way in which at least an element of high technology is being integrated into our forces to meet a different kind of challenge. It illustrates the fact that at the same time we are fighting this war on terror and the action in Iraq, we also have to think about the other challenges we are going to be facing in the future and be prepared to deal with them at that time.

It is unfortunate but true that the sophisticated weapon systems that are available to our troops today were on the drawing boards maybe 20 years ago and did not go into production until a few years ago because of all of the work that has to go into their development and their testing and their ultimate deployment. We do not have the ability to simply snap our fingers when we need a new weapons system and bring it online immediately. It takes years of work to get it to that point.

A good example is, and a system we had to rely on to some extent in the first gulf war, in the area of missile defense. Missile defense has been with us ever since the pronouncement of President Reagan in his great announcement in the early 1980s that with the advent of ballistic missiles, a genie that would never be put back into the bottle, we were going to have to develop effective defenses against them or they would be the weapon of choice in the future for the delivery of high explosive but potentially nuclear weaponry, as well as chemical or biological weaponry. As a result, President Reagan embarked upon a scientific venture to find a way to intercept missiles. There was a great deal of research that went into this. Frankly, we came close during the end of the Reagan administration and first part of the first Bush administration of actually being able to deploy missile defenses.

But one of the arguments opponents always made was more testing was necessary and we should not actually go to the deployment of the system until we could better prove it could defeat any conceivable threat. At the time, the potential enemy was the Soviet Union. The Soviet Union did, indeed, have a sophisticated intercontinental ballistic missile system, one that required us not only to defeat a rudimentary kind of missile but one that might have decoys, that might have other kinds of penetration aids, ways defensively to throw our interceptor missiles off course.

So there was always a game being played between perfection being the enemy of the good versus actually getting something deployed that would take care of most of the threat. At the end of the day, there was not sufficient support in the Congress to actually deploy a system, as a result of which a great deal of time and money was spent on ballistic missiles but nothing was ever produced.

Along came the Clinton administration. The Clinton administration also understood that especially with the rise of the threat from North Korea, Iran, and China, as well as the leftover threat from the Soviet Union, but in a much more benign setting now that Russia was emerging as the power out of the ashes of the Soviet Union, there was still going to be a need to deploy some kind of system. As a result, the Clinton administration decided upon a ground-based system of 100 interceptors primarily potentially at a site partially, at least, in Alaska that would be our basic way of beginning to deal with ballistic missile threat.

Even the Clinton administration understood this was not the be-all and end-all. This would not necessarily be the end of the development of ballistic missile interceptors because as the offense became more sophisticated, so, too, the defense would have to become more sophisticated. But it was a way to begin the deployment and deal with the threat from a rogue nation, a nation like North Korea or Iran, for example, which would not have the sophisticated penetration aids of a nation like the Soviet Union.

The question then came when the second Bush administration came to power, would it be possible for us to move away from the constraints of the ballistic missile treaty, the ABM treaty, to actually think about deploying more sophisticated and capable systems that were not permitted under the ABM treaty. It was agreed with the Russians that a new treaty would replace the ABM treaty, a treaty which would permit both countries to get rid of most of their offensive weapons, their nuclear weaponry, and much of this was to be delivered on top of ballistic missiles, as a result of which the means for delivery of those nuclear weapons would be eliminated as well as the nuclear weaponry itself.

That decision was made and an agreement was entered into between the United States and Russia, and as a result, the United States began to think about a more creative way to actually deploy a rudimentary missile defense system. By then, the threat from Russia had eroded and we saw primarily the threat from the so-called axis-of-evil countries as the one we were going to have to deal with.

The decision was made, since we wanted to put something into place quickly, that what we would do is combine the initial deployment of the system with continued testing so we would actually have a test bed available to us to provide the real conditions for a real test; have a real missile defense system in place to actually do the testing that would be the most sophisticated and end part of the testing program.

We went through a series of tests that were highly scripted, that told us what we needed to know about the component parts of the system, and it was time to put it in operational mode to test it in that mode.

GEN Ron Kadish, the general in charge of the Ballistic Missile Defense Organization, put it very interestingly:

> The criticism we get is that we are not operationally testing the system before we put it in place. My response to that, which people don't seem to want to accept, is you can't operational test the system until you put it in place.

Of course, General Kadish is exactly right. You can only do so much hypothetical testing. There is a point at which you need to put it in place so you can go forward with the operational testing. This was the concept the Bush administration decided to pursue.

It is strange that very concept now is being criticized and presumably will be the subject of amendments that will be offered in the Senate to take away from funding for the ballistic missile defense system. It will generally contend that more testing is required; that in effect we need to test this until we are absolutely certain it can do everything it needs against every potential adversary without question, by which time many years will have passed, much more money will have been spent, and we still will not have anything to show.

It might be interesting to note that during the first gulf war we were actually exposed to the rationale for proceeding as we are proceeding with the missile defense system. At that time, Saddam Hussein launched Scud missiles at Saudi Arabia, at Kuwait, at the U.S. forces there, at the country of Israel, and there was no missile defense system in place at that time. The Israelis did not have the Arrow missile which they now have and which we hope will provide an effective missile defense system against something like the Scud missile for the state of Israel. What we had was an anti-aircraft missile called the Patriot. It was a very capable system. But we needed something to defend against the Scuds.

Very hurriedly we sent to the theater batteries of Patriot missiles. Literally, on the way, as they were being prepared for transit and in transit and as

they were being set up, we were adjusting the computer components, the radar connections and tracking systems and the like, to try to make these Patriot systems more robust, more capable, faster acting, more discerning, so they might actually hit a ballistic missile rather than an airplane, which is what they were designed to be against in the first instance.

Lo and behold, it turned out through the ingenuity of people literally on the ground, the Patriot missile system was made to be somewhat effective against some of these Scud missiles. Certainly not as effective as a finely developed missile defense system would have been, but the point was we made do with what we had because we did not have a choice. We were in the middle of a conflict and we had to come up with some way to defend our troops and defend our friends.

Lest my colleagues forget, remember, the single largest number of casualties in the first gulf war against Americans, 28 were killed when a Scud missile hit an Air Force base with American airmen and others present. It demonstrates you cannot wait until you have the perfect

system. When you are in a conflict with people and they are working as fast as they can, it helps to have something ready to go even if it is not perfect.

That was the reasoning behind the Bush administration's decision to move forward with the development of the system and not wait until every conceivable aspect of testing could be done, but to actually get it up to the point where it could be deployed for operational testing, and at that point we would be able to literally kill two birds with one stone.

We would not only have an operational test bed capable of continuing to perform the tests necessary, but we would also have an operational capability of some robustness, probably not enough to defeat a Russian missile, should one be launched by accident, for example, but certainly one that might be sufficient to take out a North Korean missile.

The thinking was that not only would you serve these two purposes, but you would also serve another very important purpose; and that was to discourage the countries that were beginning to proliferate weapons of mass destruction, and the missiles to deliver them, from developing these missile systems because of the notion that whatever they did, however much effort and time and money they put into it, we would have a way of defeating it, so it would not be worth their while—in effect, a deterrent, to say: The United States will not permit you to have an effective missile against us, so do not bother to try to develop and deploy it.

We believe that could be important because of some things I will say in a moment relating to the exchange of information between countries such as China and Pakistan and North Korea and Iran and other countries that began to proliferate components and technology for the trading of these missiles. So the threat would not be just from one country but would be from several countries. We have to nip this in the bud, and developing a good missile defense would be one way to do that.

So from the original notion, which, as I said, was to have 20 missiles in combination between a site in California and a site in Alaska, to the development of another 10, which would be put in Alaska, and then another 10, following that, at a site to be determined—and this is the so-called missiles numbered 31 through 40. These are not yet funded. They are part of a long leadtime funding that is the subject of this bill and which might be the subject of an amendment.

Let me go back and put all this into perspective. The Defense bill itself is just a little over $10 billion for ballistic missile defense research and development. It is key to the development and deployment of this capability about which I have been speaking. The threat from ballistic missiles is not waning; it is growing.

Today there are nearly three dozen countries, according to our intelligence, that have or are developing ballistic missiles of increasing range and sophistication. It includes the two remaining ''access of evil'' members, Iran and North Korea, as well as their fellow terrorist regime Syria.

Some of the latest developments, which unless indicated otherwise, are all taken from the DCI's most recent semiannual ''Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Conventional Munitions,'' are as follows:

First, North Korea: It continues its development of long-range missiles. Its Taepo Dong 2 missile, which is capable of reaching the United States with a nuclear weapon-sized payload, may now be ready for flight testing. So this is not a hypothetical threat.

The Channel NewsAsia reported earlier this month that Pyongyang is nearing formal deployment of the Taepo Dong 2 and is now gearing up to test engines for the missile.

Recent press accounts have also raised the possibility that North Korea is working on new intermediate-range ballistic missiles. According to a May 6 Los Angeles Times article, the South Korean press has reported that two new missile bases are under construction in North Korea. These bases would reportedly be used for a new missile capable of reaching U.S. bases in Guam and possibly Hawaii.

North Korea not only presents a problem because of its own capabilities but also because of its proliferation of ballistic missiles and related technologies to potential adversaries of the United States.

According to the DCI report:

> Throughout the first half of 2003, North Korea continued to export significant ballistic missile-related equipment, components, materials and technical expertise to the Middle East, South Asia, and North Africa.

Recent press reports indicate that Kim Jong Il has been negotiating with the Iranian regime on the sale of the long-range Taepo Dong 2.

Iran: The DCI report says:

> Ballistic missile-related cooperation from entities in the former Soviet Union, North Korea, and China over the years has helped Iran move toward its goal of becoming self-sufficient in the production of ballistic missiles.

Iran's ballistic missile inventory is among the largest in the Middle East.

Last June, Iran made some significant advances in its program, conducting a successful test of the 800-mile-range Shahab-3 missile. If operational, this weapon could alter the strategic balance in the Middle East, placing Israel and U.S. bases in Turkey within Iran's reach. Iran is also seeking to produce a 1,200-mile Shahab-4 missile.

According to CIA Director George Tenet's recent testimony to the Senate Intelligence Committee, Iran, as North Korea, has been willing to supply missile-related technology to countries of concern.

The PRC, the People's Republic of China: In addition to the threat posed by the development of ballistic missiles by terrorist-sponsored regimes that I have noted, we should not forget about the improving capabilities, as well as the WMD and ballistic missile proliferation, of the People's Republic of China.

The intelligence community's most recent report on foreign ballistic missile development assessed that China could begin deploying its 5,000-mile-range DF–31 missile during the first half of this decade. China's even longer range ballistic missile, the DF–41, could be deployed in the latter half of the decade. I remind my colleagues this is now 2004.

China also has approximately 500 shorter range missiles aimed at Taiwan.

According to an article in today's Washington Post, the Chinese Government warned Taiwan's President to pull back from ''a dangerous lurch toward independence''—their words—''or face''—and I am again quoting their word—''destruction.''

Given that warning, as well as numerous others like it, the United States should take very seriously not only the missile threat posed to Taiwan but also that posed to the United States.

Finally, despite relatively new missile-related export regulations, Chinese entities continued, during the first half of 2003, to work with Pakistan and Iran on ballistic missile projects. Additionally, during that same time, Chinese firms continued to provide materials or assistance to the ballistic missile programs in Iran and North Korea.

So you see a combination of countries willing to work with each other

toward the development of these missiles, all of which could be threatening to the United States and our interests.

So what will missile defense deployment accomplish? Well, as I said, both defense and deterrence.

Deployment of the layered missile defense system will permit the United States freedom of action by eliminating the possibility that we would be susceptible to nuclear blackmail by a country such as North Korea.

Missile defense will also reduce the incentives for proliferation by devaluing offensive missiles. If a rogue actor views missiles as less likely to be effective because of our defenses, he will also be less inclined to spend as much time or money trying to acquire them.

Finally, missile defenses, in a worst case scenario, will save Americans lives.

This is worth doing. I would like to quote again General Kadish, who made this point earlier this year. He said:

> We should not choose to be vulnerable. We have proven that from a technological standpoint and a practical standpoint we can intercept ballistic warheads in flight. And to say now that we can technologically defend ourselves and then choose not to is, in my view, a recipe for failure.

The first obligation we have as legislators, as opinion leaders, as leaders in this country, is to ensure the defense of the United States of America and American citizens. We have to do that with the development of ballistic missile defenses because it is the one threat that exists against us which we do not yet have a capability of defeating. But we are on the verge of deploying that capability. We have to proceed with it and not retrench under the rubric of ''more testing is necessary.''

There are challenges. The ideological opposition to missile defense, unfortunately, still exists. Last year was the first year that the President's overall request for missile defense was met. In the previous years it had not been. In fiscal year 2003, ballistic missile defense research and development had been reduced by $80 million, and the year before that by $530 million.

In addition to that, restrictive language has been adopted by this body, creating a false choice between two alternatives, which I will speak to in a moment.

Last year's authorization for the fiscal year 2003 Defense authorization bill required the administration to decide whether $814 million would be spent on missile defense or terrorism. This was money that the administration had requested for its missile defense organization, and it was spent on that. But the President, in effect, was faced with a false choice. Which one, in effect, critics were asking, was more important? Of course, the bottom line is, they are both important. In the United States, we have the capability of doing both. Indeed, we have no choice but to do both. In fact, we have no choice but to do several things in this defense budget. You cannot decide that one is more important than the other and, therefore, you have to forego spending on one for the benefit of the other, if you have the capability of funding them all. So missile defense versus the war on terror would, indeed, be a false choice.

It is clear that we have needs in Iraq and Afghanistan and the war on terror, but we don't have the luxury of confronting those needs while at the same time overlooking or ignoring the ballistic missile threat from a country such as North Korea or Iran. I ask my friends, who were so shocked that something like 9/11 could happen, what their response would be if one of those missiles were launched against the United States, if we had no defense against them landing on one of our cities. I would hope those who have been opposing the deployment of missile defenses would acknowledge responsibility in that environment.

Let me respond to one potential amendment that might come up and then conclude my remarks. I have talked about the fact that there may be an effort to cut money from the Missile Defense Program to fund some other program such as armor for Humvees or vests for our soldiers or something of that sort. All of these things are being fielded as quickly as we can field them, as my colleagues well appreciate. In other words, diverting money now from missile defense to more body armor or armor for Humvees won't speed up 1 minute the deployment of that particular defensive equipment in Iraq.

For whatever reasons, there will be an effort to take money from the ballistic missile program and apply to it those kinds of programs, I suppose, because they would presumably have a great deal of public support. I reiterate, those programs are totally funded today and are being provided, and we do not need to take money from the ballistic missile defense program as part of this Defense authorization bill.

The funding that is provided in the bill will allow the construction and implementation of the ballistic missile defense test bed that will be used to conduct more realistic system-wide tests at the same time that it provides a near-concurrent initial operational capability in case of an attack. As I said, it is consistent with President Clinton's proposal for national missile defense that planned to deploy 100 ground-based interceptors. This will provide for the addition to the initial 20 interceptors at Fort Greely and Vandenberg Air Force Base, of 20 additional ground-based interceptors at Fort Greely, at sea, and perhaps even at some overseas location to be determined.

The budget request specifically in the chairman's bill makes a downpayment on the ground-based interceptors Nos. 21 through 40. It is the long lead funding to provide: No. 1, additional test articles necessary to conduct planned future integrated flight tests—and I pause here to say, for those critics who say we need more testing, this is the money for the testing; so if you vote to cut this money, you are actually cutting the money for more testing; No. 2, an expanded interceptor inventory to address estimated growth in foreign ballistic missile threats; No. 3, maintain steady industrial base production lines for the interceptors and kill vehicles in the event an expanded inventory is deemed necessary; and, No. 4, ground-site preparation activities for interceptors Nos. 21 through 30.

Any cuts to the ground-based missile defense deployment that is contemplated will cripple effective deployment of the initial test bed system that itself will allow for more realistic testing.

So if you accept the notion of and assumption inherent in capabilities-based acquisition and spiral development, then criticisms about insufficient testing before initial deployment of this ballistic missile system are simply invalid.

I commend the chairman and the committee for their great work in bringing this bill to the floor and finally funding our missile defense system so that we can not only continue the testing that is so important, but also at the same time provide some initial capability should we need that capability.

I hope my colleagues will join together, support the chairman, support the committee, support the President in what he is trying to do, and not engage in a thousand cuts that could end up crippling this program yet once again, getting us to the point of deployment but no further than that point.

I urge my colleagues to support the chairman and the committee and defeat such amendments.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank our distinguished colleague from Arizona. He has been in the very forefront of these issues regarding missile defense for many years. He has spent much of his time, and he speaks of his knowledge. I assure him that our committee, in the course of its markup, stood steadfast on these issues. I am hopeful we can continue to do so in the event such amendments as the Senator from Arizona contemplated would be brought to the floor. We would hope that he would find time to engage with us in support of the mark as it now stands.

Earlier today the distinguished Senator from New Jersey advised the managers of the bill that he has an amendment. I also see the distinguished Senator from Maine. I would think as a matter of comity, we would hear from our distinguished colleague from New Jersey. It is my understanding that the managers of the bill will make a request that this matter be laid aside, after, in fact, he offers the amendment. The bill is open for amendment. The

parliamentary situation affords the Senator from New Jersey this opportunity, and we welcome amendments being brought up. We anticipate a second amendment to be brought forward this afternoon. So at some point, there will be a vote, but that is subject to the leadership. I also have just seen the amendment. We will need time on both sides to study it. I anticipate we will ask the Senator to lay it aside at the conclusion of his remarks. Then the distinguished Senator from Maine would be recognized next.

I yield the floor.

AMENDMENT NO. 3151

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the manager of the bill for his courtesy and understand that when my remarks are finished, a request will be made to lay the amendment aside. For now, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3151.

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

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

The amendment is as follows:

On page 184, between lines 16 and 17, insert the following:

Subtitle F—Provisions Relating To Certain Sanctions

SEC. 856. CLARIFICATION OF CERTAIN SANCTIONS.

(a) IN GENERAL.—

(1) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to a foreign country, or persons dealing with or associated with that foreign government, as a result of a determination by the Secretary of State that the government has repeatedly provided support for acts of international terrorism, such action shall apply to a United States person or other person as defined in paragraph (2).

(2) DEFINITIONS.—In this section:

(A) PERSON.—The term ''person'' means an individual, partnership, corporation, or other form of association, including any government or agency thereof.

(B) UNITED STATES PERSON.—The term ''United States person'' means—

(i) any resident or national (other than an individual resident outside the United States and employed by other than a United States person); and

(ii) any domestic concern (including any permanent domestic establishment of any foreign concern) or any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern, which is controlled in fact by such domestic concern.

(C) CONTROLLED.—The term ''is controlled'' means—

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

(ii) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(b) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. 857. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

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

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

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

(b) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

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

Mr. LAUTENBERG. Mr. President, I rise today to introduce an amendment that is vital to the purpose of this Defense authorization bill. This bill supports our men and women who are on the front lines of the war on terrorism throughout the world. They are paying a terrific price. They are doing it bravely and courageously. We want to make sure there are no opportunities to circumvent rules that would permit any business to go on with terrorist countries.

My amendment focuses on a key component of the war on terror; that is, to deny terrorists funding and support. My amendment will close a loophole that allows U.S. companies to do business with terror-sponsoring nations such as Iran. Senators FEINSTEIN, CLINTON, CORZINE, and FEINGOLD are cosponsors of the amendment.

As my colleagues know—and we just heard from the Senator from Arizona about his concern with the behavior of some of the rogue nations, including Iran, who are planning terrible things in their public statements for the United States—American companies are supposed to be prohibited from doing business with Iran. But by creating shell companies as foreign subsidiaries, these companies are making a mockery of our sanctions laws and providing revenue for the financing of terrorist acts. It is wrong. It has to stop, and this amendment would do just that.

Immediately after the attacks of September 11, 2001, President Bush told the world, ''You are either with us or against us.'' Pretty clear. That same message should apply to people in our own country, including those in our corporate world.

We know many companies find tax loopholes or regulatory loopholes they exploit from time to time. But in this case, we found U.S. companies exploiting loopholes so they could do business with terrorists.

President Bush also said, ''Money is the lifeblood of terrorist operations.'' He is right.

If U.S. companies do business with rogue states like Iran, they are generating revenue for those who supply money and other resources to terrorists. They are also sending a message to these countries that they are not really isolated, as they should be, and that the United States, in some form, finds their behavior acceptable.

We have passed laws, such as the International Emergency Economic Powers Act, which make it clear U.S. companies must not do business with terrorist states. The vast majority of American companies abide by that law. However, a few companies have exploited a loophole that allows them to do business with Iran and other rogue nations.

If we look at this chart, we see the structure or format that permits this to happen. Once they form a subsidiary company that doesn't have the same restrictions on doing business with Iran we have, that money can be earned, revenues can be generated that help these countries, help Hezbollah and Hamas, and they brag about it constantly.

This placard demonstrates how companies utilize this loophole.

U.S. companies often have several subsidiaries. Most American companies and their subsidiaries do not cross the lines that prevent business with terrorist states. But some do, and here is how they do it.

Some U.S. companies set up a foreign subsidiary for the specific purpose of gaining revenues from terrorist states. The reason is the sanctions laws prohibit the parent company and its foreign branches from doing business with terrorist states. Foreign subsidiaries, however, are not mentioned in the law. This omission has not gone unnoticed by corporate lawyers. It has been identified as a major loophole that allows companies to do business with rogue states.

We know a few American companies are using this loophole to do business with the Iranian Government. This is the same Iranian Government President Bush said is part of the axis of evil. This is the same Iranian Government that directly funds organizations

like Hamas, Hezbollah, and Islamic Jihad—all terrorist organizations, according to the State Department.

Now, for a moment, I ask my colleagues to look at the young faces in this photograph. One of these young women is Sara Duker, a young woman who lived in New Jersey until her death. The other is Abigail Litle. Sara was a constituent of mine. She was a 22-year-old from the town of Teaneck, NJ; a summa cum laude graduate of Barnard College. Sara was killed with her fiance when the bus she was riding in Jerusalem was blown up in 1996 by Hamas. Hamas receives funding and support from the Iranian Government. Iranian terrorists caused the deaths of many American citizens abroad, including the 240 Marines who were brutally murdered in their sleep in 1983 in Beirut. They also took the lives of these two young American women, Sara Duker and 14-year-old Abigail Litle.

Iran sponsors terrorism. The terror they help fund has killed hundreds of Americans. Yet American companies—it is hard to believe this—are flaunting the law in order to do business with the Iranian Government. It is wrong, but it is not technically illegal yet. This amendment would change that.

I say to my colleagues this is a loophole we must close. We have to tell both our friends and those who continue to sponsor terrorism we are serious in our efforts to battle this evil.

It is inexcusable for American companies to engage in any business practice that provides revenues or profits to terrorism. We have to stop them. We have a chance to do that today with this amendment.

The bottom line is big businesses, even those with financial ties to top members of our Government, do not get a free pass in this war on terrorism. No one in America wants to give these countries any advantage they could restrict them from.

I urge my colleagues to support the amendment, close the terror-funding loophole, pass this legislation, and send out the message we are against any help for terrorist nations that might occur.

I understand the request I agreed to earlier is to permit another amendment to be considered. I will honor that commitment, and I want to make sure we have an understanding that at an appropriate time we will have a discussion and further review of my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank the distinguished colleague from New Jersey. I want to confer with the distinguished ranking member, who will soon be back. In the meantime, if it is agreeable with the Senator, we will lay his amendment aside. I so request that.

The PRESIDING OFFICER. The amendment will be laid aside.

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I rise today in support of the fiscal year 2005 National Defense Authorization Act. As a member of the Senate Armed Services Committee, I especially commend the able leadership of our chairman, Senator JOHN WARNER. Under his leadership and that of the distinguished ranking member, Senator LEVIN, the Senate Armed Services Committee has delivered to the full Senate a vital piece of legislation for our security now and in the years to come.

This legislation provides vital resources for the men and women in our military, resources they require in defending our Nation and in carrying out the operations overseas.

I am proud that the legislation before us builds on the efforts we have made in previous years to ensure that our troops are the best paid, the best trained, and best equipped in the world. It includes, for example, a 3.5-percent across-the-board pay raise for military personnel. It authorizes the permanent increase in the rate of family separation allowances from $100 per month to $250 per month. It also authorizes a permanent increase in the rate of special pay for duties subject to hostile fire or imminent danger from $150 per month to $225 per month. These provisions, in a small way, help to recognize the sacrifices of those who are deployed in Afghanistan and Iraq.

One of the greatest obligations we have is to provide the best protection possible to our troops who are being sent into harm's way. Therefore, the committee added $425 million for additional force protection equipment, such as up-armored Humvees, ballistic equipment kits to fortify Humvees, and combat clothing for service members, such as body armor.

With 60 percent of its National Guard personnel deployed, Maine has the second highest deployed ratio in the Nation. There is only one other State that has deployed more of its National Guard than the State of Maine. I am very grateful for the service of our Guard and Reserve members, but I am also very concerned about the heavy burden we are imposing on our Guard members and reservists, their families, and their employers.

Many of my colleagues know of the experience, for example, of one of the military police companies from Maine which was on its way home on Easter weekend when it received orders to extend its deployment and return to Kuwait and Iraq. This news was demoralizing for some of the soldiers in this unit who had already been in Iraq for more than a year, and it was devastating to the family members who were ready to welcome them home on Easter Sunday.

Thankfully, this bill begins to address the many significant contributions and sacrifices being made by our guardsmen and reservists in the global war on terrorism. It authorizes a new benefit option under the military health care program known as TRICARE.

TRICARE Reserve Select would be offered for the first time to members of the selected Reserve and Guard and their families who could participate in TRICARE for a premium. It authorizes more than $400 million above the President's budget request for enhanced health benefits for reservists, which will improve mobilization readiness and ensure the continuity of health care services.

The legislation focuses on other areas in need of reform as well. Earlier this year, the committee held a hearing on sexual assaults in the military. We heard very disturbing testimony about sexual assaults and the inadequate response to victims. This legislation directs the Secretary of Defense to develop a comprehensive policy and procedures for the prevention of and response to incidents of sexual assault involving military members.

As a member of the Seapower Subcommittee under the able chairmanship of Senator JIM TALENT, I am particularly pleased that this authorization bill provides significant funding for our naval forces. We continue to marvel at the capabilities and the commitment of our Navy. At the start of Operation Iraqi Freedom, for example, 70 percent of our surface fleet and 50 percent of our submarine fleet were deployed in Iraq, the highest deployment rate since World War II.

This Defense authorization includes $6.7 billion for the procurement of seven ships. These include three DDG–51 Arleigh Burke class destroyers, two of which will be constructed at the famous Bath Iron Works in Maine. While this shipbuilding budget represents considerable progress, I want to note for my colleagues that we need to be vigilant about the number of ships we are building to ensure that our fleet can meet our national security requirements.

Our Navy now has fewer than 300 ships, and the current rate of production, unfortunately, will not allow that number to increase. This could place our shipbuilding industrial base at risk. To avoid that unacceptable outcome, the Senate Armed Services Committee added report language at my request that directs the Navy to take all actions necessary to ensure the viability of the second shipyard—that is Bath Iron Works—in order to maintain a healthy and competitive industrial base.

We have a responsibility to ensure that our Navy is well prepared to fight today and tomorrow. Part of that involves designing and developing the next generation of ships. The last three destroyers of the Arleigh Burke class are funded in this fiscal year 2005 Defense authorization. They will be followed by a new class of destroyers, a destroyer designed to meet the challenges of the 21st century, the DDX. One of the two builders of the DDX, I am proud to say, is Bath Iron Works in the State of Maine.

I am pleased to state to the distinguished Presiding Officer, my colleagues, the citizens of Maine, and the fine employees of Bath Iron Works that this bill represents important progress in securing the future of our Navy and the future of Bath Iron Works. It will help to preserve America's proud maritime tradition and our shipbuilding industrial base.

I have been extremely concerned about the fiscal year 2006 gap in the production of surface combatants in the administration's proposed budget. If permitted, this would be the first time in 20 years that no surface combatant would be built.

Moreover, the Navy's analysis of the impact on the industrial base indicates that if the DDX schedule were to slip, the shipyard that is scheduled to build the follow ship—in this case Bath Iron Works—could experience significant workload issues.

Fortunately, there is good news in this bill. I have worked very hard with my colleagues on the Armed Services Committee in an effort to maintain some stability in the shipbuilding industrial base. At my request, the committee added $99.4 million to begin the construction of a second DDX to be built in Bath in fiscal year 2006, thus accelerating the start of construction by 1 year and helping to partially fill that very dangerous gap in our shipbuilding budget. This funding will help to ensure a more stable workload for Bath Iron Works and, thus, to preserve the skilled workers essential to our national security.

We only have two shipyards left that now build surface combatant ships. We need to make sure that we sustain the highly skilled workforce in both of those yards so that we have a competitive environment for the Navy.

This bill has a number of other very important provisions for new weapon platforms and systems. It also recognizes that our Nation cannot maintain its technological superiority over potential adversaries without investing in emerging capabilities.

The legislation authorizes $11 billion for the Defense Science and Technology Program, including an additional $450 million for transformational basic and applied research activities, bringing the Department closer to its goal of investing 3 percent of its budget in such programs.

Finally, I am also very pleased that this legislation includes provisions that I authored allocating $3 million to establish a U.S. Army Center of Excellence at the University of Maine. I know from my conversations with Army officials and generals that they are very excited about the possibility of a Center on Advanced Structures and Composites in construction. The center will focus on addressing the Army's needs in fundamental and applied research related to the use of advanced composite materials and structures.

These are a few of the reasons why this Senate should strongly support the fiscal year 2005 National Defense Authorization Act.

I again want to commend the chairman and ranking member of the committee for their hard work, working with all of us on the committee, as well as with the administration and one another, in bringing forward this vital legislation.

I yield the floor.

Mr. WARNER. Mr. President, I wish to thank our distinguished colleague from Maine for all of her hard work on the Armed Services Committee. I very much enjoyed her strong remarks in support of this bill.

I believe the distinguished Senator from Texas is now ready to present an amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. LEVIN. Mr. President, will the Senator yield while I add my thanks to the Senator from Maine for the contribution she makes to the committee. She highlighted a number of initiatives she has undertaken on the committee. In addition to those very strong efforts on the part of the Senator from Maine, she has been such a major contributor in the strength of the committee over the years that I wanted to acknowledge that along with our chairman of the committee.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3152

Mrs. HUTCHISON. Mr. President, I am going to offer an amendment, but I first want to commend the committee for producing a very good bill. I cannot think of anything more important while our troops are in harm's way. We see on television and read in the newspapers every day about what our troops are doing for our country. Now they know they are going to be fully funded. The priorities in this bill are the right priorities.

I commend the distinguished chairman, the Senator from Virginia, and the distinguished ranking member, the Senator from Michigan, for producing this bill. Sometimes producing this bill has been very difficult, but it looks as though the committee came together knowing how important this was for our military to see that it would not be minor skirmishes that would submarine this very important legislation. So I commend the committee.

I say on a couple of points with which I am particularly involved that I think the committee has done a terrific job. First, I am chairman of the Military Construction Subcommittee, which is part of the Appropriations Committee. The administration requested approximately $9.5 billion for military construction and family housing, and the committee went up to $9.82 billion, increasing the administration's request, because family housing is so very important right now.

We are beginning to give a better quality of life to all of our military personnel. Whether they are single and live in barracks or whether they have family housing requirements, they are getting better quality. I am very pleased about that, and particularly that the committee also fully funded all of the requirements of the very critical military construction of the Department of Defense for overseas locations.

As we look at our military construction budget, we are making sure the military construction we do overseas, not counting in our combat zones, but in places where we have facilities, that we are focusing now on only putting money in facilities we know are going to endure. Part of the overseas basing commission Senator FEINSTEIN and I passed, along with the help of the authorization committee, to assure that we look at all of those bases, that we not put one military construction dollar where we do not know absolutely that is going to be an enduring facility so our taxpayers know we are not going to be building some big cafeteria, fitness center, or headquarters in a place we are going to abandon in the next 2 to 3 years. So we are trying to spend wisely and the authorization committee did an excellent job of funding the military construction authorization, working with our subcommittee that will be appropriating funds.

The second area they should be commended for addressing is our military compensation. Certainly increasing our military pay by 3.5 percent, which the President requested, it will be fully funded and assure everyone in the military. Then adding to the combat pay and adding to the separation allowance, these are very important items to increase the quality of life for those serving our country today, and their families.

It was mentioned earlier by the Senator from Maine that there should be an addressing of the issue of sexual assault in our military. It is important that there will be a comprehensive policy and procedure for prevention and response to incidents of sexual assault involving military members. It is required that that be done in the next year. I am very pleased the committee chose to do this because we have been reading disturbing reports about this subject. All of us are concerned that our young women who agree to serve in our military and who are performing so well be able to serve knowing they will be protected from any kind of physical assault.

Last, I want to mention the Joint Strike Fighter, which is a very important future fighter airplane I am very excited about and have been involved in as it has evolved from the drawing board. It will be made in Texas, so I am more familiar with it. I am very pleased the committee chose to fully fund the research, development, and testing of future fighter planes that will give us the total dominance of the air in future years. I think the committee did an outstanding job.

Before I go to my amendment, there is one area I also want to bring up with

the chairman. I would like to try to come up with an appropriate amendment, working with the committee, that deals with reaching the cap on privatized housing for our military personnel. We have been able to do so much more by having an association with private housing builders and contractors. We could never, ever have put the housing we have on the ground if we had had to fully fund this from our Department of Defense funds.

We have been able to have partnerships with private companies where they would do the building and we would lease back those facilities through the years. We have been able to increase the quality of housing in that respect. We are soon going to reach the $850 million cap. We were very concerned we would be bumping against that, and stopped some of the projects that are on the drawing boards today, projects our military personnel have looked forward to coming to fruition, places like Fort Hood where we have severe housing shortages.

The military personnel have been relying on the family housing projects that have been built by private companies and now we are looking at hitting that cap and not being able to go forward with those projects. I would like to ask the distinguished chairman of the committee if he would work with me and see if we could come up with some appropriate language that would raise that cap maybe by $300 million, $400 million, or $500 million, so we would not have any danger of bumping against the cap before we have the opportunity to address it in the next authorization appropriations bill.

I ask the distinguished chairman if this is also a concern of his and if he would try to work with me, if there is an amendment we could offer together or somehow assure that we will not stop the planning that is going on now for some very important military housing projects.

Mr. WARNER. I thank the distinguished Senator for her inquiry. I will give her assurance that we will take it into consideration. For the moment, though, we are on this amendment. To my understanding it is now pending at the desk?

Mrs. HUTCHISON. I was going to send my amendment to the desk, and I am now prepared to do that.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 3152.

Mrs. HUTCHISON. 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 authorize medical and dental care for cadets and midshipmen, and to authorize disability benefits for cadets and midshipmen of the service academies)

On page 147, after line 21, insert the following:

SEC. 717. ELIGIBILITY OF CADETS AND MIDSHIPMEN FOR MEDICAL AND DENTAL CARE AND DISABILITY BENEFITS.

(a) MEDICAL AND DENTAL CARE.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1074a the following new section:

"§ 1074b. Medical and dental care: cadets and midshipmen

''(a) ELIGIBILITY.—Under joint regulations prescribed by the administering Secretaries, the following persons are, except as provided in subsection (c), entitled to the benefits described in subsection (b):

''(1) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, and a midshipman at the United States Naval Academy, who incurs or aggravates an injury, illness, or disease in the line of duty.

''(2) Each member of, and each designated applicant for membership in, the Senior Reserve Officers' Training Corps who incurs or aggravates an injury, illness, or disease in the line of duty while performing duties under section 2109 of this title.

''(b) BENEFITS.—A person eligible for benefits in subsection (a) for an injury, illness, or disease is entitled to—

''(1) the medical and dental care under this chapter that is appropriate for the treatment of the injury, illness, or disease until the injury, illness, disease, or any resulting disability cannot be materially improved by further hospitalization or treatment; and

''(2) meals during hospitalization.

''(c) EXCEPTION.—A person is not entitled to benefits under subsection (b) for an injury, illness, or disease, or the aggravation of an injury, illness, or disease that is a result of the gross negligence or the misconduct of that person.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074a the following new item:

''1074b. Medical and dental care: cadets and midshipmen of the service academies.''.

(b) ELIGIBILITY OF ACADEMY CADETS AND MIDSHIPMEN FOR DISABILITY RETIRED PAY.—(1)(A) Section 1217 of title 10, United States Code, is amended to read as follows:

"§ 1217. Cadets, midshipmen, and aviation cadets: applicability of chapter

''(a) This chapter applies to cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy and midshipmen of the United States Naval Academy.

''(b) Monthly cadet pay and monthly midshipman pay under section 203(c) of title 37 shall be considered to be basic pay for purposes of this chapter and the computation of retired pay and severance and separation pay to which entitlement is established under this chapter.''.

(B) The item related to section 1217 in the table of sections at the beginning of chapter 61 of such title is amended to read as follows:

''1217. Cadets, midshipmen, and aviation cadets: applicability of chapter.''.

(2) The amendments made by paragraph (1) shall take effect on October 1, 2004.

Mrs. HUTCHISON. Mr. President, this amendment attempts to solve a problem facing not this generation of military leadership but our future generation of military leadership.

Current law established in the Career Compensation Act of 1949 denies cadets and midshipmen the disability benefits that would be provided to any other member of the Armed Forces, especially when they are injured in the line of duty. With respect to health benefits, cadets and midshipmen who are separated for medical disability after being injured during military training now face unnecessary and unfair burdens in maintaining the continuity of their health care.

In addition, Reserve Officer Training Corps, ROTC cadets are in many cases required to pay for their own medical care after being injured during military training. Even though ROTC cadets are covered under the Office of Workers Compensation within the Department of Labor, medical care providers, many of whom have not been compensated for their prior work, decline to treat ROTC patients unless they use private medical insurance.

This is not something that we should allow to remain a problem. In 2001, when I became aware of the plight of some seriously disabled cadets and midshipmen from the service academies, I asked for a study. These cadets were discharged from the Armed Forces without any entitlement to future medical care or disability benefits. In each of these cases, the cadets and midshipmen had been injured in the line of duty.

I asked for a report, and the Department of Defense did find that the ROTC also had examples of how the health care system, which currently operates under the Department of Labor, does not adequately serve these former cadets whose care was under their charge.

In one case, a ROTC cadet received dental injuries during training at the Fort Lewis advanced camp for the U.S. Army. As a result of his injuries, he received emergency medical treatment at Fort Lewis but required followup treatment at a civilian treatment facility. The only dentist who would see the cadet treated him and received $13 on the $1,200 bill that was submitted. The dentist attempted to work in conjunction with the cadet and the ROTC unit for nearly a year to receive full payment for his work, and he never did.

So the amendment I offer today would include academy cadets and midshipmen in the military disability discharge and retirement system so that they can also receive necessary health and dental benefits, and for ROTC cadets it would transfer responsibility for medical claims from the Department of Labor to the Department of Defense, authorizing the use of supplemental health care programs in the TRICARE management agency. While no additional benefits would be provided to ROTC participants, the change would ensure a better quality of health care.

This amendment is fair to academy cadets, midshipmen, and ROTC cadets

who are injured while in the performance of military training. It would provide health and disability benefits to those who currently receive none if they are midshipmen and academy cadets. It also ensures a credible health care system widely accepted by health care providers for those currently covered under the less effective OWC program.

The Congressional Budget Office and Department of Defense estimate these changes will cost approximately $460,000 a year. So this is a very small amount of money required to provide care for those who are in training to serve our country.

The bottom line is these ROTC cadets who are injured in military training would be able to receive health care if they need it as a followup, after the emergency treatment from that training accident. This provides that they can go from the Department of Labor to the Department of Defense to receive better quality and more experienced health care coverage.

Regarding those midshipmen and cadets in our military academies, it would allow those who have to be severed from the academies because of their injuries, because they are no longer physically able to become members of the armed services, if they are injured in military training, that they would be able to receive the health care and the disability payments to which they would be entitled. It would go to the Veterans Affairs Department for them to determine what kind of disability and how much of a disability, just as those in the armed services do today. I think it is the fair thing.

It is the result of a study that I requested. So I believe it is my responsibility to try to correct the problems that were found in the study and treat these young ROTC cadets and those wonderful young people who are in our military academies and in the Naval Academy and Coast Guard—that they would also be able to receive health care if they are injured and would be able to receive a disability payment if they are severed from the academy.

I ask at the appropriate time I have a vote on my amendment.

Mr. WARNER. Shall we ask for the yeas and nays?

Mrs. HUTCHISON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, so I understand it, I would like to hear again from the distinguished proponent of the amendment. Clearly, the midshipmen at the Naval Academy, cadets at West Point and the Air Force Academy, get very clear treatment. I want to clarify exactly what the college ROTC, NROTC, Air Force ROTC—what is it they get? Is it less than the midshipmen?

Mrs. HUTCHISON. Yes. First, let me say with regard to the academy——

Mr. WARNER. This bill goes a long way to improve it, as I read it. I want to make it clear. I don't want to raise expectations too high.

Mrs. HUTCHISON. Let me say, as regards the academy members first——

Mr. WARNER. The three service academies.

Mrs. HUTCHISON. Of course they get health care—treatment for their injury. But assume their injury then keeps them from being able to stay at the academy; they have to be let go because they no longer can perform the physical functions. Then they go into the private sector and their health care continuity would be assured under this amendment as they would get a small disability as well because they were in training.

ROTC, today, does give health care benefits if they are injured in training, but it is under the Department of Labor, and it is under workers' compensation. There has been a dissatisfaction with the kind of treatment they have been able to receive, and the Department of Labor and workers' compensation doesn't have the same understanding of a military injury. All we are doing—and this costs absolutely nothing—we are just transferring the benefit from the Department of Labor to the Department of Defense so these young people would be able to get continued health care for whatever their injury was when it was in the line of duty.

Mr. WARNER. Mr. President, I think that is exceedingly helpful. I commend the distinguished Senator. My notes show she started back in 2001 on this issue, and at that time we reached a consensus that we would let the Department of Defense issue a report. That comprehensive report was issued the 1st of May in 2003.

Again, I thank the Senator for bringing it to the Senate's attention. I urge all Senators to support this amendment.

Mrs. HUTCHISON. I thank the chairman. I appreciate that very much. I appreciate very much the ability to work with his staff and with the minority staff as well to assure that we were doing exactly what we wanted to do in the narrow area to which this corresponds. I thank the chairman and look forward to having a favorable vote on my amendment.

Mr. WARNER. Mr. President, I thank our distinguished colleague.

I would like to say a few additional words, but I will defer to our distinguished colleague from Michigan if he would like to speak.

Mr. LEVIN. Mr. President, I commend the Senator from Texas for her leadership. She has been very patient and has allowed us to be very thorough. As a result, I think the amendment which she sponsors is very valid, and not only will pass overwhelmingly, hopefully for the good it does, but also will make it through conference. I commend her for her tenacity on this issue. I hope it is successful. It fills some gaps which need to be filled.

Mrs. HUTCHISON. Mr. President, I very much appreciate the remarks of the distinguished Senator from Michigan. I also commend the distinguished Senator from Michigan as well as the distinguished chairman of the committee for producing an excellent bill.

Mr. WARNER. Mr. President, I have gone through the report in support of this amendment issued by the Department of Defense. I find the history very interesting. There are four academies because the Coast Guard is very much included.

Until the enactment of the Career Compensation Act of 1949, disability retirement was a prerequisite of commissioned officer services. The most significant reform of the provisions of this legislation was the inclusion of enlisted personnel within the group eligible for benefits. Prior to 1949, cadets and midshipmen, as well as the enlisted personnel in the Armed Forces, were denied disability benefits. It is amazing to think back about how that could have been possible.

There is no record of cadet disability being seriously considered until the review of pay and benefits that led to the Career Compensation Act of 1949. At that time, however, it is clear that Congress established a policy that exists today. During the hearings on H.R. 5007, which became the act of 1949, the following colloquy occurred before the Senate Armed Services Committee.

Senator Baldwin asked:

On page 63, in the provisions of the law as written here, with reference to retirement for disability, does service at the Coast Guard Academy, Annapolis, and West Point—is that included in the period of service?

Admiral FECHTELER. Now——

The CHAIRMAN. Suppose a man is disabled while he is at the Naval Academy or the Coast Guard Academy or at West Point; suppose he breaks his leg in such a fashion that he cannot walk well any more, and you gentlemen decide that he is unfit? What happens to him if he is in one of the three academices?

Admiral FECHTELER. He is just discharged.

The CHAIRMAN. Does he get any severance pay?

Admiral FECHTELER. No, Sir.

The CHAIRMAN. He is just out of luck?

Admiral FECHTELER. That is right.

The CHAIRMAN. Through no fault of his own, while actively engaged in the curriculum prescribed for these men?

Admiral FECHTELER. He still gets nothing.

Senator BALDWIN. I would hat to see a good back for the Navy going around an Army end for a touchdown, break his leg and come to such an end.

Senator CHAPMAN. That is the present law?

Admiral FECHTELER. That would continue under this.

The CHAIRMAN. That is an interesting observation, nevertheless.

For some reason, they went ahead and exempted these young men, the midshipmen in the ROTC. And now, many years later, the Senator from Texas very wisely has corrected our predecessors, I say to Senator LEVIN, who allowed this to slip these many years. I think it is an interesting chapter in history.

Mr. President, on behalf of the leadership, I ask unanimous consent that at 5:30 today the Senate proceed to a vote in relation to the Hutchison amendment with no amendments in order to the amendment prior to the vote; I further ask unanimous consent that the time until 5:30 be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. No objection.

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

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

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I see no Senator at this time seeking recognition. 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 that the order for the quorum call be dispensed with.

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

Mr. ALLEN. Mr. President, I ask unanimous consent to speak up to 17 minutes as in morning business provided that the time be charged against the Republican-controlled time.

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

BROWN V. BOARD OF EDUCATION

Mr. ALLEN. Mr. President, I rise today to commemorate the 50th anniversary of the U.S. Supreme Court ruling in Brown v. Topeka Board of Education.

I wish to take this opportunity to honor two outstanding Virginians who played key roles in this historic decision. Those two men are Spottswood W. Robinson III and Oliver W. Hill.

It is hard to imagine that only fifty years ago separate but equal under the 1896 Supreme Court decision, Plessy v. Ferguson, was allowed to be the law of the land in the United States. It is hard to imagine that not so long ago, in many States, Black children and White children were forbidden from learning in the same classroom or even the same school. It is regretful to think that only fifty years ago there were still those who believed people should be judged by the color of their skin rather than the content of their character.

In the historic Supreme Court decision of Brown v. Board of Education, the highest court in the United States ruled unanimously that ''separate but equal'' education facilities for African-American children were a violation of the United States Constitution. This single decision opened the door for equal treatment of all Americans, regardless of race; an idea enshrined in the spirit of our Constitution, but, at the time, not properly reflected in our laws.

Eight year-old Linda Brown surely did not know how historic her actions would be—she simply wanted to attend the nearby school with her friends. But instead, she was forced to attend a ''separate'' facility with Topeka's other African-American children.

Chief Justice Earl Warren's decision for the Court was eloquent:

> Today, education is perhaps the most important function of State and local governments. . . . It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. The Court concluded that ''in the field of public education, the doctrine of 'separate but equal' has no place; separate educational facilities are inherently unequal.

So here we are on the occasion of the 50th anniversary of the Court's decision and I would like to honor these two great Virginians, Judge Spottswood Robinson III and Mr. Oliver W. Hill. Both of these valiant gentlemen devoted their lives, energy, and resources to ensure that all Americans are afforded an equal opportunity in every aspect of American life.

My predecessor, as Governor of the Commonwealth of Virginia, the Honorable L. Douglas Wilder, rightfully described Judge Spottswood Robinson as ''one of those unsung and little noticed giants'' of the civil rights movement. Born in Richmond, VA, on July 26, 1918, to a middle-class African-American family known for its presence in the business community, Spottswood Robinson learned from his father and his grandfather that honesty and hard work lead to success.

Spottswood Robinson was an academic leader at segregated Armstrong High School, excelled as an undergraduate at Virginia Union University, a historically Black college and Howard University, another historically Black college. He graduated from the Howard School of Law in 1937.

One might ask, ''why did he go to Howard University? Howard University is in Washington, DC.'' The sad fact was, he could not get a legal education in his home Commonwealth of Virginia. There were no legal or law opportunities for Blacks in Virginia. At Howard, though, he excelled and scored the highest scholastic average ever achieved at the school. He later stated that ''one of the things drilled into my head was . . . this legal education that you are getting is not just for you, it was for everybody. So when you leave here, you want to put it to good use.''

Spottswood Robinson certainly did put his knowledge to good use. Spottswood Robinson was considered the architect of the legal plans to overcome the closing of public schools in Prince Edward County, VA. He also used his knowledge to lay the groundwork for the monumental case of Morgan v. Commonwealth of Virginia. In this case involving segregation on the Greyhound buslines, Robinson advocated a unique legal proposition that segregation imposed by the Greyhound Bus Company violated the Commerce Clause of the Constitution which was a departure from the legal theory that the 14th amendment due process clause would be invoked. His deft use of the Commerce Clause gave the Civil Rights cause a historic success.

After Judge Spottswood Robinson gave up his law practice in 1960, he was asked to be the Dean of the Howard University School of Law. In 1964, President John F. Kennedy selected Judge Robinson to be the first African American to be appointed to the U.S. District Court for the District of Columbia. In 1966, Judge Robinson became the first African American to be appointed to the U.S. Court of Appeals for the District of Columbia Circuit when he was appointed by then-President Johnson. On May 7, 1981, Judge Robinson became the first African American to serve as chief judge of the Circuit Court of District of Columbia. He retired in 1992 and he died in 1998 at the age of 82 in his Richmond, Virginia home.

Another key Virginian in the civil rights movement was Oliver W. Hill. His life story is one of endless pursuit of justice and fairness. Mr. Hill was also born in Richmond, VA, in 1907. From the start, Mr. Oliver Hill epitomized excellence in all endeavors. He also attended Howard University where he received his undergraduate and law degrees, graduating second only to the future Supreme Court Justice, Thurgood Marshall. In 1948, Mr. HILL was elected the first African-American member of the Richmond City Council since reconstruction.

As part of the NAACP Legal Defense Fund, these two gentlemen, Spottswood Robinson and Oliver Hill, played instrumental roles in litigating cases that resulted in the Supreme Court's decision in Brown v. Board of Education. They were the two key litigators for the Virginia portion of this case which was styled Davis v. County School Board of Prince Edward County. They joined other civil rights attorneys Justice Thurgood Marshall and Mr. Jack Greenberg in representing those who firmly believed that ''Separate but Equal'' was not the American way.

The historic efforts of these men positively changed our nation. In 1999, the United States Congress recognized Oliver Hill's efforts by awarding him the Nation's highest civilian honor, the Presidential Medal of Freedom. Mr. Hill's medal reads:

> A courageous civil rights advocate, Oliver Hill has devoted his life to building a more just and inclusive America. As a trial lawyer, he won landmark cases that secured equal rights for African-Americans in education, employment, housing, voting and jury selection. Successfully litigating one of the school desegregation cases later decided by the Supreme Court in Brown v. Board of Education, he played a key role in overturning the ''separate but equal'' doctrine.

In addition to being awarded the prestigious Presidential Medal of Freedom, Mr. Hill's efforts have been recognized by organizations and institutions in Virginia and across the nation. In 1983, students at my alma mater, the University of Virginia, founded the Oliver W. Hill Black Pre-Law Association. In 1992, Mr. Hill was honored with Dominion Power's ''Strong Men and Women'' award. Each year the Virginia State Conference of the NAACP awards the ''Oliver W. Hill Freedom Fighter Award'' to an outstanding civil rights advocate. In 2001, the American College of Trial Lawyers presented Mr. Hill with the ''Award for Courageous Advocacy.'' Each year the Old Dominion Bar Association awards the Oliver W. Hill Scholarship to outstanding Virginians entering Virginia law schools. A bronze bust of Mr. Hill is proudly displayed at the Black History Museum and Cultural Center of Virginia.

As with Spottswood Robinson, these honors and eminent awards were rightly bestowed on a man who exemplified character and perseverance in the face of adversity and injustice.

Mr. President, our Nation has progressed in large part due to brave, tenacious and brilliant individuals like Spottswood Robinson and Oliver Hill. I believe that I speak for the entire nation in saying to Oliver Hill and the family of Judge Spottswood Robinson, how grateful we are for their commitment to the American ideals of equality, fairness and justice.

As we commemorate the 50th anniversary of this historic decision, we must always remember that our Nation was founded upon the idea and proposition that ''all men are created equal,'' and we must ensure that our Nation's policies properly reflect this commitment to equality of opportunity ''regardless of one's race, ethnicity, gender or religious beliefs.''

''For his unyielding efforts to improve the lives of his fellow Americans and his unwavering dedication to justice for all, our Nation honors Oliver Hill.''

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Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent to speak as in morning business and the time be charged to our side.

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

COMPENSATION FOR NEGRO LEAGUE BASEBALL PLAYERS

Mr. NELSON of Florida. Mr. President, on the occasion of the 50th anniversary of Brown v. Topeka Board of Education, I am happy to announce to the Senate I have come from Tampa, FL, where I made an announcement of some significance today. Seated with two Negro League ballplayers—a pitcher from the Kansas City Monarchs, Bob Mitchell, and a pitcher from the Indianapolis Clowns, Mr. Maddox—we were happy to announce, with a representative of Commissioner Bud Selig present, the first compensation for the Negro League players who were kept out of the Major Leagues, because segregation did not end with Jackie Robinson breaking the color barrier in 1947. Indeed, Major League Baseball was not integrated until the late 1950s.

When Commissioner Selig, in 1997, decided to do something about the inequity of the Negro League players never having been compensated—but the criteria was based on the principle they would be compensated if they had played in the Negro Leagues before 1947 and in the Majors after—today the principle was established by Major League Baseball that, in fact, the Majors were not integrated until the late 1950s. The compensation plan we announced will be for the Negro Leaguers who still played the same amount of time—4 years—but played 4 years in the Majors before the end of the 1958 season. Therefore, they, too, will be compensated.

Why is this important? It is important because of the sad fact of our Nation's history of segregation. There was tremendous talent in the Negro Leagues. We know of those such as Hank Aaron who came out of the Negro Leagues, and Jackie Robinson, the first to come out of the Negro Leagues into the Majors. We know of the home-run king, Hank Aaron, and what all he has meant to the game. But there were many other players who had fantastic talent but who were never able to break into the Major Leagues after Jackie Robinson because of the color barrier.

So with this announcement today, it is giving new life to those players who are now quite elderly. Also, Major League Baseball has been kind enough to recognize there will be a survivor benefit since many of these players are now getting on to the age of the twilight of their lives. For the period of time in which this compensation is available, it will also be available to their surviving spouse.

It has been such a privilege, and it is interesting, one of the great joys of public service is sometimes you are in the right place at the right time. I found myself in that position, having been elected to the Senate in the 2000 election. In 2001, I got a letter from Mr. Mitchell. He was asking for help, so we went to work on it. I met with him and a group of a half dozen of the old Negro League players. I told them I was going to go to work on this issue. And I say that with a great sense of personal satisfaction of knowing sometimes you are in the right place at the right time, to kind of move the ball along toward progress.

I have given several speeches on the floor of this Senate. I have brought it up in several committee hearings, more recent of which was about 2 months ago, with Commissioner Selig sitting there, of where we could discuss Major League Baseball's intent to provide for this compensation.

So one thing after another, with a lot of people working together, this is a happy day. I say it is coincidental, but it is a significant coincidence that it happens on the day of the 50th anniversary of the Brown v. Board of Education landmark Supreme Court decision.

As I have met with these baseball players who played in the old Negro Leagues, I have asked them: How good were you? And I would talk to the shortstops, but it was most revealing when I would talk to the pitchers, just like Mr. Mitchell and Mr. Maddox, who stood up with me today in making this announcement in Tampa. I asked: How good were you? They would look at me, and that big smile would break out on their face, and they would say: Senator, listen, we would smoke 'em. They couldn't hold a candle to us.

And I would say: Give me an example. And they would say: Today, they pitch four, five, maybe six innings. We would pitch nine straight innings, and we would still have the reserve to keep going.

Finally, what a happy day this is for a lot of them who are now eligible to receive this compensation. What a happy day it is for me and my staff, who have worked so hard people over the past 3 years. What a happy day it is for Commissioner Bud Selig, who has wanted to do the right thing because he knew it was the right thing.

I am glad to bring a little bit of good news to this august body of which I am very privileged to be a Member.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, at this time I see no one on either side of the aisle seeking recognition. 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.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 3152, offered by the Senator from Texas, Mrs. HUTCHISON.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kansas (Mr. BROWNBACK), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Nevada (Mr. ENSIGN), the Senator from Tennessee (Mr. FRIST), the Senator from Oklahoma (Mr. INHOFE), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Kansas (Mr. ROBERTS) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK), the Senator from Kansas (Mr. ROBERTS), and the Senator from Oklahoma (Mr. INHOFE) would each vote ''yea.''

Ms. MIKULSKI. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from California (Ms. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from South Dakota (Mr. DASCHLE), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), the Senator from Nevada (Mr. REID), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Ms. BOXER), the Senator from South Dakota (Mr. DASCHLE), and the Senator from Michigan (Ms. STABENOW) would each vote ''yea.''

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

The result was announced—yeas 82, nays 0, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—82

Akaka	Allard	Baucus
Alexander	Allen	Bayh
Bennett	Enzi	McConnell
Bond	Feingold	Mikulski
Breaux	Feinstein	Murray
Bunning	Fitzgerald	Nelson (FL)
Burns	Graham (FL)	Nelson (NE)
Byrd	Graham (SC)	Nickles
Campbell	Grassley	Pryor
Cantwell	Gregg	Reed
Carper	Hagel	Rockefeller
Chafee	Harkin	Santorum
Clinton	Hatch	Sarbanes
Cochran	Hollings	Schumer
Coleman	Hutchison	Sessions
Collins	Johnson	Shelby
Conrad	Kennedy	Smith
Cornyn	Kohl	Snowe
Craig	Kyl	Specter
Crapo	Landrieu	Stevens
Dayton	Lautenberg	Sununu
DeWine	Leahy	Talent
Dodd	Levin	Thomas
Dole	Lieberman	Voinovich
Domenici	Lincoln	Warner
Dorgan	Lott	Wyden
Durbin	Lugar	
Edwards	McCain	

NOT VOTING—18

Biden	Daschle	Kerry
Bingaman	Ensign	Miller
Boxer	Frist	Murkowski
Brownback	Inhofe	Reid
Chambliss	Inouye	Roberts
Corzine	Jeffords	Stabenow

The amendment (No. 3152) was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DURBIN. Mr. President, the Senator from South Dakota, Mr. DASCHLE, has advised me that his flight to Washington was delayed due to weather conditions. His flight was scheduled to arrive earlier this afternoon, but the delay resulted in his unavoidable absence during the previous vote on the Hutchison amendment. Senator DASCHLE has advised me that had he been here he would have voted ''yea.''

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mr. FITZGERALD). Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On October 10, 2003, Bart Browne approached several men congregating outside an Albany, NY, gay bar. It is alleged that Browne hated gays and thus felt justified in sucker-punching one of the gay men in the face. The force of the single strike broke the 28-year-old victim's jaw, caused a permanent loss of feeling in his left cheek and eradicated the sense of smell in that nostril, prosecutors said. Fearing further assaults for being gay, according to prosecutors, the victim moved away from the area. Browne faces a hate crimes sentence of up to 4 years in state prison.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HARKIN-HAGEL IDEA MANDATORY FULL FUNDING AMENDENT

Mr. REED. Mr. President, I rise in strong support and as a cosponsor of the Harkin-Hagel amendment to provide mandatory full funding for the Individuals with Disabilities Education Act, IDEA.

This amendment will provide mandatory increases in funding of $2.2 billion per year for the next 6 years and help us meet the needs of the approximately 6.5 million children served under IDEA.

Without full funding, we cannot realize the true promise of this law—a free, appropriate public education for all children with disabilities.

Living up to this commitment is not just an important goal; it is a necessity if we are to ensure that all children have an opportunity to succeed. Likewise, we must provide schools with the resources they need to make this happen.

When IDEA was first adopted in 1975, Congress committed to paying 40 percent of the cost of providing special education services. Sadly, after 28 years, we are only at 19 percent.

The President's fiscal year 2005 budget fails to fully fund IDEA, proposing to increase IDEA by only $1 billion—an amount that falls far short of our commitment. Across this country, there is growing frustration over the lack of education resources. The No Child Left Behind Act has only exacerbated such frustrations.

Our school districts are striving to provide a high quality education for all children but don't have the adequate resources to do the job.

As a result, parents of children with disabilities, who only want to ensure their child gets the education they deserve and need, are forced to fight for the very programs and services to make that possible.

For too long, we have forced school districts and schools to pit children against children.

For too long, we have forced parents of children with disabilities to battle principals, schools districts, and other parents for limited educational resources.

Schools urgently need the resources to fulfill the promise of IDEA, and they deserve better than this.