Corps program at St. Joseph's University in Philadelphia, PA. He went on to earn his master's of business administration at the University of Utah, and continued his professional military education at the Air University, the Industrial College of the Armed Forces, and the Defense Systems Management College.

In the early 1970s and 1980s, he was a pilot and instructor for the C–130 aircraft and served in tactical airlift squadrons in the United States and Germany. Over his career, he flew more than 2,500 hours in aircraft that form the airlift and fighter backbone of our Air Force—the C–130s and C–17s, and the F–15s and F–16s, respectively.

As a young acquisition professional, he participated in the Education-with-Industry program in Dallas with the Vought Corporation, and then got 3 years of hands-on management experience in the F–16 development program. A few years later, he was appointed the director of manufacturing and quality assurance for the B–1B bomber, one of the most technologically complex production efforts ever undertaken by our Nation up to that time.

The Air Force later called upon his managerial talents to serve in three successive high visibility, high pressure, and high impact positions as program director for the F–15 fighter, the F–16 fighter, and the C–17 military transport acquisition programs.

Some of my colleagues will remember the developmental difficulties the C–17 program faced. It was General Kadish's expertise that straightened out this troubled program. Our troops in Iraq and Afghanistan, and indeed in all points of the globe, remain the beneficiaries of his managerial accomplishment.

As the current Bush administration came into office, Secretary Rumsfeld looked to General Kadish to lead a major transformation of the Ballistic Missile Defense program. The daunting task of realigning a multi-billion-dollar, cutting-edge defense technology program into a streamlined, capability-focused effort did not deter General Kadish. His charge was to produce reliable defenses that will protect our citizens and friends across the globe from the growing threat posed by ballistic missiles. We are on the threshold of providing that capability as I speak.

Armed with his 20-plus years of military acquisition experience, it was clear to General Kadish that enhanced authorities and improved techniques were needed to accomplish the mission. General Kadish was never satisfied with business as usual when a better way could be found. Bureaucratic change is tough enough to execute under any circumstance. It is doubly so in a culture reinforced by longstanding legal requirements and administrative procedures. Add to that a measure of healthy and vocal skepticism from critics, and his missile defense transformation achievements stand out in stark relief.

Defense acquisition has historically been an activity carried out by the individual military services. General Kadish has broadened that vision by pioneering a joint acquisition strategy for the Department of Defense. This approach has been more responsive to the needs of our troops, more effective for the funds under his charge, and more attuned to the complexities of missile defense, than traditionally could have been possible. He leaves an important legacy of example and accomplishment for those who follow, inspiring a new generation of program managers for the joint arena.

In so doing, General Kadish earned the trust and respect of his associates in the Pentagon and my colleagues here in the Senate. We could always count on him to be clear in his goals, demanding in his standards, and forthright in acknowledging issues. He never promised more than he could deliver.

Indeed, one of my distinguished colleagues in this body, a declared skeptic of the missile defense program, has called him ''a class act.'' I, personally, am privileged to be able to call him a friend, and to have him as a thoughtful and experienced advisor.

We will miss his leadership and his counsel as he moves on to a most well-earned retirement from the Air Force. We owe him a profound debt of gratitude and deep thanks for his extraordinary contributions to our Nation and our Nation's security over a lifetime of selfless service. I am sure I speak for all of us in this body in saying we wish him and his family health and happiness in the years ahead.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume 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 of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and other purposes.

Pending:

Kennedy amendment No. 3263, to prohibit the use of funds for the support of new nuclear weapons development under the Stockpile Services Advanced Concepts Initiative or for the robust nuclear earth penetrator, RNEP.

Mr. WARNER. We are hopeful to get off to a vigorous start this afternoon. In consultation with the leadership on both sides at a later time, we will confirm the likelihood of at least one, and possibly two, votes occurring sometime after 5 o'clock. We will address that later.

At this time, the distinguished Senator from Colorado is going to lay down an amendment which could result in a second degree; then colleagues on the other side, and the distinguished Senator from Nevada, will lay down an amendment. We will have a flurry of activity for a little while.

I congratulate the distinguished majority leader for a very fine set of remarks regarding his trip. For those Senators who were not able to hear the remarks, I hope they will take the time to examine them in the RECORD. It is a very helpful perspective about the current situation in Iraq. I found it encouraging and upbeat.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. What is our order of business?

The PRESIDING OFFICER. The Kennedy amendment is pending.

Mr. ALLARD. I ask unanimous consent that we lay aside the Kennedy amendment so I can send an amendment to the desk.

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

AMENDMENT NO. 3322

Mr. ALLARD. Mr. President, I call up amendment No. 3322.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 3322.

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

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

The amendment is as follows:

(Purpose: To promote international cooperation on missile defense)

On page 280, after line 22, insert the following:

SEC. 1068. MISSILE DEFENSE COOPERATION.

(a) DEPARTMENT OF STATE PROCEDURES FOR EXPEDITED REVIEW OF LICENSES FOR THE TRANSFER OF DEFENSE ITEMS RELATED TO MISSILE DEFENSE.—

(1) EXPEDITED PROCEDURES.—The Secretary of State shall, in consultation with the Secretary of Defense, establish procedures for considering technical assistance agreements and related amendments and munitions license applications for the export of defense items related to missile defense not later than 30 days after receiving such agreements, amendments, and munitions license applications, except in cases in which the Secretary of State determines that additional time is required to complete a review

of a technical assistance agreement or related amendment or a munitions license application for foreign policy or national security reasons, including concerns regarding the proliferation of ballistic missile technology.

(2) STUDY ON COMPREHENSIVE AUTHORIZATIONS FOR MISSILE DEFENSE.—The Secretary of State shall, in consultation with the Secretary of Defense, examine the feasibility of providing major project authorizations for programs related to missile defense similar to the comprehensive export authorization specified in section 126.14 of the International Traffic in Arms Regulations (section 126.14 of title 22, Code of Federal Regulations).

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Defense, submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and the Committee on International Relations and the Committee on Armed Services of the House of Representatives a report on—

(A) the implementation of the expedited procedures required under paragraph (1); and

(B) the feasibility of providing the major project authorization for projects related to missile defense described in paragraph (2).

(b) DEPARTMENT OF DEFENSE PROCEDURES FOR EXPEDITED REVIEW OF LICENSES FOR THE TRANSFER OF DEFENSE ITEMS RELATED TO MISSILE DEFENSE.—

(1) PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, prescribe procedures to increase the efficiency and transparency of the practices used by the Department of Defense to review technical assistance agreements and related amendments and munitions license applications related to international cooperation on missile defense that are referred to the Department.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report—

(A) describing actions taken by the Secretary of Defense to coordinate with the Secretary of State the establishment of the expedited review process described in subsection (a)(1);

(B) identifying key defense items related to missile defense that are suitable for comprehensive licensing procedures; and

(C) describing the procedures prescribed pursuant to paragraph (1).

(c) DEFINITION OF DEFENSE ITEMS.—In this section, the term ''defense items'' has the meaning given that term in section 38(j)(4)(A) of the Arms Export Control Act (22 U.S.C. 2778(j)(4)(A)).

Mr. ALLARD. I rise today to offer this amendment in order to draw attention to the importance of encouraging missile defense international cooperation.

My amendment accomplishes the following: First, it requires the Secretary of State, in consultation with the Secretary of Defense, to establish an expedited process for considering the transfer of missile defense-related agreements and licenses within 30 days. The Secretary of State may use more time if he determines the proposed transfer necessitates a careful review to prevent the proliferation of U.S. ballistic missile technology.

Second, the amendment requires the Secretary of State, in consultation with the Secretary of Defense, to conduct a study on major project authorizations for missile defense. The purpose of this study would be to examine the feasibility of providing major project authorizations for projects related to missile defense.

Third, the amendment requires the Secretary of Defense to prescribe procedures to increase the efficiency and transparency of the practices used by the Department of Defense to review applications for technical assistance agreements and licenses related to missile defense.

These provisions are limited in scope and have been refined considerably over the last month. They are specifically designed to provide a mechanism for increasing our cooperation on missile defense with our closest allies.

Why is this amendment important? Why should we work with our closest allies on missile defense? Let me take a moment to explain why.

Widespread proliferation of ballistic missiles and illegal weapons technology is a major threat to the United States as we enter the 21st century. Today, unfortunately, the United States remains defenseless against a ballistic missile attack.

President Bush, who is committed to eliminating this vulnerability, has taken extraordinary measures to remove obstacles to developing a missile defense capability. The technology has been proven. The timing is right. As a result, the President's vision for a national missile defense system will likely become a reality this fall.

Yet we must acknowledge this complex system could become even more complicated without the assistance of other nations. We need early warning and tracking sensors in other countries in order to predict and intercept an incoming ballistic missile. We also need intelligence other countries may have on the activities of those who may threaten our Nation.

Without this information, it could become extremely difficult for us to defeat a ballistic missile attack. A prudent step on our part would then be to recognize the value of this assistance and exhibit a willingness to help those who have been so willing to help us.

We cannot forget that while the United States may have a legitimate missile defense capability, most of our allies do not. For example, Japan, Australia, and South Korea are perhaps more vulnerable than the United States due to their close proximity to the North Korean ballistic missile threat. Yet these three close allies are defenseless against most ballistic missile attacks. Our NATO allies in Europe are also vulnerable to a similar threat from the Middle East.

We also cannot forget hundreds of thousands of U.S. soldiers, sailors, airmen, and marines are deployed in many tough regions around the world, and many of these regions have rogue states that have substantial offensive ballistic missile capability. We cannot ignore this looming threat to our troops overseas. Having allies with missile defenses would greatly reduce the threat offensive ballistic missiles could pose against our troops overseas.

Some might suggest cooperation on missile defense could lead to the proliferation of ballistic missile technologies. This is a legitimate concern, and I certainly agree we must do everything we can to protect our most sensitive technologies. That is why I included in my amendment an exception that authorizes the Secretary of State to conduct an extended review of a proposed transfer if there is a concern about the transfer of ballistic missile technologies. None of us want to see ballistic missile technologies fall into the wrong hands.

We must recognize, though, that international cooperation on missile defense can greatly reduce the proliferation of ballistic missiles. It does so by directly devaluing the ballistic missile as an offensive weapon of terror. With missile defenses deployed, as in Operation Iraqi Freedom, an enemy can no longer be assured of success when considering a missile attack. It thus acts as a counterproliferation tool that forces our adversaries to think twice about investing billions of their scarce resources into ballistic missiles.

I commend President Bush for already taking the lead on international cooperation on missile defense. At his direction, the Pentagon is planning wide-ranging cooperative missile defense activities with the United Kingdom, Australia, Japan, Germany, Italy, other NATO allies, and friends. The Pentagon is also looking into other opportunities with Russia in the wake of the decision to cancel the Russian-American Observation Satellite, or what we refer to as the RAMOS Program.

Yet our Government has only limited experience with large-scale missile defense cooperation abroad. This limited experience has drawn out inefficiencies and problems that could limit cooperative missile defense programs. Here are two recent examples that have troubled me.

First, it took almost 6 months to execute the United States-Japanese cooperative program on the Aegis-based Standard Missile-3. This holdup was despite Japan's sterling nonproliferation reputation, a detailed United States and Japan memorandum of understanding, and a United States-Japanese exchange of diplomatic notes underpinning the MOU.

Similarly, for our joint operations centers in NORAD, where we conduct missile defense operator training and exercises, we require numerous special authorizations, taking months to review, to permit our industry experts to work with Canadian military operators already in place behind the computer

terminals providing missile defense early warning in Colorado Springs.

I believe we should be thinking beyond our own borders and begin looking at ways to assist our friends and allies. My amendment takes a small step forward in this direction. It still provides for a case-by-case review and permits a careful and close review of a transfer that might be of vital importance to our Nation. Perhaps most importantly, it upholds the virtue of our nonproliferation regimes and helps develop another counterproliferation tool for the President's use in the future.

I urge my colleagues to support this amendment.

I yield the floor.

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

Mr. ALLARD. I will yield to the Senator from Oklahoma.

Mr. REID. Mr. President, I have no objection to the Senator speaking, but he has no right to yield to him.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. ALLARD. I yield to the Senator from Oklahoma for a question.

Mr. INHOFE. Well, I appreciate that. First of all, I appreciate all the Senator from Colorado has done in this field.

I say to the Senator, in your statement, when you talked about that some of our allies, some of our friends, such as the Japanese, might be more susceptible because of their proximity to North Korea, I remind my colleagues what happened 6 years ago this coming August when the North Koreans did in fact fire a multistage rocket that had the capability of reaching the United States of America. So that threat is still there for us.

I was going to ask my colleague a couple questions about his amendment. But if somebody else desires the floor, that is perfectly all right.

Mr. REID. Mr. President, I have no objection if the Senator from Oklahoma wishes to speak. I am simply going to offer a second-degree amendment.

Mr. INHOFE. I will ask one question. In your amendment, you talked about 30 days for considering technical assistance agreements and licenses. Will you explain what that 30 days is and the significance of that?

Mr. ALLARD. Well, the 30-day mandate is to emphasize the importance of considering these agreements and licenses for international cooperation on missile defense in a timely manner, not being dragged out forever and ever. Too often, applications for technical assistance programs and licenses for missile defense are held up for months at a time, causing our allies needless frustrations, in my view.

The process is so cumbersome for missile defense agreements and licenses that it takes weeks to get an application approval for something as simple as permitting the British Ministry of Defense officials to attend the Missile Defense Agency's annual conference we have here in DC.

We are trying to bring a stroke of common sense in our cooperation with our allies. There are cases, obviously, when more time is needed. So the judgment can be applied by the Secretary of Defense, as well as the Secretary of State, to use more time to determine the feasibility of extending licensing agreements to our allies.

What we are trying to reach is a proper balance. There are times when it is not necessary to delay this for extended times. Sometimes we may take longer because of the type of technology we are dealing with. We are trying to have a proper balance so we can adequately protect our technical systems, defense systems, as well as to have a format out here so we can work in an effective manner with our friends and allies.

Mr. INHOFE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3449 TO AMENDMENT NO. 3322

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEVIN, proposes an amendment numbered 3449 to amendment No. 3322.

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

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

The amendment is as follows:

(Purpose: To express the sense of Congress on the nonproliferation of ballistic missiles)

Beginning on page 2, line 4, of the amendment, strike "not later than 30 days" and all that follows through the end and insert "on an expedited basis, except in cases in which the Secretary of State determines that additional time is required to complete a review of a technical assistance agreement or related amendment or a munitions license application for foreign policy or national security reasons, including concerns regarding the proliferation of ballistic missile technology.

(2) STUDY ON COMPREHENSIVE AUTHORIZATIONS FOR MISSILE DEFENSE.—The Secretary of State shall, in consultation with the Secretary of Defense, examine the feasibility of providing major project authorizations for programs related to missile defense similar to the comprehensive export authorization specified in section 126.14 of the International Traffic in Arms Regulations (section 126.14 of title 22, Code of Federal Regulations).

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Defense, submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and the Committee on International Relations and the Committee on Armed Services of the House of Representatives a report on—

(A) the implementation of the expedited procedures required under paragraph (1); and

(B) the feasibility of providing the major project authorization for projects related to missile defense described in paragraph (2).

(b) DEPARTMENT OF DEFENSE PROCEDURES FOR EXPEDITED REVIEW OF LICENSES FOR THE TRANSFER OF DEFENSE ITEMS RELATED TO MISSILE DEFENSE.—

(1) PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, prescribe procedures to increase the efficiency and transparency of the practices used by the Department of Defense to review technical assistance agreements and related amendments and munitions license applications related to international cooperation on missile defense that are referred to the Department.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report—

(A) describing actions taken by the Secretary of Defense to coordinate with the Secretary of State the establishment of the expedited review process described in subsection (a)(1);

(B) identifying key defense items related to missile defense that are suitable for comprehensive licensing procedures; and

(C) describing the procedures prescribed pursuant to paragraph (1).

(c) DEFINITION OF DEFENSE ITEMS.—In this section, the term "defense items" has the meaning given that term in section 38(j)(4)(A) of the Arms Export Control Act (22 U.S.C. 2778(j)(4)(A)).

SEC. 1069. POLICY ON NONPROLIFERATION OF BALLISTIC MISSILES.

(a) POLICY.—It is the policy of the United States to develop, support, and strengthen international accords and other cooperative efforts to curtail the proliferation of ballistic missiles and related technologies which could threaten the territory of the United States, allies and friends of the United States, and deployed members of the Armed Forces of the United States with weapons of mass destruction.

(b) SENSE OF CONGRESS.—(1) Congress makes the following findings:

(A) Certain countries are seeking to acquire ballistic missiles and related technologies that could be used to attack the United States or place at risk United States interests, forward-deployed members of the Armed Forces, and allies and friends of the United States.

(B) Certain countries continue to actively transfer or sell ballistic missile technologies in contravention of standards of behavior established by the United States and allies and friends of the United States.

(C) The spread of ballistic missiles and related technologies worldwide has been slowed by a combination of national and international export controls, forward-looking diplomacy, and multilateral interdiction activities to restrict the development and transfer of such weapons and technologies.

(2) It is the sense of Congress that—

(A) the United States should vigorously pursue foreign policy initiatives aimed at eliminating, reducing, or retarding the proliferation of ballistic missiles and related technologies; and

(B) the United States and the international community should continue to support and strengthen established international accords and other cooperative efforts, including United Nations Security Council Resolution 1540 and the Missile Technology Control Regime, that are designed to eliminate, reduce, or retard the proliferation of ballistic missiles and related technologies.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3292

Mr. REID. Mr. President, I ask unanimous consent that the amendment that is now pending be set aside and that I be allowed to call up Senator LEAHY's amendment No. 3292.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEAHY, proposes an amendment numbered 3292.

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

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

The amendment is as follows:

(Purpose: To amend title 18, United States Code, to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts)

At the appropriate place, and insert the following:

SEC. _____. WAR PROFITEERING PREVENTION.

(a) PROHIBITION OF PROFITEERING.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1038. War profiteering and fraud relating to military action, relief, and reconstruction efforts

''(a) PROHIBITION.—

''(1) IN GENERAL.—Whoever, in any matter involving a contract or the provision of goods or services, directly or indirectly, in connection with the war, military action, or relief or reconstruction activities in Iraq, Afghanistan, or any other country in which members of the United States Armed Forces are engaged in any military or combat activities, knowingly and willfully—

''(A) executes or attempts to execute a scheme or artifice to defraud the United States or Iraq, Afghanistan, or such other country;

''(B) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

''(C) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; or

''(D) materially overvalues any good or service with the specific intent to excessively profit from the war, military action, or relief or reconstruction activities in Iraq, Afghanistan, or such other country,

shall be fined under paragraph (2), imprisoned not more than 20 years, or both.

''(2) FINE.—A person convicted of an offense under paragraph (1) may be fined the greater of—

''(A) $1,000,000; or

''(B) if such person derives profits or other proceeds from the offense, not more than twice the gross profits or other proceeds.

''(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) VENUE.—A prosecution for an offense under this section may be brought—

''(1) in accordance with chapter 211;

''(2) in any district where any act in furtherance of the offense took place; or

''(3) in any district where any party to the contract or provider of goods or services is located.''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1038. War profiteering and fraud relating to military action, relief, and reconstruction efforts.''

(c) CIVIL FORFEITURE.—Section 981(a)(1)(C) of title 18, United States Code, is amended by inserting ''1038,'' after ''1032,''.

(d) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking ''or 1030'' and inserting ''1030, or 1038''.

(e) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''section 1038 (relating to war profiteering and fraud relating to military action, relief, and reconstruction efforts),'' after ''liquidating agent of financial institution),''.

AMENDMENT NO. 3307

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 3307.

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

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3307.

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

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

The amendment is as follows:

(Purpose: To require that any plan for compensation to individuals in military prisons in Iraq include provisions for compensation to former prisoners of war held by the regime of Saddam Hussein)

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

SEC. 1055. COMPENSATION FOR FORMER PRISONERS OF WAR.

Any plan of the Secretary of Defense to provide compensation to an individual who was injured in a military prison under the control of the United States in Iraq shall include a provision to address the injuries suffered by the 17 citizens of the United States who were held as prisoners of war by the regime of Saddam Hussein during the First Gulf War.

Mr. REID. Mr. President, this amendment is very straightforward. The Secretary of Defense, in testimony to Congress several weeks ago, said that he is looking at ways to compensate the Iraqi nationals who were abused in American run prisons. I have no doubt that may be appropriate, but as the Defense Department considers its compensation plan, we should not forget about the American servicemen who were tortured and brutalized in this same prison, the Abu Ghraib prison, during the first Gulf War. I know many of my colleagues will remember the 17 American servicemen—including Colonel Jeff Tice from Las Vegas—who were captured and subjected to weeks of torture, beatings, electrocutions, starvation, and other despicable acts ordered by Saddam Hussein and carried out by the Iraqi intelligence service.

The Federal Government, unfortunately, has turned its back on these heroes. Instead of working with them to deliver some means of compensation for their many injuries,—in fact, the money at one time was Saddam Hussein's money—the Bush administration has been outmaneuvering them at every turn, fighting them in court, moving to vacate earlier judgments they received, and trying to quash any efforts to bring them some relief. In fact, just last week the judgment was rescinded.

I regret to say that the Justice Department has been effective, prevailing on the American POWs in this recent court of appeals case. The American POWs are back to square one. They have nothing except the permanent wounds which they suffered in Saddam's prisons.

My amendment says that as the Secretary develops the compensation plan for the Iraqi nationals, he also needs to include a provision which addresses the injuries suffered by brave American prisoners of war. I don't know what the provision will say or should say, but the Defense Department cannot continue to turn its back on the brave men we sent into battle. I welcome their entry into this debate. They have been silent about this issue for too long. Nothing about this amendment prevents the Iraqis from being compensated; it just asks for some fairness. Our own brave service men and women are entitled to it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, before we started addressing the bill, the Senator from Nevada and I discussed this matter. I think we can work on this one. But the other amendment—I do not recall your mentioning that you were going to bring up a Leahy amendment.

Mr. REID. I did not specifically mention that. I said I would be offering an amendment. Senator LEAHY will not be here until Wednesday, so he asked that I lay it down. He will not be in the Senate until Wednesday. He has a personal situation that does not allow him to be here until the day after tomorrow. He asked me last week to do this.

Mr. WARNER. So there will be no further addressing of that amendment until Wednesday.

Mr. REID. Senator LEAHY will not be back until Wednesday.

Mr. WARNER. But you felt the necessity to it put it down now.

Mr. REID. Yes. He has been waiting around. He wanted to lay it down after Senator KENNEDY, but, of course, with the circumstances we have had, he has been unable to do that. The only amendment I did discuss with you was mine. I didn't discuss Senator DODD's.

Mr. WARNER. I understand. I discussed it with the Senator from Connecticut.

Mr. REID. I thought we were trying to get some amendments down. Some of them, the managers will decide, along with the leadership, as to votes that may even take place this evening. We can pick and choose what will be done with these other amendments. The only thing I mentioned to the distinguished chairman of the committee

is that it is our understanding the junior Senator from Idaho is going to lay down an amendment, which we have no objection to his laying that down, but we would not want to vote on that until there is a side-by-side with Senator CANTWELL. That is the issue that has held up this bill for some time.

Mr. WARNER. Mr. President, the distinguished leader made that very clear to me. It is just the Leahy amendment which caught me somewhat unprepared. I would hope I would have a chance to look at it.

Mr. REID. If the Senator is concerned, I would be happy to discuss this prior to laying down any future amendments.

Mr. WARNER. I would hope so.

Mr. REID. Senator LEAHY has been very patient.

Mr. WARNER. I am not suggesting that anyone else has been impatient. It is just the first we have heard of it. I would hope to have, as a matter of comity, an amendment from this side and an amendment from that side, and we would go back and forth and not have too many up here, gatekeepers to hold, have to lay them all aside seriatim.

Mr. REID. Maybe I should have waited until you offered one on the Republican side before I offered mine.

Mr. WARNER. The distinguished leader and I have never had a problem we could not work out. If this is a problem, we will work it out

Mr. REID. Our next amendment will be by the senior Senator from Connecticut.

Mr. WARNER. I understand. We are prepared to address that amendment. For the moment, I will take a look at the Leahy amendment and figure out if there is a problem, and then I will bring it to the Senator's attention.

I turn now to the Senator from Colorado, his second-degree amendment. Is he prepared to address that?

Mr. ALLARD. Mr. President, I haven't had an opportunity to review this particular amendment that I understand has just been laid down to my amendment, and I need a little time to review that. I did have another amendment that we are sharing with the other side, expecting them to introduce another amendment. I am going to have to take some time here and look at this particular amendment because I have not seen this amendment.

Mr. WARNER. I fully understand that. So that we can then have the efficiency of time, perhaps the Senator from Connecticut could then move to introduce his.

AMENDMENT NO. 3312, AS MODIFIED

Mr. DODD. Mr. President, I would be glad to. I am impressed by the distinguished chairman's indulgence and patience as we wander through this maze of amendments. I believe I have to ask unanimous consent to set aside the pending amendment, and I make such a request.

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

Mr. DODD. Mr. President, I call up amendment No. 3312 and send a modification of that amendment to the desk.

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

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 3312, as modified.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of Defense to provide reimbursement for certain protective, safety, or health equipment purchased by or on behalf of members of the Armed Forces for deployment in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom)

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

SEC. 1068. REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES FOR DEPLOYMENT IN OPERATIONS IN IRAQ AND CENTRAL ASIA.

(a) REIMBURSEMENT REQUIRED.—(1) Subject to subsections (c) and (d), the Secretary of Defense shall reimburse a member of the Armed Forces, or a person or entity referred to in paragraph (2), for the cost (including shipping cost) of any protective, safety, or health equipment that was purchased by such member, or such person or entity on behalf of such member, before or during the deployment of such member in Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom for the use of such member in connection with such operation if the unit commander of such member certifies that such equipment was critical to the protection, safety, or health of such member.

(2) A person or entity referred to in this paragraph is a family member or relative of a member of the Armed Forces, a non-profit organization, or a community group.

(b) COVERED PROTECTIVE, SAFETY, AND HEALTH EQUIPMENT.—(1) Subject to paragraph (2), protective, safety, and health equipment for which reimbursement shall be made under subsection (a) shall include personal body armor, collective armor or protective equipment (including armor or protective equipment for high mobility multipurpose wheeled vehicles), and items provided through the Rapid Fielding Initiative of the Army such as the advanced (on-the-move) hydration system, the advanced combat helmet, the close combat optics system, a Global Positioning System (GPS) receiver, and a soldier intercommunication device.

(2) Non-military equipment may be treated as protective, safety, and health equipment for purposes of paragraph (1) only if such equipment provides protection, safety, or health benefits, as the case may be, such as would be provided by equipment meeting military specifications.

(c) LIMITATIONS REGARDING DATE OF PURCHASE OF EQUIPMENT.—(1) In the case of armor or protective equipment for high mobility multi-purpose wheeled vehicles (known as HUMVEEs), reimbursement shall be made under subsection (a) only for armor or equipment purchased during the period beginning on September 11, 2001, and ending on July 31, 2004 or any date thereafter as determined by the Secretary of Defense.

(2) In the case of any other protective, safety, and health equipment, reimbursement shall be made under subsection (a) only for equipment purchased during the period beginning on September 11, 2001, and ending on December 31, 2003 or any date thereafter as determined by the Secretary of Defense.

(d) LIMITATION REGARDING AMOUNT OF REIMBURSEMENT.—The aggregate amount of reimbursement provided under subsection (a) for any protective, safety, and health equipment purchased by or on behalf of any given member of the Armed Forces may not exceed the lesser of—

(1) the cost of such equipment (including shipping cost); or

(2) $1,100.

(e) OWNERSHIP OF EQUIPMENT.—The Secretary may provide, in regulations prescribed by the Secretary, that the United States shall assume title or ownership of any protective, safety, or health equipment for which reimbursement is provided under subsection (a).

(f) FUNDING.—Amounts for reimbursements under subsection (a) shall be derived from amounts any amounts authorized to be appropriated by this Act.

Mr. DODD. Mr. President, I will go through and explain what this amendment does. At the outset of my remarks, let me begin by commending the distinguished Senator from Virginia, the chairman of the Armed Services Committee, and Senator LEVIN of Michigan. The amendment I am raising here has been in many ways addressed by actions taken by the Armed Services Committee. I begin my comments by commending the chairman and the ranking member for the tremendous job they have done of improving what was a request by the administration in the area I am going to cover. I commend them as well for other matters but particularly on this point.

Like all of my colleagues, without regard to party or ideology, we have been concerned over the last number of months with the increasing number of reports that our men and women in uniform have had to dig deep into their own pockets to pay for their own safety equipment. Most disheartening have been the news accounts of men and women in uniform having to buy their own body armor here at home or having it bought for them by their loved ones before they deploy to Iraq and Afghanistan or while they have been on duty.

There are stories like that of SPC Bill Palifka, a member of the Connecticut National Guard's 248th Engineering Company which was stationed in the west of Baghdad last year. He learned shortly before deploying that his unit wouldn't have the interceptor vests that it needed in order to be safe in Iraq. So his mother Pene, from East Hartford, CN, went out and bought a vest for $1,100 from a private company.

These stories, unfortunately, have been all too common, as this chart shows. I brought up the news article from the New York Times, reported just 3 weeks ago, an article entitled ''Bulletproof Vests Collected To Help A Son's Unit in Iraq.'' A New Jersey couple solicited donations of body armor

from the New Jersey City police so their son could lay down protecting vests on the floor of his Humvee, currently in Iraq. I quote:

Before his unit shipped from Kuwait to Iraq in March, First Lt. Christian Boggiano, 23, made a special appeal to his mother, Mary, by e-mail message. Please, he asked, scrounge around for a few old police bulletproof vests and mail them to [me]. ''Once I get up north, we'll use them on the doors and floors of the Humvees so that when roadside bombs go off, they'll catch a lot of shrapnel.''

This is what the young lieutenant wrote to his parents, a 2002 graduate of West Point.

The Jersey Police Department and about 50 other police departments across New Jersey came through for Lt. Boggiano.

His unit came through in ways our Government did not.

In my mind, no U.S. soldier should have to get his mother or father to help send body armor for his missions in Iraq. But people like Mr. and Mrs. Baggiano and the good citizens associated with New Jersey police departments were driven to act. Why? Because there was a critical need to fully equip our troops. Unfortunately, Lt. Baggiano is not alone. A USA Today article recently reported on the village of Foley, AL, which held fundraisers, and eventually raised enough money to build and assemble their own protective steel armor for the Humvees of the AL National Guard's 711th Signal Battalion Charlie Company. That community should be commended. But this situation seems ludicrous to me. Our troops and their loving neighbors should not be spending their own money to make sure our soldiers can have the protection they need.

For this reason, I am introducing an amendment today that will give our troops the support they deserve. My amendment will require the Secretary of Defense to reimburse soldiers, loved ones, and nonprofit organizations who have dug deep into their own pockets to provide our troops with the equipment their Government should have provided them all along. This amendment will serve the health, safety, and protection of our soldiers, covering expenditures on items such as body armor, vehicle protection, hydration equipment, advanced combat helmets, and other gear needed to serve our troops in Iraq and Afghanistan.

Not a day goes by when we don't hear of an incident in Iraq where a so-called ''improvised explosive device'' or IED, has detonated, killing or maiming some of our brave men and women. At the outset of our post-war operations, it was reported that nearly one-quarter of American troops serving in Iraq did not have ceramic plated body armor, which can stop bullets fired from assault rifles and shrapnel. It took months and hundreds of U.S. casualties before the administration finally changed its priorities and decided to outfit all our deployed troops with the most modern interceptor body armor, and to outfit their vehicles with protective armor.

In addition, according to the Army, soldiers have been spending upward of $300 per person on equipment to outfit themselves for war. In response, the Army established the ''Rapid Fielding Initiative'' designed to outfit our soldiers with the most modern equipment available so that they do not have to spend their own money on the latest combat helmets or hydration systems. With this program, our soldiers—many of whom are less than the age of 21, making under $20,000 a year—will have the right gear for their mission, and they won't have to dig deep into their own pockets to buy their own equipment. But unfortunately, not all of our soldiers in Iraq have access to this program, because in the past, it hasn't been fully funded. That needs to be remedied, and my amendment will make sure that our troops don't have to shell out their own money to get the Camelbak hydration systems, advanced combat helmets, and proper clothing they need to do their jobs.

This chart shows what an average foot soldier is wearing in Iraq—60 pounds of body armor plus tactical equipment in the hot desert heat, heavy Kevlar vests, high-tech GPS compass gear, special frame backpacks, and other survival gear. In 120 degrees, carrying all of this equipment becomes quite burdensome, and has made special hydration systems necessary for our troops to safely survive the desert heat. Water-pack systems called Camelbaks are now being attached to soldiers' backpacks, to allow them easy access to water even while they are in patrolling the streets of Iraq. And let's be honest about this. Camelbaks are no longer a matter of convenience. If a soldier has to stop moving to take out his canteen for a sip of water, he may be a sitting duck for a sniper or insurgent fire.

Unfortunately, with a shortage of funds, the Army cannot afford to equip all its soldiers with this kind of equipment, so many soldiers are still using bulky canteens that quickly heat up in the desert sun. Most of the canteens do not have adequate capacity to carry all the water they need in Iraq's extreme heat. In other cases, soldiers are paying hundreds of dollars out of their own pocket to buy the equipment themselves, everything ranging from these Camelbaks to radios, because, in spite of the Army's stated priorities, the administration did not procure enough personal equipment for our fighting men and women. We need to do better than this.

I want to commend the Armed Services Committee for recognizing the importance of this program as well as that of critical body armor systems. I was pleased to see the Senate Armed Services Committee override the President's considerably low budget request for force protection. Under the leadership of Senators WARNER and LEVIN, the Armed Services Committee increased the Rapid Fielding Initiative from the Bush administration's requested $57.2 million to $262 million. They also demonstrated their usual good sense and further added to the President's considerably low-budget request for personal body armor and armored vehicles. The Army told Congress the President's budget was shortchanging them by $295 million in interceptor body armor. And the Marines said they would be short $16.6 million if the Bush budget were to prevail. In spite of the President's proposals, the committee fully funded those programs.

In addition, $905 million was put toward the Stryker armored vehicles that are already proving valuable in military operations in Iraq. Almost $1.1 billion, an increase of $927 million over the President's proposed budget, was used to accelerate procurement of uparmored humvees, as well as add-on ballistic armor for medium and heavy trucks, to protect our troops on patrol in hostile environments. As a result of these provisions, critical resources will be sent to our troops to enhance their safety while in harm's way.

I applaud these efforts. I know some of my colleagues will suggest that because the committee has now funded these programs, my amendment is unnecessary. Or, as I have already been hearing, perhaps they will say that we are encouraging our troops to go out and buy new equipment since we'll just reimburse them in the end. I have the official DOD position paper with talking points opposing my amendment. I would like to address each of the issues raised, point by point.

First, DOD says, ''the amendment may not support the purchase of the proper equipment. The DOD spends millions to test and procure the needed protective, safety, and health equipment for our service members. The DOD will have no way of knowing what testing personally procured items went through or whether the equipment is effective.'' This seems to be an unreasonable argument. In spite of the millions DOD spent on testing equipment, the fact remains that they failed to outfit our soldiers with the gear they needed. The Department acknowledged as much, saying that our soldiers did not receive enough personal body armor until January of this year and will still not have adequately armored vehicles until July. In my modified amendment, we say that a soldier's company commander has the discretion to decide which protective gear would be appropriate for reimbursement. These commanders on the ground know our soldiers' needs the most. And it makes sense for them to be the ones determining what equipment the soldiers lacked when they headed over to Iraq and Afghanistan. This addresses another concern DOD seems to have that my amendment is somehow too broad—this amendment says that if and only if a soldier purchased an item that he absolutely

needed, according to the most knowledgeable soldiers in the field, he will be reimbursed for that item.

DOD's talking points also suggest that my amendment will encourage service members and their loved ones to purchase equipment on their own outside this accountability with the exception of receiving future reimbursement.'' That is absolutely misleading.

This amendment only applies to purchases made during finite periods, and by the Army's own admission they had not provided adequate supplies to our troops. This amendment only applies to purchases for personal body armor and other safety equipment that can be made only for the period between September 11, 2001, and December 31, 2003. For purchases to provide Humvee protection, claims can be made only for the period of September 11, 2001, and July 31, 2004.

We allow an exception to that if the Army decides they will have all the necessary equipment by these dates. If for some reason they are unable to do it, we do not need to come back with another amendment. It seems to me we ought to leave it up to the military people to decide. If they are not able to meet the dates, then they have authority to reimburse later. I leave that up to them to avoid any future need of talking about this issue on the floor of the Senate. We are dealing with finite periods. It is the field commanders who make the decisions.

Finally, to address the charge my amendment sets an unmanageable precedent that the DOD claims will saddle the Department of Defense with an open-ended financial burden, we also modified the amendment to set a $1,100 cap on money that can be reimbursed for purchases made on behalf of any one individual. I was going to make it $1,000. I changed it to $1,100. Candidly, a family in Connecticut paid $1,100 for the vest their child needed while in combat. So we made the cap at that level. I believe, therefore, my colleagues will find this proposal more reasonable and, most importantly, necessary. It is a finite period of time, there are individual caps on the amount that can be reimbursed, field commanders would make the decision, and any extension of time would have to come from a unilateral decision by the Department of Defense.

I think it is reasonable. If people went out, such as my constituents or in communities in New Jersey or towns in Alabama and provided additional protection for our service men and women, the very least, it seems to me, we can do is reimburse their individual soldiers, their families, or the organizations that provided that protection.

I, again, think we all understand how these things can happen. Certainly, there should have been better preparation to see to it these young men and women would have all the protection necessary, but for a variety of reasons, which we do not need to pore over, they were not. And by the Department of the Army's own admission, we were not able to provide that body armor until December 31 of last year. So there is a gap of almost 2 years where people were acquiring that equipment, and up until July of this year, the Humvee protections will not be in place.

I do not think it is asking too much during a finite period of time for a limited amount of money, where field commanders make the decisions, that we cannot say to these families: Show us the proof of what you paid for this equipment, let the field commanders decide, and if you meet those tests, then your Government is going to say you should not have to dish out money from your own pockets, particularly when we are talking about 21-year-old kids making $20,000 a year, where they may have invested $1,000 in decent vests to protect from IEDs and other attacks occurring on the dangerous streets of Iraq and Afghanistan.

I believe this is a reasonable proposal we have offered. If we fail to adopt this amendment, I believe my colleagues and I will once again be forced to answer tough questions, as we all do, when we go back and meet our returning soldiers from the Guard and Reserve and their families in our respective States.

At every meeting I have had in the State of Connecticut with families of men and women serving in Iraq, this issue has come up: Why are we not providing the protection these men deserve?

I, along with General Cugno, my National Guard commander in Connecticut, tried to address these questions of how these things happen. I told him we would make an effort to see that any costs they incurred of these items would be reimbursed. They believe that is the right thing to do. I hope my colleagues do as well.

I know money is tight this year. We are facing enormous budget deficits. Again, I commend my friends and colleagues on the Armed Services Committee. Mr. President, they have done a very good job in beefing up the numbers that otherwise come from the Department of Defense and the White House, and by adding additional resources, they have made it possible to do this.

The amendment provides Secretary of Defense discretion to determine from which accounts moneys will be sought to reimburse our soldiers. One obvious place from which these moneys could be drawn is the $2.5 billion contingency fund that was added by the Warner amendment a few days ago as part of the $25 billion supplemental for operations in Iraq and Afghanistan.

That is my argument. That is the amendment. My hope is we will be able to adopt it without much fanfare. It seems to be a reasonable request to make on behalf of our men and women in uniform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank our colleague. Let me say at the offset, he has been most cooperative in working on this amendment, and he recognizes the concerns the Department of Defense had and the staff for the majority had. We have determined that the Senator has met each and every one of those concerns with a modification to his original amendment. So I am prepared to indicate acceptance of that amendment, but I wish to engage the Senator from Connecticut in a short colloquy.

This is a most unusual type of situation, Mr. President. We had the call-up of a number of reservists, units put together rather hurriedly in some instances. As the Department of Defense—most specifically the Army—stated, some errors were made, but I do not believe, as I listened very carefully to the Senator's presentation, that the total number of errors is very large.

I do not find that it was a widespread situation. I say that only to indicate to the American public that following that unusual type of amendment, which is necessary and we are prepared to accept it, but I do not want to leave the impression with the American public that our commander, starting with the Commander in Chief, the President, sent men and women into harm's way where there was a widespread lacking of the necessary equipment to give them the protections needed.

The concept of the use of body armor has been evolving over the years. It is now proven to have been very successful in the operations in Afghanistan and Iraq. The orders the Army had placed somewhat fell short, as the Senator said, over a period of time last fall. Our committee, indeed the other means of financing—I think some of the money in the supplemental that the Congress has adopted went to provide the necessary funds, but it was not a widespread situation. I think the Senator would concur with me on that point; would he not?

Mr. DODD. Mr. President, if my colleague will yield, I certainly do not disagree. I do not know the numbers myself. Others may have more detailed information. We know there were some large stories—I do not have all of them here. There have been widespread reports of it.

I accept in part what my colleague has said, that it would be unnecessary for massive amounts of this kind of armor. There was an anticipation about a different reception after the military victory in Iraq. We discovered otherwise. Of course, somebody argued we should have anticipated that. Nonetheless, there was concern.

I am not prepared to make a case here that this is terribly widespread. I do not know that. I do know there were enough examples of it that I thought it warranted an issue.

I point out, again—I say this to my friend and Senator LEVIN as well—my colleagues have done a terrific job. There is a difference in this budget between what was sent and what the

committee is asking us to support when it comes to these issues, and the significant increase, from $57 million to $262 million for buying additional equipment, is a significant amount of money. I commend both Senators for doing that.

There were other areas where additional resources were provided by the committee that were not otherwise requested by the DOD. I applaud my colleagues for that. I do not know what the numbers reflect in terms of widespread use. The committee did a very good job, and, as I said at the outset, I commend you immensely for having recognized this issue and jumped into the void so that today it looks as though, based on assessments, by July 31 of this year the issue involving the Humvees will be addressed, and back in December of last year the issue looks as if it was addressed in terms of body armor. So we cover those periods where there apparently was a lack of resources.

I do not think the issue would have come to closure if it had not been for the Senator from Virginia, and I also say this to my colleague from Michigan. It made a significant difference, and I thank my colleagues immensely on behalf of my constituents and literally thousands of soldiers serving in dangerous places.

Mr. WARNER. I thank my colleague for his statement. I would like to address the Humvees because our committee had a special session on that issue. We should understand the Humvee was designed at the time to meet the array of weaponry and other types of threats to it.

The proliferation, primarily in the campaign in Iraq, of the use of buried munitions in the roadway activated by a series of electronic ways, or hand operated, this proposed a challenge because the explosion came up beneath the vehicle. I think in a timely way we started to address that by putting armor on certainly the Humvees and leaving others without armor. One might ask: Well, why is that? It is because once the armor is added, the maneuverability of the particular vehicle that is armored becomes quite limited and that limits its tactical role.

Consequently, the Army thought, and I agree with the Army on this, they needed inventories of both armored and unarmored Humvees. It got to be a misperception across the land that we were not providing adequate armor for our men and women when, in fact, we were, but we had to have the two different inventories and, depending on which vehicle was being used in an operation, problems could arise.

So I am prepared on this side to accept the amendment.

Mr. DODD. Mr. President, I thank my colleague, but I had hoped, if he would not object, we could ask for a rollcall vote because we will be looking to vote anyway, and this would help the conference as a whole. I know we want to move things along.

Mr. WARNER. Certainly the Senator has a right to request it.

Mr. DODD. I would like to respect my friend from Virginia.

Mr. WARNER. I was wondering if, as we go further into the afternoon, depending on the number of votes, we could vitiate the vote, although I recognize the Senator has a perfect right to ask for the vote.

Mr. DODD. That is a reasonable request. I will ask for one and we can vitiate it later.

Mr. WARNER. That is a prudent way to proceed.

Mr. DODD. I ask for the yeas and nays on the Dodd amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. WARNER. Now we will turn to this side of the aisle for an amendment and then come back to the other side.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise today with the intention of calling up amendment No. 3223 to S. 2400, but rather than calling up that amendment, since my intention was to withdraw it, I will make a few comments on it.

I preface my comments by stating something to which no Member of the Senate will disagree, and that is that the way our Nation uses the Reserve components of the U.S. military has fundamentally changed over the last 15 years. Reserve components have changed from a ''force in reserve'' to an absolutely essential component of the warfight. Almost every operation the military engages in today, and career field in the Army, Navy, Air Force, and Marine Corps are represented by our Guard and our Reserve.

The Reserve components are now and continue to become a true operational reserve without which our military cannot operate. This is reflected primarily in the rate of deployments and mobilizations of the Reserve components. This rate of utilization, which has increased three or fourfold over the last decade, necessitates that we reexamine the way we manage the Reserve.

The Department of Defense has made changes in this area by improving the process of training and equipping the Reserve and supporting changes in personnel policies that improve quality of life for members of our Reserve.

I would say with respect to that, last year in the Defense authorization bill we made some changes. Some of them seemed fairly minimal, such as allowing our Guard and Reserve members, while they were not on active duty, to have access to commissaries. This seemingly innocent act on our part was a huge benefit to our Guard and Reserve members who had the availability of commissaries when they were on active duty, but now they have it full time. Particularly, those who are close to military installations have the availability of services they simply did not have before, and it has been a huge morale booster for our Guard and Reserve members.

With the possible exception of the TRICARE issue, though, the changes that we have made have been at the margins. I believe we need to reexamine the personnel policies for the Reserve components based on the fact that the way we use them has fundamentally changed.

As the chairman of the Armed Services Committee Subcommittee on Personnel and co-chairman of the Senate Reserve Caucus, this is an issue I have wrestled with considerably and want to be sure that we account for as we provide oversight of the personnel policies of the Department of Defense.

My amendment follows closely a bill that my colleague from Georgia, Senator ZELL MILLER, introduced several months ago. I, along with Senators COCHRAN, DEWINE, MURKOWSKI, COLLINS, and BEN NELSON, joined Senator MILLER in cosponsoring this bill. My amendment would lower the age at which members of the Reserve component could collect retirement pay based on the philosophy of a reduced annuity. The amount of retirement pay would be reduced by a small percentage for each year below the age of 60 that a member chose to collect their retirement—very similar to the way Social Security benefits are reduced if a beneficiary determines they want to retire following the achievement of age 62.

According to CBO, this provision would cost approximately $5 billion over 5 years.

There are several other bills pending before the Senate that would change the retirement plan for reservists. In fact, I understand the Senator from New Jersey, Mr. CORZINE, may introduce an amendment this week that would reduce the age at which members of the Reserve could collect retirement from age 60 to age 55 with no corresponding reduction in the annuity. According to CBO, this amendment would cost more than $8 billion over 5 years.

The Senator from Louisiana, Ms. LANDRIEU, has also introduced a bill that would reduce the age to 55 but require a reservist to stay in the Reserve longer in order to receive pay earlier.

All of these bills have merit. All of them deserve to be debated. However, all of them, including my own, carry a significant financial cost. What we have to do is try to balance, particularly in the middle of a war that we are now engaged in, whether we want to utilize our funds to provide weapons systems to our men and women who are now in harm's way or whether we want to provide this kind of benefit which was not anticipated in the budget.

As I stand here today, there are three studies currently underway to address the issue of Reserve retirement. As I have already stated, there are many good ideas regarding how the retirement benefit for the Reserve and the

Guard should be changed, and they all have merit.

However, there are two important things about these various options that we do not know. The first is we do not have a firm idea of how much any of these options will cost. We have estimates from CBO to which I have already alluded. They are significant. Costing these various proposals requires predicting the way people are going to behave, and this is an inexact, difficult science.

Secondly, anytime one makes even a small change to something as large and complex as the military personnel process, it changes the entire system. A change in the Reserve retirement system will have effects both on the Reserve and Active-Duty retention, recruiting, and promotion opportunities within the ranks which we cannot foresee without examining the associated impacts very closely.

That is why, even though I have introduced an amendment on this issue, I do not believe that now is the best time to act on the issue. I think we should wait until the three reports currently underway are completed and we have additional data upon which to look at this issue and make a better evaluation.

With this in mind, as I said earlier, I am simply not going to offer my amendment today. Once we have the necessary data to show how the various proposals will impact the force and the cost implications, I look forward to revisiting this issue and dialoguing with the other Senators who have introduced bills or amendments on this issue and those who are concerned, as I am, about how we manage our Reserve components.

There is no more important issue facing the Personnel Subcommittee of the Senate Armed Services Committee than how we treat our men and women in uniform, and their families, because every day this is more a family issue and a family-oriented military. It is my hope that as we proceed with this bill over this week and as the committee entertains the legislation and policy changes in the coming months, that we keep the people at the receiving end of our decisions and deliberations foremost in our minds.

We will continue to include the members of the Reserve components in those deliberations and ensure the Senate adopts policies that work to their advantage, that are fiscally responsible, and that recognize the significant changes that have taken place in the Reserve over the past decade and a half.

I thank my colleague, the Senator from Nebraska, Mr. BEN NELSON, for his cooperation and his work as we have moved through the Personnel Subcommittee process over the last year in preparation for this bill. Senator NELSON feels the same way I do about our Guard and Reserve and was a cosponsor of a number of the amendments to which I have alluded.

I also thank the chairman and the ranking member. We have had dialogues about this issue within our committee, and without their support, guidance, and counsel, we would not be at the point we are with respect to quality-of-life issues that our men and women in both the Guard and the Reserve deserve and ultimately will receive once we enter into the budget process at the appropriate time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 3305

Mr. WYDEN. Mr. President, I ask unanimous consent to call up amendment No. 3305, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. DORGAN, proposes an amendment numbered 3305.

Mr. WYDEN. 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 impose a limitation on Department of Defense contracting for performance of acquisition functions closely associated with inherently governmental functions)

On page 194, after line 22, insert the following:

SEC. 867. CONTRACTOR PERFORMANCE OF ACQUISITION FUNCTIONS CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) LIMITATION.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2382 the following new section:

"§ 2383. Contractor performance of acquisition functions closely associated with inherently governmental functions

''(a) LIMITATION.—The head of an agency may enter a contract for the performance of acquisition functions closely associated with inherently governmental functions only if the Secretary determines that—

''(1) appropriate military or civilian personnel of the Department of Defense cannot reasonably be made available to perform the functions;

''(2) appropriate military or civilian personnel of the Department of Defense are—

''(A) to supervise contractor performance of the contract; and

''(B) to perform all inherently governmental functions associated with the functions to be performed under the contract; and

''(3) the contractor does not have an organizational conflict of interest or the appearance of an organizational conflict of interest in the performance of the functions under the contract.

''(b) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given such term in section 2302(1) of this title, except that such term does not include the Secretary of Homeland Security or the Administrator of the National Oceanic and Atmospheric Administration.

''(2) The term 'inherently governmental functions' has the meaning given such term in subpart 7.5 of part 7 of the Federal Acquisition Regulation.

''(3) The term 'functions closely associated with inherently governmental functions' means the functions described in section 7.503(d) of the Federal Acquisition Regulation.

''(4) The term 'organizational conflict of interest' has the meaning given such term in subpart 9.5 of part 9 of the Federal Acquisition Regulation.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2382 the following new item:

''2383. Contractor performance of acquisition functions closely associated with inherently governmental functions.''.

(b) EFFECTIVE DATE AND APPLICABILITY.—Section 2383 of title 10, United States Code (as added by subsection (a)), shall take effect on the date of enactment of this Act and shall apply to—

(1) contracts entered into on or after such date;

(2) any task or delivery order issued on or after such date under a contract entered into before, on, or after such date; and

(3) any decision on or after such date to exercise an option or otherwise extend a contract for program management or oversight of contracts for the reconstruction of Iraq, regardless of whether such program management or oversight contract was entered into before, on, or after the date of enactment of this Act.

Mr. WYDEN. Mr. President, for a number of months I have been working with colleagues on both sides of the aisle—Senator COLLINS from Maine, Senator STEVENS, Senator WARNER—to try to get more oversight over the billions of dollars worth of contracts that have been and are being let to rebuild Iraq. I come to the floor today to offer an amendment with my colleague and friend, Senator DORGAN of North Dakota. We have discussed this amendment with Senator LEVIN and Senator WARNER.

What Senator DORGAN and I have found is a shocking system of so-called oversight with respect to the use of taxpayers' dollars. With the nation facing rising deficits and scarce federal dollars for our many problems here at home, it is imperative that there be strong oversight over the use of taxpayers' money. What our amendment deals with is literally the outsourcing of the oversight of the billions of dollars worth of contracts to rebuild Iraq. It sounds incredible, but the heart of the problem is, instead of having Federal employees oversee these billions of dollars worth of contracts to rebuild Iraq, the Department of Defense has outsourced the oversight of these huge contracts to private companies. These companies are ''overseeing'' the work of other private companies. If many of these companies didn't already have joint ventures elsewhere or interlocking financial interests or boards of directors, I guess one could plausibly say this would be acceptable. But that has not been the case. Putting these companies in charge of oversight of one another strikes Senator DORGAN and me as simply an invitation to flagrant fraud, waste and abuse of taxpayer money.

Senator DORGAN is here as well, and I want to give him ample time to discuss this, but I would like to give a brief example of the kind of problem we seek to address in our legislation. The Parsons Company won two separate Defense Department oversight contracts that totaled nearly $72 million. Under each of those contracts, it overseas the Fluor Company in Iraq. At the same time, Fluor and Parsons have a $2.6 billion joint venture ongoing in Kazakhstan.

The question is, with such a significant shared financial interest, how in the world is anybody in a situation like that going to have a real incentive to take out a sharp pencil and protect the taxpayers.

We are talking about vast sums of money. $18 billion has been allocated by the Congress for reconstruction, and thus far 17 contracts have been let: 10 for reconstruction and 7 for overseeing the reconstruction. I thank the distinguished Senator from Virginia for his cooperation on this amendment. As I discussed with him, this amendment builds on the work that I was able to do in cooperation with Senator DORGAN and Senator COLLINS on the issue of no-bid contracts in Iraq. This amendment establishes that oversight and the protection of the taxpayers' interests in these billions of dollars of contracts, is a Government function. It is not something that can be outsourced. This amendment will prohibit companies with interlocking financial interests from ''overseeing'' one another.

We talk often about giving the fox the opportunity to oversee the henhouse. This is a textbook case of just such a situation.

I mentioned to the distinguished chairman of the committee, the Senator from Virginia, and the ranking member of the committee, the Senator from Michigan, that this boils down to a simple issue of commonsense. This is not a Democrat or Republican issue. Senator DORGAN and I are pursuing this as a commonsense issue—oversight should not be outsourced, particularly when the projects to be reviewed involve billions of taxpayer dollars. What's worse—these are cost-plus-plus contracts. The contractors here get any unforeseen costs, plus they are eligible for a bonus. Essentially, these contractors are rewarded if the folks they oversee perform well. But who evaluates how well those folks perform? The oversight contractors. Clearly, there are some perverse incentives at work in these oversight contracts.

We are talking about cost-plus-plus contracts that involve billions of taxpayers' dollars. It seems to me we have to get the oversight back where it belongs, and that is in the hands of the Department of Defense and not in the hands of the private contractors. Oversight is inherently a governmental function because accountability must be first and foremost to taxpayers.

I see my friend and colleague from North Dakota here. I want to yield time to him. But in wrapping up this portion of my remarks, I would like to express my appreciation to the Senator from Michigan, Mr. LEVIN, and to the chairman of the committee, Senator WARNER. This amendment, in fact, builds on some of the earlier work we have tried to do in a bipartisan fashion. It essentially comes about because, as Senator DORGAN and I have gone forward to try to make sure taxpayers' interests are protected, we found a massive loophole, a loophole that we think nobody in the Senate confronted in the past, that allows for private companies to oversee other private companies, even when they have what strikes us as very serious potential conflicts of interest.

So we are looking forward, with Chairman WARNER and Ranking Member LEVIN'S cooperation, to have this amendment accepted. I believe it warrants bipartisan support.

I yield the floor.

Mr. WARNER. Mr. President, I have looked this over and I am of the opinion that it can be eventually accepted. I am wondering if the colleagues would just allow the Chair to put in a quorum call for no more than 5 minutes, and then I will be right back to the floor to address this amendment.

Mr. DORGAN. Mr. President, it was my intention to speak in favor of the amendment prior to that.

Mr. WARNER. I am very anxious to hear that. My requirement is to depart the floor to check on something and I will be right back.

Mr. DORGAN. At which point I would be recognized?

Mr. WARNER. Absolutely. I have no objection to that.

Mr. DORGAN. I am agreeable to that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, I now understand that the amendment will be accepted in due course, but I am anxious to hear the perspectives of the other cosponsor. I thank my colleagues for their courtesy.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I join my colleague, Senator WYDEN, in working on this amendment.

Let me say first that, as many know, I did not support the funding for reconstruction projects in Iraq with American taxpayers' money. My feeling was, if we were going to use American taxpayers' money to build children's hospitals and restore marshland and swampland, or to purchase garbage trucks, or to have a roads or jobs program, it ought to be done in this country—not Iraq. I felt strongly that the ability to fund the reconstruction in Iraq could easily come from Iraq oil.

It is true they are not pumping quite as much as they had anticipated by July 1 or June 1 of this year, but it is also true that the price is near double what they expected—359 million barrels a day, which is what they intend to get. They will have a substantial amount of excess income over that which they need for Iraq and could easily pay for the reconstruction of Iraq. It is estimated that $160 billion in a 10-year period is the export value of Iraqi oil generated for the country of Iraq. But, nonetheless, the administration and a majority in the Senate and the Congress decided that U.S. taxpayers should fund the reconstruction in Iraq.

The only cut in the reconstruction proposal of some $20-plus billion—the only cut in expenditures of that proposal—was offered by Senator WYDEN and myself. We cut $1.8 billion from it with an amendment on the floor of the Senate which included cutting $100 million for gasoline that was being transported.

Incidentally, I held a hearing on that in the policy committee. We had the person who was in charge of delivering gasoline from the Department of Defense to projects such as this, and he said that the contract for the delivery of gasoline into Iraq was costing $1 more a gallon than would have been delivered into Iraq by the agency in the Department of Defense which normally does that.

Having said all that—pointing out we were the only ones cutting funding for the reconstruction projects—the Congress still passed that reconstruction project of nearly $18 billion in U.S. taxpayer funds for the reconstruction in Iraq.

My concern—and I think the concern expressed by my colleague from Oregon—is that money be spent effectively and wisely and not wasted. If it is going to be spent—and I did not think this was the way to do it—but if it is going to be done, let us make sure it is not wasted.

The Pentagon announced that it wants to fund it and has already signed and implemented contracts to fund $121 million for outsourcing the oversight of these reconstruction contracts.

There is plenty going on in Iraq that ought to give us pause with respect to contractors. This is not a reconstruction contract. But you know what we know now about the Halliburton corporation charging the Federal Government for 42,000 meals a day and serving 14,000 meals a day to our soldiers. Let me say that again: charging for 42,000 meals a day which they say they delivered to U.S. soldiers when in fact they were delivering 14,000 meals a day and missing 28,000 meals somewhere.

There is plenty of reason to be concerned about contractors that are engaged in that kind of behavior.

With respect to these series of contracts for $129 million, they have selected corporations, they have already

signed the contracts. The taxpayers, much to our chagrin, are obligated to pay these contracts. They have signed the contracts with companies that have inherent conflicts, in my judgment. How do you oversee a contract of another company with whom you already have an established business relationship in another contract? I don't know how you do that. Yet these contracts were signed and sealed and delivered and the taxpayer is on the hook for $129 million.

I happen to think ''oversight'' is a responsibility of the Government, of the Federal agency that is going to spend the money. It is their responsibility to provide oversight, not someone else's responsibility. The saying is, ''The buck stops here.'' Where does it stop? It stops, it seems to me, with the Federal agency that is given the funding by this Congress. It is their requirement to provide oversight to make sure that funding is used in a manner that is appropriate.

In this case, the Defense Department has said, no, we are not going to do that. We are going to contract out oversight responsibilities. Now I understand they are saying, well, it is not oversight. Really? That is what the provisional authority calls it. In writing, these are oversight contracts for $129 million. There ought not be oversight that is contracted out. It is a responsibility of the Federal agency.

This chart shows some of the relationships of the companies, companies that are overseeing other companies. I don't intend to say with this chart these are bad companies. I intend to say a company that has a relationship with another company, a business, a contractual relationship, a financial relationship that is now told to oversee the work of this company, even though you have other interests and other financial arrangements with this company, I am saying there is an inherent conflict there. That is not the way to do oversight. Even if these potential conflicts did not exist, I would not support these contracts. Oversight is not the responsibility of a hired gun someplace. It is the responsibility of the Federal agency.

Senator WYDEN and I have offered a relatively simple amendment. We would have offered an amendment that strikes or nullifies those contracts, but we have been told to do so still leaves the Federal Government on the hook. That does not make much sense. It seems to me what we ought to do is make sure this does not happen again.

The amendment we are offering says oversight is a government responsibility, first and foremost. We establish that principle. Second, we say these oversight contracts shall not be renewed. And third, it says the Pentagon cannot award such contracts in the future.

We have provided a couple of exceptions where we think it is impossible for them to do anything other than have some narrow contracts where it is required, but generally speaking, the approach the Pentagon has used would be prevented prospectively by the amendment we now offer.

Again, our original proposal would have terminated all these contracts outright. I prefer that be the case. These contracts, as I understand it, would still obligate the American taxpayers, and are enforceable. I think that is an approach we cannot get through.

Mr. WARNER. If the Senator will yield, yes, the Senator has very carefully recrafted the amendment. That is the reason we will be able to accept it on this side.

Mr. WYDEN. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. WYDEN. I appreciate the Senator's point and the cooperation of the Chairman and Senator LEVIN.

It is also clear if anyone tries to renew any of the old contracts which we sought to set aside, they would have to meet the new conflict-of-interest standards established in our amendment, is that correct?

Mr. DORGAN. I say to my colleague from Oregon, that is correct. Our approach is simple. We think there are so many billions of dollars ricocheting around on reconstruction with respect to Iraq that there is a profound opportunity for waste. I don't think anyone in this Chamber wants money wasted. We all want good oversight. We want good stewardship of the taxpayers' funds. We do not believe that is the case when inherent conflicts of interest result. That is the purpose of our offering this amendment.

Let me again say the Senator from Oregon, Senator WYDEN, not just on this issue but on the other issues relating to the $1.8 billion in spending cuts we got done with our joint amendment, does extraordinary work in this area. I appreciate the opportunity to work with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend our colleagues from Oregon and North Dakota for this amendment. They have put their finger on a very significant problem in Iraq which is symptomatic. They would be the first to acknowledge this is a deeper problem. That is, we have reduced the number of our acquisition workforce.

The chairman of the committee and other members of the Armed Services Committee, including myself, every year for the past I don't know how many years have been to conference with the House of Representatives. They have tried and successfully achieved reduction to the acquisition workforce despite our opposition to those efforts. They have made major cuts in the acquisition workforce. They call it bureaucracy. We have fought against some of the cuts. We have been able to reduce the size of the cuts. Nonetheless, over time, there have been significant reductions in the acquisition workforce, including people to oversee contracts, which is what we are talking about here.

Our good friends from Oregon and North Dakota have identified a real problem. I congratulate the Senators for doing it. It is a problem reflective of a deeper problem we have now in the Defense Department.

There has been an amendment offered by Senator BYRD which we have accepted which gradually increases the size of the acquisition workforce. That would help get to the underlying systemic cause of this problem. We are going to go to conference, hoping we will be able to add some people to our acquisition workforce who can do the very oversight which is so essential to avoid the very conflicts of interest which the two Senators have identified.

The fact that the Byrd amendment has been adopted and we have added people on this side will put us in a better position, as well as this amendment, of course, of the Senators from Oregon and North Dakota.

I commend them. It will help us not simply to hopefully avoid this kind of absurd situation where nongovernmental employees are overseeing the operations of Government contracts, frequently with inherent conflicts of interest involved, but where we are going to be able to cure the cause of this situation as well on a long-term basis.

I commend them and thank them for the modifications they have made which I think will put us in a stronger position to defend this action in conference.

Mr. WARNER. Mr. President, this side is prepared to accept this amendment.

Mr. WYDEN. I yield the floor and thank the distinguished chairman and Senator LEVIN.

Mr. DORGAN. I ask the amendment be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3305) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. I see my distinguished colleague from Connecticut and I yield the floor.

Mr. DODD. I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 3313, AS MODIFIED

Mr. DODD. I call up amendment 3313 and I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. LAUTENBERG, and Mrs. FEINSTEIN proposes an amendment numbered 3313, as modified.

The amendment (No. 3313), as modified, is as follows:

(Purpose: To prohibit the use of contractors for certain Department of Defense activities and to establish limitations on the transfer of custody of prisoners of the Department of Defense)

On page 195, between lines 10 and 11, insert the following:

SEC. 868. PROHIBITIONS ON USE OF CONTRACTORS FOR CERTAIN DEPARTMENT OF DEFENSE ACTIVITIES.

(a) PROHIBITION ON USE OF CONTRACTORS IN INTERROGATION OF PRISONERS AND COMBAT MISSIONS.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), the use of contractors by the Department of Defense is prohibited for activities as follows:

(A) Interrogation of prisoners, detainees, or combatants at any United States military installation or other installation under the authority of United States military or civilian personnel.

(B) United States-led combat missions that require routine engagement in direct combat on the ground, except in cases of self-defense.

(2)(A) During fiscal year 2005, the President may waive the prohibition in paragraph (1) with respect to the use of contractors to provide translator services under subparagraph (A) of that paragraph if the President determines that no United States military personnel with appropriate language skills are available to provide translator services for the interrogation to which the waiver applies.

(B) The President may also waive the prohibition in paragraph (1)(A) with respect to any other use of contractors otherwise prohibited by that paragraph during the 90-day period beginning on the date of the enactment of this Act, but any such waiver shall cease to be effective on the last day of such period.

(3) The President shall, on a quarterly basis, submit to the appropriate committees of Congress a report on the use, if any, of contractors for the provision of translator services pursuant to the waiver authority in paragraph (2).

(b) PROHIBITION ON USE OF FUNDS.—No funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the utilization of contractor personnel in contravention of the prohibition in subsection (a), whether such funds are provided directly to a contractor by a department, agency, or other entity of the United States Government or indirectly through a permanent, interim, or transitional foreign government or other third party.

(c) PROHIBITION ON TRANSFER OF CUSTODY OF PRISONERS TO CONTRACTORS.—No prisoner, detainee, or combatant under the custody or control of the Department of Defense may be transferred to the custody or control of a contractor or contractor personnel.

(d) RECORDS OF TRANSFERS OF CUSTODY OF PRISONERS TO OTHER COUNTRIES.—(1) No prisoner, detainee, or combatant under the custody or control of the Department of Defense may be transferred to the custody or control of another department or agency of the United States Government, a foreign, multinational, or other non-United States entity, or another country unless the Secretary makes an appropriate record of such transfer that includes, for the prisoner, detainee, or combatant concerned—

(A) the name and nationality; and

(B) the reason or reasons for such transfer.

(2) The Secretary shall ensure that—

(A) the records made of transfers by a transferring authority as described in paragraph (1) are maintained by that transferring authority in a central location; and

(B) the location and format of the records are such that the records are readily accessible to, and readily viewable by, the appropriate committees of Congress.

(3) A record under paragraph (1) shall be maintained in unclassified form, but may include a classified annex.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services, Foreign Relations, and the Judiciary of the Senate and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services, International Relations, and the Judiciary of the House of Representatives and the Permanent Select Committee on Intelligence of the House of Representatives.

Mr. WARNER. Mr. President, I wonder if we could ask the Senator from Connecticut if we could temporarily lay this matter to one side while we finish processing the amendment by the Senator from Colorado? It would take but a few minutes.

Mr. DODD. I am happy to do that.

Mr. WARNER. Mr. President, at this point in time—

Mr. DODD. Mr. President, I have sent the modification to the desk. I inquire, has the Chair ruled on it?

The PRESIDING OFFICER. Without objection, the amendment is modified.

Mr. DODD. Fine.

Mr. WARNER. I thank the Senator from Connecticut.

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

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

Mr. WARNER. I see the Senator from Colorado. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 3449

Mr. ALLARD. Mr. President, I have an amendment that we have laid aside. I guess the proper thing is we need to call it up for consideration. The reason I am calling it up is because our staffs have worked this out. There is a second-degree amendment that was offered by Senator REID on behalf of Senator LEVIN. We have worked out an agreement, I understand, between the staffs, and I know the chairman would like to expedite and move forward and not leave these amendments hanging out there.

So I call up that amendment.

The PRESIDING OFFICER. Does the Senator request the regular order with respect to the amendment?

Mr. ALLARD. Yes, I request the regular order on that amendment, please.

The PRESIDING OFFICER. The amendment is pending.

Mr. ALLARD. Now, I think Senator LEVIN has to be recognized to move the modification forward.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Michigan.

AMENDMENT NO. 3449, AS MODIFIED

Mr. LEVIN. Madam President, has our modification to the second-degree amendment been sent to the desk yet? We will send up a modification to the second-degree amendment, and then I understand, as modified, Senator ALLARD will be accepting the second-degree.

Mr. ALLARD. That is correct.

The PRESIDING OFFICER. The amendment, No. 3449, as modified, is pending.

The amendment, as modified, is as follows:

At the end of the matter proposed to be inserted, insert the following:

SEC. 1069. POLICY ON NONPROLIFERATION OF BALLISTIC MISSILES.

(a) POLICY.—It is the policy of the United States to develop, support, and strengthen international accords and other cooperative efforts to curtail the proliferation of ballistic missiles and related technologies which could threaten the territory of the United States, allies and friends of the United States, and deployed members of the Armed Forces of the United States with weapons of mass destruction.

(b) SENSE OF CONGRESS.—(1) Congress makes the following findings:

(A) Certain countries are seeking to acquire ballistic missiles and related technologies that could be used to attack the United States or place at risk United States interests, forward-deployed members of the Armed Forces, and allies and friends of the United States.

(B) Certain countries continue to actively transfer or sell ballistic missile technologies in contravention of standards of behavior established by the United States and allies and friends of the United States.

(C) The spread of ballistic missiles and related technologies worldwide has been slowed by a combination of national and international export controls, forward-looking diplomacy, and multilateral interdiction activities to restrict the development and transfer of such weapons and technologies.

(2) It is the sense of Congress that—

(A) the United States should vigorously pursue foreign policy initiatives aimed at eliminating, reducing, or retarding the proliferation of ballistic missiles and related technologies; and

(B) the United States and the international community should continue to support and strengthen established international accords and other cooperative efforts, including United Nations Security Council Resolution 1540 and the Missile Technology Control Regime, that are designed to eliminate, reduce, or retard the proliferation of ballistic missiles and related technologies.

Mr. LEVIN. Madam President, very briefly—and I thank Senator ALLARD and our staffs for working this out—we have expressed some real concerns in terms of the proliferation challenges in terms of the ballistic missile technology which is at issue.

Technology can be called defensive technology, but it also can be used offensively. The line between offensive and defensive missile technology is not a perfect line and, indeed, some of the technologies are both offensive and defensive. So it is important that the concerns we had expressed, and do express, in our second-degree amendment relative to the technology and the proliferation of these technologies be expressed in the underlying amendment, and that would remain.

What we have removed from our second-degree amendment is the elimination of what amounts to, I guess, that 30-day either goal or deadline,

which is waiveable by the Secretary of State. So what we have in our second-degree amendment now, as modified, is that we have left that 30-day goal in place—and Senator ALLARD had it in his amendment—but the efforts to try to address some of the proliferation concerns will remain in the second-degree amendment.

I understand, as modified, that Senator ALLARD is willing to accept the second-degree amendment.

Mr. ALLARD. Yes.

Madam President, if I could be recognized briefly, we did have some exceptions in that to be sensitive to your concerns about the 30-day portion. In the judgment of the Secretary of State, they could extend that if they believe that is necessary. There is also a paragraph in here that was adopted on policy to address some of your concerns about proliferation and whatnot. Hopefully, we met those concerns.

I think this is a good compromise. I thank the Senator from Michigan for working with me and our staff over here and for your staff working together with us. I think now that we have resolved this matter we can move forward on the amendment.

Now, Madam President, have we adopted the modification?

The PRESIDING OFFICER. The modification has been made.

The amendment is pending.

The question is on agreeing to the second-degree amendment, as modified.

The amendment (No. 3449), as modified, was agreed to.

AMENDMENT NO. 3322, AS AMENDED

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

The amendment, as amended, is adopted.

The amendment (No. 3322), as amended, was agreed to.

Mr. ALLARD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 3313, AS MODIFIED

Mr. DODD. Madam President, I ask unanimous consent that we now be allowed to debate amendment No. 3313, as modified.

The PRESIDING OFFICER. The Senator has that right.

Mr. DODD. Thank you, Madam President. And, again, I commend my two friends and colleagues, the chairman and ranking member of the Armed Services Committee.

Let me briefly describe what this amendment is and what we try to do.

This amendment attempts to address what I believe is a very legitimate and serious concern that has come to light in recent days with respect to the use or misuse of contractors in the treatment of detainees in Iraq.

Quite simply, this amendment would prohibit the use of contractors in the interrogation of prisoners and offensive military operations and establish certain restrictions with respect to the transfer of prisoners to contractors and foreign nations.

Let me try to explain why this is so and what the background of all this is. According to some estimates, there are as many as 20,000 contractors operating in Iraq today, many carrying out mission-critical military roles, such as security, protection, interrogation, logistics support, and paramilitary and military training.

Increasingly, U.S. contractor activities have become deeply intertwined with those of U.S. troops and Coalition Provisional Authority personnel. These activities have put them in harm's way. As we have all painfully learned, contractors are among those who have been taken hostage by insurgents in Iraq. They have also suffered terrible injuries and loss of life, the most horrific of which occurred on April 13 of this year when the bodies of four contractors were burned, mutilated, and hung from a bridge in Iraq.

Equally troubling, it looks more and more likely that contractors may have taken part in the interrogation of Iraqi prisoners and may be linked directly or indirectly to the reported abuses of those prisoners. Even today there may be still some taking part in the interrogation of prisoners.

Let me say as an aside, by the way, that I commend, again, the Armed Services Committee under the leadership of Senator WARNER and Senator LEVIN for the very thoughtful hearings the Armed Services Committee had about this matter and the professional manner in which they went about examining these issues and doing the kind of thorough look that a standing committee of the Senate ought to make, regardless of the party in power in the White House. They have done a very good job and have been tremendously helpful to the American public.

We have all read reports and seen graphic pictures of the heinous abuses associated with the incarceration of Iraqi prisoners. Unfortunately, so has almost the entire world been witness to these photographs and the stories about what has occurred.

It does not take much of an imagination to figure out that the consequence of those abuses has been a disaster not only with respect to the U.S. policy in Iraq but also with respect to our policies throughout the greater Middle East. That is why I have included a provision in the pending amendment to prohibit the use of contractors in the interrogation of prisoners, detainees, and combatants. However, mindful that in the short term we may not have sufficient military personnel with requisite language and interrogation skills at certain critical moments, I have also included in this pending amendment Presidential authority to waive these restrictions under certain narrow constrictions: During fiscal year 2005 with respect to their use as translators, and for the first 90 days of the next fiscal year with respect to interrogations.

It should go without saying that any contractor who is employed by the United States as a translator or interrogator must be certified as highly proficient in the areas for which he or she is being employed, and such contractors must be properly supervised at all times by official U.S. military personnel. To help ensure that is the case, the amendment I am offering this afternoon would also require the President to submit a quarterly report to Congress on the use of contractors as translators and in interrogations.

I remind my colleagues that at this very moment contractors in Iraq go about their business virtually unregulated. They have been exempted from local law by CPA regulation. They are also outside the Uniform Military Code of Justice and could, therefore, avoid prosecution in a military court of law. Contractors' accountability under U.S. international law remains untested. And now the Bush administration is putting pressure on the transitional Iraqi government to grant immunity to contractors after the June 30 transfer of power. If the transitional Iraqi government succumbs to this pressure, contractors won't only have immunity from prosecution, they will likely be able to act with impunity while they participate in some of our most sensitive military intelligence operations. I think this is unacceptable and puts our troops and our mission at great risk.

The more we learn, the more it seems this whole business of hiring contractors has gotten out of control. We need to be more scrupulous—not less—about the tasks we assign to contractors. Quite frankly, I don't think it makes much sense to have contractors performing interrogations. Apparently neither does the Army, whose policy reportedly bars contractors from military intelligence jobs such as interrogating prisoners unless there are not enough qualified people in the Army to perform those duties.

According to recent reports, the source of this policy is an Army policy memo, written in December 2000, by Patrick T. Henry, then the Army's top personnel official. In this memo he asserted that allowing private workers to gather military intelligence presented ''a risk to national security.'' That statement is anything but ambiguous. Let me quote it again. From the Army's top personnel official, it is ''a risk to national security,'' in a 2000 memo prepared by the U.S. Army.

Thomas White, the former Secretary of the Army, has also expressed his opposition to hiring contractors to question prisoners, stating in an interview ''the basic process of interrogation should be kept in-house on the Army side.''

Moreover, last week it was reported that CACI International, a contractor caught up in this controversy, was not

even under contract with the Department of Defense. Rather its activities were being managed by the U.S. Department of Interior which approved the company's hiring of interrogators utilizing a preexisting contract for computer services with that company. The particular circumstances of the CACI contract blur even further the accountability of its employees because Department of Interior contractors may not be covered by certain U.S. laws specifically enacted to cover Department of Defense contractors, such as the Military Extraterritorial Jurisdiction Act, which attempts to make U.S. Department of Defense contractors working overseas legally accountable.

How many other contractors have been employed by non-Department of Defense agencies to carry out activities in Iraq? To say we have seen some extraordinary contracting practices in the case of Iraq is an understatement. I would hope these practices are not being employed to circumvent the requirements of the Geneva Conventions or other international U.S. laws, because if you are doing this as a matter of policy, I am deeply concerned that we will be inviting other nations to do the same to the detriment of the safety of American military and civilian personnel around the globe.

Indeed, according to the comprehensive report of MG Antonio Taguba, contractors employed in Iraq participated in prisoner interrogations with minimal supervision. And I quote him:

> They allegedly on occasion even provided direction to U.S. military police.

The words ''minimal supervision'' are not mine. They were part of a job posting for the interrogator international analyst team lead assistant which is listed on the contract at CACI International's Web site.

I have reproduced an excerpt from the job posting as it was reprinted in the Washington Post on May 10 on the poster behind me. It reads:

> Description: Assists the interrogation support program team . . . to increase the effectiveness of dealing with detainees, persons of interest and prisoners of war (POWs) that are in the custody of the U.S./Coalition forces . . . in terms of screening, interrogation, and debriefing of persons of intelligence value. Under minimal supervision, will assist . . .

The key words are ''under minimal supervision.'' The new posting now reads ''under minimal CACI supervision,'' the name of the international company.

This isn't all. A former CACI interrogator was quoted on May 13 in the Washington Post as saying:

> Civilian interrogators were often free to conduct interrogations as they best saw fit.

And General Taguba reportedly recommended to one employee of CACI that he be ''fired, reprimanded, and denied his security clearances for giving instructions to Army policemen that he clearly knew equated to physical abuse.''

Indeed, this lack of supervision may have been the rule rather than the exception in the Abu Ghraib prison. More importantly, with the fate of our mission in Iraq and our international reputation at stake, the American people deserve to know why civilian contractors were participating in these interrogations in the first place.

This Senator—and I am sure many of my colleagues would agree—does not think private contractors have any place in such highly sensitive military operations. That is not only because of these human rights abuses or potential violations of U.S. international law, it is because they have exponentially increased the danger level for more than 135,000 honorable and dedicated U.S. troops currently risking their lives in Iraq. We owe it to all those brave men and women who now face a far more difficult task in winning the hearts and minds of Iraqis or setting the stage for the successful handover of sovereignty to Iraqi officials less than 15 days from now.

My amendment also addresses the related issue of the transfer of prisoners in U.S. custody. It would not only prohibit the U.S. Department of Defense from transferring prisoners into a contractor's custody, but it would also require the Secretary of Defense to keep a written record of prisoner transfers from DOD custody to foreign nations.

Why is this provision necessary? Because according to published reports, interrogation strategies reportedly included sending detainees to third countries where in some cases, according to the New York Times, they are convinced they might be executed.

A set of post-9/11 legal memoranda prepared by the U.S. Government even suggested ''if U.S. Government officials are contemplating procedures that may put them in violation of American statutes that prohibit torture, degrading treatment, or the Geneva Conventions, they will not be held responsible if it can be argued that the detainees are formally in the custody of another nation.''

There may be instances when the transfer of prisoners to third countries would serve our interests. My amendment does not prohibit that from happening. But at the very least, records of transfers should be kept to ensure that the transfer of prisoners to countries with poor human rights records is not used to circumvent U.S. and international law. My amendment would mandate that such records be kept.

Finally, this amendment would also prohibit contractors from participating in most combat operations except in cases of self-defense, and it would prevent U.S. moneys from being used to pay contractors for those purposes. I understand our stated U.S. policy does not permit U.S. contractors in combat. The chaos on the ground has created a climate where, for the most part, these individuals operate with little or no oversight. Without specific language in statute which clearly spells out what are and are not permissible contractor activities, there will always exist the danger that circumstances will draw private citizens into armed conflict.

I would hope my colleagues would support codifying into law what the administration has said is its policy with respect to the use of private contractors in combat situations.

Madam President, I will briefly sum up what I am trying to accomplish with the pending amendment. First, I propose to restrict the use of contractors in prisoner interrogations. I point out that we provide for a little leeway here that would allow, during fiscal 2005, for a little time to be used, because we may not have the people at hand who can do translations, or perform interrogations, so we provide leeway to build this up. We would prohibit such individuals from being employed in prisoner interrogations.

Second, we would prohibit such individuals from being employed in offensive combat missions.

Finally, I would keep private contractors out of the prisoner contracting business.

I commend Senators WARNER and LEVIN for their willingness to address some of the issues I have touched on in this amendment in the last few weeks. This is so we in the Congress ''get it,'' so to speak, and we are ready to begin repairing the damage caused by these problems which, in some cases, continue to endanger our efforts in Iraq and throughout the globe.

I believe the amendment is a reasonable and measured response to the challenges we face. I urge my colleagues to support the efforts embodied in this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Madam President, I have looked over this amendment very carefully. We will have to oppose it for a number of reasons. There may be some parts of it on which we could have a meeting of the minds. I would like to walk through the amendment with my good friend and ask him a few questions about this amendment.

Let's go to the title:

> Prohibitions on the Use of Contractors for Certain Department of Defense Activities.
>
> (A) Prohibition on Use of Contractors in Interrogation of Prisoners and Combat Operations.

That and combat operations poses a dilemma. For example, as the distinguished Senator knows, in his State are a number of our submarines. At any one time, those submarines have a board of contractors who are working on the equipment, training of sailors, taking an aircraft carrier. At any one time, you have maybe several hundred contractors aboard an aircraft carrier. On a moment's notice, either of those vessels could be given a tactical order to go into harm's way.

The way this amendment is drawn—so broadly—I think the Senator had better look at it again. I could not in

any way support an amendment that says contractors are prohibited from going into harm's way, because they are forward-deployed with our units; they are aboard our vessels. At any time, on a moment's notice, they could be put into a position of being in harm's way.

Mr. DODD. Let me respond, if I may. It is an anticipated argument. We have similar provisions applying in certain categories under the United States Code here, 10 U.S.C. Section 113, Notice to Congress of Proposed Changes in Combat Assignments to Which Female Members May be Assigned; and also in Public Law 103–160.

I ask unanimous consent to have both of these provisions of the United States Code printed in the RECORD.

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

[From 10 U.S.C., Public Law 103–160]

SEC. 542. NOTICE TO CONGRESS OF PROPOSED CHANGES IN COMBAT ASSIGNMENTS TO WHICH FEMALE MEMBERS MAY BE ASSIGNED

(a) IN GENERAL.—(1) Except in a case covered by subsection (b), whenever the Secretary of Defense proposes to change military personnel policies in order to make available to female members of the Armed Forces assignment to any type of combat unit, class of combat vessel, or type of combat platform that is not open to such assignments, the Secretary shall, not less than 30 days before such change is implemented, transmit to the Committees on Armed Services of the Senate and House of Representatives notice of the proposed change in personnel policy.

(2) If before the date of the enactment of this Act the Secretary made any change to military personnel policies in order to make available to female members of the Armed Forces assignment to any type of combat unit, class of combat vessel, or type of combat platform that was not previously open to such assignments, the Secretary shall, not later than 30 days after the date of the enactment of this Act, transmit to the Committees on Armed Services of the Senate and House of Representatives notice of that change in personnel policy.

(b) SPECIAL RULE FOR GROUND COMBAT EXCLUSION POLICY.—(1) If the Secretary of Defense proposes to make any change described in paragraph (2) to the ground combat exclusion policy, the Secretary shall, not less than 90 days before any such change is implemented, submit to Congress a report providing notice of the proposed change.

(2) A change referred to in paragraph (1) is a change that either—

(A) closes to female members of the Armed Forces any category of unit or position that at that time is open to service by such members; or

(B) opens to service by such members any category of unit or position that at that time is closed to service by such members.

(3) The Secretary shall include in any report under paragraph (1)—

(A) a detailed description of, and justification for, the proposed change to the ground combat exclusion policy; and

(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the application of the Military Selective Service Act to males only.

(4) For purposes of this subsection, the term ''ground combat exclusion policy'' means the military personnel policies of the Department of Defense and the military departments, as in effect on January 1, 1993, by which female members of the Armed Forces are restricted from assignment to units and positions whose mission requires routine engagement in direct combat on the ground.

Pub. L. 103–160, div. A, Title V, Sec. 542, Nov. 30, 1993, 107 Stat. 1659, as amended by Pub. L. 106–398, Sec. 1 ((div. A), title V, Sec. 573(b)), Oct. 30, 2000, 114 Stat. 1654, 1654A–136; Pub. L. 107–107, div. A, title V, Sec. 591, Dec. 28, 2001, 115 Stat. 1125, provided that:

''(a) IN GENERAL.—(1) Except in a case covered by subsection (b) or by section 6035 of title 10, United states Code, whenever the Secretary of Defense proposes to change military personnel policies in order to make available to female members of the Armed Forces assignment to any type of combat unit, class of combat vessel, or type of combat platform that is not open to such assignments, the Secretary shall, not less than 30 days before such change is implemented, transmit to the Committees on Armed Services of the Senate and House of Representatives notice of the proposed change in personnel policy.

''(2) If before the date of the enactment of this Act (Nov. 30, 1993) the Secretary made any change to military personnel policies in order to make available to female members of the Armed Forces assignment to any type of combat unit, class of combat vessel, or type of combat platform that was not previously open to such assignments, the Secretary shall, not later than 30 days after the date of the enactment of this Act, transmit to the Committees on Armed Services of the Senate and House of Representatives notice of that change in personnel policy.

''(b) SPECIAL RULE FOR GROUND COMBAT EXCLUSION POLICY.—(1) If the Secretary of Defense proposes to make any change described in paragraph (2) to the ground combat exclusion policy, the Secretary shall, before any such change is implemented, submit to Congress a report providing notice of the proposed change. Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received.

''(2) A change referred to in paragraph (1) is a change that either—

''(A) closes to female members of the Armed Forces any category or unit or position that at that time is open to service by such members; or

''(B) opens to service by such members any category of unit or position that at that time is closed to service by such members.

''(3) The Secretary shall include in any report under paragraph (1)—

''(A) a detailed description of, and justification for, the proposed change to the ground combat exclusion policy; and

''(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the application of the Military Selective Service Act (50 App. U.S.C. 451 et seq.) to males only.

''(4) For purposes of this subsection, the term 'ground combat exclusion policy' means the military personnel policies of the Department of Defense and the military departments, as in effect on January 1, 1993, by which female members of the Armed Forces are restricted from assignment to units and positions whose mission requires routine engagement indirect combat on the ground.

''(5) For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.''

Mr. DODD. In Public Law 103–160, it says:

(4) For purpose of this subsection, the term ''ground combat exclusion policy'' means the military personnel policies of the Department of Defense and the military departments, is in effect on January 1, 1993, by which female members of the Armed Forces are restricted from assignment to units and positions whose mission requires routine engagement and direct combat on the ground.

So there is a precedent here, and I am using this as an example of that same language. First, it would come under defending themselves to a certain point. The idea we are trying to get at is to have these personnel not become directly involved in combat.

Mr. WARNER. That is not the way it is crafted, as I read it. If the Senator wishes to proceed on this part of the amendment, the Senator would be well advised to try to make reference to the existing law in such a way as to make it clear.

Mr. DODD. I am happy to do that. My intention is, obviously, not to try to chart new areas of law.

Mr. WARNER. The way it is drawn, it could be interpreted that way.

Mr. DODD. We will talk with staff to see if we might make the language tighter.

Mr. WARNER. My second concern goes to the question of the interrogation of prisoners. Clearly, the Armed Services Committee has had hearings on the very difficult problems that we encountered in the prisons in Iraq, and perhaps in certain areas in Afghanistan; and we, by no means, have concluded—either the Congress or the Department of Defense—our examination of these problems. As the Senator well knows, the Army, in particular, and the Department of Defense have a number of ongoing investigations with regard to these prisoner problems. It relates, as my good friend from Connecticut stated, to the use of, in some instances, interrogators who were contractors.

This is the problem, as I see it. As we do our defense planning, we do our very best to have trained and ready cadres of individuals in combat areas and cadres of individuals for medical purposes and other purposes. If we were to put this type of prohibition into law, the Department of Defense—primarily the Department of the Army—would have to put into place a very significant number of individuals who would at all times be trained and ready to go in following combat operations to do the interrogations of prisoners.

That, it seems to me, puts a burden on the Department which is not a wise expenditure of funds and use of military personnel. I don't know what the estimate would be. Let's assume that in due course our situations in Afghanistan and Iraq are secured in such a way that our forces withdraw and we hopefully return to a period where there would be more equilibrium in the use of our Armed Forces in conducting missions around the world. As this is drawn, the Department of the Army would have to have a very significant cadre of individuals who are just waiting assignment at a future time, as a

consequence of some future military operation, to perform the interrogations. That has been an area that I think in the past has successfully been performed by contractors, providing there are rules and regulations laying down the specific requirements of the training of those contractors, the expertise. They just cannot pick up individuals off the street and put them into positions of responsibility. It is that general reason—and I will go on in a moment, but I will allow my colleague to reply—that I have great concern about the intention of this amendment. Those are two points I wish to make in terms of opposition to the amendment.

Mr. DODD. If I may respond, it is not an illegitimate concern in talking about personnel. We have all seen what could happen when you have people operating who are unregulated. In some cases, contractors have worked out of the Department of the Interior, so there is no supervision by the DOD. We are asking these people, unregulated, with no clear lines of authority, to do these things, and we have seen what happens when that occurs. It appears this is getting out of hand by private contractors.

In the area of intelligence gathering, dealing with sensitive matters—sensitive to the issue of having enough personnel on the ground to do these things—I am far more worried about the fact of rogue elements being able to cause us tremendous harm.

I think all would admit certainly that the result of what happened in Abu Ghraib prison and what the world knows today has been tremendously harmful to the United States and potentially to our men and women in uniform who may be subjected to interrogations. We know we are going to see the answers raised by others.

I provided in the amendment some leeway to allow for a period of time so it would not be required to have an immediate requirement that all of these individuals be replaced on the adoption of this particular law but allow for some leeway.

Mr. WARNER. Madam President, will the Senator direct the Senate to that portion where he thinks there is flexibility.

Mr. DODD. Madam President, if the Senator will go to page 2 of the amendment, the very bottom line, 25, section (b), the President may also waive the prohibition in paragraph 1 with respect to the use of contractors. Otherwise provided by that paragraph during the 90-day period—going on page 3—beginning on the date of enactment of this act, but any such waiver shall cease to be effective on the last day of such period.

There is also an earlier provision in regard to translator services regarding additional time.

Mr. WARNER. Madam President, I could not find that language. I listened carefully to the Senator's presentation. I can understand the translator.

Mr. DODD. I am quoting from the bill. With regard to 1(a) on page 2—and you go to page 2 of the amendment—

Mr. WARNER. I am on page 2.

Mr. DODD. Then go to line 10. It talks about interrogation of prisoners, detainees, and the like. Paragraph (b), and then it goes, on line 17, during fiscal year 2005 the President may waive prohibition in paragraph 1 with respect to contractors and provide translator services under paragraph (a), if the President determines no United States military personnel or appropriate language skills are available.

Go on down to line 25, page 2, section (b): The President may also waive the prohibition in paragraph 1(a) with respect to the use of any contractors. I am reading on page 3.

Mr. WARNER. Madam President, if the Senator will withhold, I have two amendments here, and I suspect what I was working off of was the—I thought it was the one that had been modified. I am now told this is the original amendment and that you have modified it.

Mr. DODD. I have modified it, yes.

Mr. WARNER. Once again, if the Senator will direct me.

Mr. DODD. On page 2 of the amendment, go down and begin on line 10, and I believe that is section (a). It talks about the interrogation of prisoners, what would not be allowed. Then paragraph (a) and paragraph (b). Then on line 17, 2(a), it says: During fiscal year 2005, the President may waive the prohibition in paragraph 1 with respect to the use of contractors to provide translator services under paragraph (a) of that paragraph.

Without reading the rest of that language, going to line 25, subparagraph (b) on page 2: The President may also waive the prohibition in paragraph 1(a) with respect to use of contractors—page 3 now—otherwise prohibited by that paragraph during the 90-day period beginning on the date of the enactment of this act.

Senator LEVIN raised this question, and we discussed it. It is a legitimate point. We do not expect for this to happen overnight. It would be unreasonable.

The point I want to make generically, because I think my colleague raises a very legitimate issue, is that the war on terror is not going to be over tomorrow, and it seems to me we better get the expertise in these areas. They are going to be an integral part of our Government service to have this talent, this ability. It is a new age we have entered, and we have to be prepared to address it.

I am deeply worried about having these unregulated, uncontrolled contractors, many of which are operating with agencies that are not even under the Department of Defense in a theater of conflict where the ability to control, regulate, and supervise may be going out the window.

As I say, I was stunned to read about the Department of the Interior. What is the Department of the Interior doing and what authority does the Department of Defense have over contractors hired by the Department of the Interior operating in a prison environment in Baghdad? That worries me. If they are not trained, who are these people gathering intelligence? How much reliance can we have?

I realize we are in tough shape with personnel, but my point is the sooner we start developing the in-house capabilities—I recall reading after 9/11 that we actually ran advertisements in local papers for people who could speak Arabic for jobs in the State Department. This is a terrible revelation that we do not have people capable of doing this skill.

I am worried that if we continue to rely on a very loose operation—we found out what happens, and we have suffered terribly as a result of these abuses that occurred.

I do not know to the extent and, obviously, others are looking into the details of it now, but certainly we know now there were a number of private contractors basically unsupervised operating in their own world and may have been directed by our military personnel under certain circumstances.

I am sensitive to the concerns raised by the chairman who, by the way—and I will state it again. The hearings that the chairman and the ranking member have held on this issue have been tremendously worthwhile, and I commend them immensely for what they are doing. If there are ways in which this amendment can be modified to address the not illegitimate concerns about how do you transition from a present situation into one we can build, then I am interested in how we do that.

I am not interested in having an amendment and having a vote, allowing it to come out one way or the other. I think it is a critically important issue. We have at least 20,000 people operating as independent contractors in a very important theater, and we are going to face more situations not unlike this in the coming years.

It seems to me we better start addressing this pretty quickly, and this amendment is an effort to do that.

Mr. WARNER. On the question of the interrogation, I would like to have an opportunity to revisit that. My immediate concern is maybe 90 days is short and perhaps there is some flexibility there.

If I can return to the part B, that gives me very serious concern, and that is the combat missions that require routine engagement. For example, so much of the security for Ambassador Bremer today is all contracted. Much of the security, as I understand, which is given to other members of the Iraqi government, to the extent they avail themselves of what the coalition forces—that is nonmilitary, Ambassador Bremer's operation—make available to them, I do not know how we are going to meet those needs. If you follow this to the letter, you would have to have all soldiers doing that.

Mr. DODD. As I said, the idea is it is one thing for them to be in a capacity to provide protection and certainly take steps for self-defense. I am trying to draw a distinction of engaging in offensive combat missions because there is some concern they have been involved in that level of activity.

Again, I hope the language used in existing law that draws a distinction between ground activity, combat activity, and noncombat activity, defensive activity, would be clear enough. Again, I am happy to spell out that language more clearly. I am just trying to avoid a situation where, again, people who are untrained, unregulated, and unsupervised can get us into a lot of difficulty in a very sensitive area.

Mr. WARNER. Madam President, the Senator's point is well taken. He has served in this body many years and during that period of time, we have engaged in a number of military operations. This one is unique.

I made a quick reference to the existing statutes, 113 U.S.C. and others. I am fearful the Senator has thrown out a fishnet here that catches too many when he says prohibit the use of contractors as relates to combat missions. I just do not know how we would operate aboard our ships. I do not know how we would operate in a number of theaters without the benefit of contractors, and, at certain times, they are in harm's way.

So at the moment we will have to have very vigorous opposition to this amendment as it is presently drawn. If the Senator from Connecticut wants to lay it aside and take a look at it, I will be happy to do so.

Mr. DODD. Madam President, let me put this in the RECORD, if I may, for my colleagues. Under Public Law 107–306, November 27, 2002, subsection (e), ''Limitation on Participation of United States Personnel'':

No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

I am not creating new law. That is a public law that is on the books. So I say to my colleagues, I do not believe we are going off in an area that would be unwarranted.

I ask unanimous consent that a copy of this Public Law 107–306 dated November 27, 2002 be printed in the RECORD.

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

[From Public Law 107–306—Nov. 27, 2002]

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(e) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

Mr. DODD. It is Title V, the Department of Defense Intelligence Activities. That is the section, subsection e, of that title V.

Mr. WARNER. Madam President, I again draw my colleague to paragraph B, United States-led combat missions that require routine engagement in direct combat, that implies that the uniformed people are in direct combat and the presence in a supporting role of contractors can often be the case unexpectedly in connection with naval vessels which are a matter of a moment's notice.

Mr. DODD. I have no difficulty with——

Mr. WARNER. I am not sure this is drawn in such a way as to continue what I deem essential practice with regard to naval ships. I would have to study it considerably to determine how it might impede ground operations.

Mr. DODD. I always appreciate the advice and counsel of the chairman of the committee so I will take a look and see if there is some common language that might meet those concerns.

Mr. WARNER. Is it the intention of my colleague in due course to lay this aside?

Mr. DODD. I presume others would want to lay it aside when other amendments are being considered. I do not object to that.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first let me comment on what I think is the heart of the amendment the Senator from Connecticut has offered, and that has to do with the interrogation function and whether that ought to be performed by private contractors.

It seems to me abundantly clear that we cannot hire private contractors to perform a function that is inherently governmental, inherently sensitive, indeed inherently explosive, and on which there must be accountability, such as the interrogation of prisoners. We have treaty obligations. We have to live up to those treaty obligations, not because they are treaty obligations, although that should be enough, but also because the safety of our own troops is directly involved if we fail to abide by treaty obligations.

The stakes are absolutely huge and we must have people performing these functions who are accountable to us, where there is accountability.

Now the chairman has pointed out a problem with so-called subparagraph 1(b). I do think that is going to require additional exploration, and the Senator from Connecticut is perfectly happy to take a look at that additional exploration.

As the Senator from Connecticut points out, there may indeed already be law on the books that this simply would reinforce. If that is true, it is possible we may not even need this provision, but that is something which the exploration of law can tell us. We may not need, or the Senator from Connecticut more properly may not need, the provision 1(b) if the current law already addresses that issue. But that is something we ought to explore when we lay this amendment aside.

I will tell my friend from Virginia, the chairman of the committee, that the heart of this amendment, as I read it, is not section 1(b) but section 1(a). I think the Senator from Connecticut can speak most directly to that issue, but it is a question of whether we are going to contract out the interrogation function, where there is no accountability in something as grave as this procedure. Interrogating people who are captured in war has ramifications that are so significant to the security of our own troops, I think we must have the full accountability, which is only achievable when we have this performed by our own governmental operations, our own forces, our own governmental employees. So I think 1(a) is right on target.

It is possible, and I think there is another reason to lay this aside, that according to at least an article which I read over the weekend there already is an Army policy directive on this subject, when I read this article——

Mr. WARNER. Excuse me, Madam President, but on which subject?

Mr. LEVIN. On the subject of (a).

Mr. WARNER. Let us make it clear because the Senator is mixing (a) and (b).

Mr. LEVIN. I thank my chairman. This is what the article reads, and because I have a reprint of it I am not sure what paper I read it in, but this is the computer reprint of an article by Joe Brinkley, which says the following: That the use of private contractors as interrogators at Abu Ghraib and other prisons violates an Army policy that requires such jobs to be filled by Government employees because of the risk to ''national security,'' among other concerns, the Army acknowledged on Friday. An Army policy directive published in 2000 and still in effect today, the military said, classifies any job that involves the gathering and analysis of tactical intelligence as inherently governmental functions borrowed from private sector performance.

Now if we are going to set this amendment aside, there is an additional reason to do so. In addition to taking a look at whether 1(b) is necessary, the issue raised by the chairman, we should also take a look at what current Army policy is relative to the hiring of contractors to perform the interrogation function. I have tried in the last few minutes to get a copy of that Army policy, and I have been unable to do so in the last few minutes, so I could actually check it out myself. So

if this amendment is laid aside, I would seek to do exactly that.

One other comment, and that is this so-called Department of Interior. What is the Department of Interior doing here? Talk about lack of accountability. This is a contract which the Department of Interior entered into with private contractors to do interrogation. We talk about lack of responsibility, lack of accountability. The Army has lost control of its own contractors. These are not Army contractors, they are Department of Interior contractors. And why? Because they have engaged in a so-called offloading mechanism, where they use a contract of another agency to pay for the performance of functions which they, the Army, want.

That is an area which I would hope our committee would look into because, to me, we have laws against this kind of offloading. The subcommittee of which I am ranking member, the Permanent Subcommittee of Investigations, has had hearings on these offloading abuses. We have passed law to try to prohibit these offloading abuses. We have language, as a matter of fact, in this bill that would prevent some of the abuses the GSA was involved in in terms of offloading. If we had known about this particular problem, we would have included that in our committee consideration of this issue.

The Senator from Connecticut is pointing out something which is vitally important to us, and that is people who do interrogations on behalf of our Nation, relative to prisoners of war, must be accountable. We must be able to deter abuses of the rights of prisoners under treaties, or else when our people are captured, we are going to find we are in the same position as these prisoners. We need accountable people. That requires the people who are doing the interrogation be Government employees, at a minimum, hopefully uniformed employees, secondly.

We have two problems that are sort of parallel. We have this offloading problem where the Department of Interior contract is used to hire contractors. By the way, this also goes back in part to the reduction of the acquisition workforce. It goes back to the same issue we addressed on the prior subject. The chairman of our committee, of which the Presiding Officer is an extremely valued member, will remember the last conference, and the conference before that, and the conference before that with the House of Representatives. Every year we face this effort to reduce the amount of people who are working in our acquisition workforce. We are paying the price for those cuts.

We tried to stop those cuts, and we succeeded in at least reducing the scope of the cuts year after year, but as conferences work out, there are compromises on this. So there have been cuts, against our wishes, in the acquisition workforce. This again is a price we are paying for the reductions in the acquisition workforce which have occurred in prior years.

I commend the Senator from Connecticut for identifying an issue. We must make sure the interrogation of prisoners, detainees, or combatants, as he puts it in his amendment, at any U.S. military installation or any installation under the authority of the U.S. military or civilian personnel must be carried out by people who are responsible to us, who are part of the U.S. Government. If they are not in the military, or at least governmental employees, and not simply contractors, where the accountability is much less, where is the accountability for contractors? Where is the accountability? We passed a law recently which provides the criminal accountability if you can make out a crime, but it is very difficult at times to prove crimes.

Mr. WARNER. Will the Senator yield?

Mr. LEVIN. I am happy to yield, but I encourage us to lay aside this amendment.

Mr. WARNER. So we can accommodate Senators, I would like to propose a unanimous consent request that the vote in relation to Dodd amendment No. 3312, which is the one covering equipment for the military forces, occur today at 5:30 p.m., provided that no amendments be in order to the amendment prior to the vote.

Mr. LEVIN. Would the Chairman add 10 minutes of discussion on the amendment prior to the vote?

Mr. WARNER. I suggest we go to the vote. I have indicated a willingness to support it, so I don't think——

Mr. DODD. Let's take 1 minute prior to the vote.

Mr. WARNER. Fine, 1 minute each side? Let's make it 2. I can't clear my throat in 1.

I repropound the unanimous consent request to the Presiding Officer.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. It was modified to 2 minutes, equally divided.

Mr. WARNER. Two minutes to each side, not equally divided.

Mr. DODD. OK. Two minutes to each side.

The PRESIDING OFFICER. If there is no objection, it is so ordered.

Mr. LEVIN. Madam President, if that is out of the way, I will yield the floor——

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I support the suggestion that the pending amendment of the Senator from Connecticut be laid aside to hear two issues.

Mr. WARNER. I failed to hear what you said. Would you repeat that?

Mr. LEVIN. I am sorry. I want to support the suggestion that the pending amendment of the Senator from Connecticut be laid aside so that two things can be carried out: One is that we look at section 1(b) relative to the combat language, both in terms of the points that the chairman has made and also in terms of the current law relative to combat. Also, that would give us an opportunity to check out this reported Army policy directive which has been referred to in this newspaper article to see what the current law is, at least what the current policy——

Mr. WARNER. Regulations.

Mr. LEVIN.——regulations of the Army are relative to this particular issue. I think it is important we at least know that before we act on the amendment. I leave this up to our friend from Connecticut, but I think the heart of this amendment relates to the interrogation of the prisoners, rather than 1(b).

Mr. DODD. If my colleague will yield, just going over this—and I certainly have no difficulty at all trying to clear up, if we can, the section 1(b) issue that my colleague from Virginia has raised. To the best of my knowledge at this point, we will explore it further, but my examination shows dealing with interrogation is a directive. It's not a law. It has been a policy, and the policy allowed for exceptions to be made when there were not enough personnel or whatever else to deal with it.

That is what has happened here. This is a policy that has been around for about 4 years—maybe a little earlier, maybe 1998, certainly no later than 2000. As such, it lacks codification in any sense at all, and it has been adhered to in the breach more than in the letter of it. That is how I understand this. I know of no Army regulations dealing with this issue, other than a general policy direction.

It seemed to me on this particular point, the codification of our feelings about this, if a majority of my colleagues in the other body agree, should be put in place. We are going to be faced with more of this in the years ahead. I think some very clear direction for the U.S. Congress on how interrogations ought to be conducted and who conducts them, under what authority, what supervision, what regulation, is absolutely essential.

That is the heart of the amendment. The combat function was really just a throwaway because it was existing law, as I understood it. But I am prepared to be corrected if that is not the case. I was reading from existing statutes regarding contractors and use in combat situations, under what parameters they are allowed to operate, sort of tracking that as to be included here. But I am prepared to stand corrected if that is not the case.

Mr. LEVIN. Will the Senator yield on this issue?

Mr. DODD. Certainly.

Mr. LEVIN. I very much support his effort to codify what should be the rule relative to the use of outside people when it comes to carrying out such a critical function as interrogating prisoners of war.

The same article says—this is the exceptions reference the Senator made—according to the public affairs officer, military commanders in Iraq, and I presume otherwise, ''retain the right to

make exceptions.'' That is the reference the Senator from Connecticut made.

The paragraph after that said the rule does not authorize exceptions involving collection or analysis of tactical intelligence. That is not in quotes. I think it really is important that we see exactly what that policy currently provides, not because it will take the place of a law—it will not, for the reasons given by the Senator from Connecticut. I think we must codify what is right in this area. Whether the policy that exists now is correct or not, we should put this into law because we have to make this point about how significant this is. That means the highest possible level of requirement, which is law—not policy, which can easily be changed or ignored, but law which cannot be ignored—is appropriate here.

I think for a lot of reasons we should try to take a look at what the exact wording of the policy is, not because it will substitute for what the Senator is doing, which is essential, but because we ought to know precisely what the current provisions are.

Mr. DODD. I thank my colleague from Michigan for his comments. I totally agree with him. I thank my colleague from Virginia as well for his counsel.

I ask unanimous consent this amendment be laid aside unless my colleague wants to address it any further, and then we will do some work to see if we can't resolve some of these issues before we move on.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Wyoming.

AMENDMENT NO. 3295

Mr. ENZI. I ask the pending amendment be set aside, and I call up an amendment numbered 3295.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 3295.

Mr. ENZI. 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 the purchase of aircraft for use in aerial firefighting)

On page 280, after line 22, insert the following:

SEC. 1068. AERIAL FIREFIGHTING EQUIPMENT.

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

(1) The National Interagency Fire Center does not possess an adequate number of aircraft for use in aerial firefighting and personnel at the Center rely on military aircraft to provide such firefighting services.

(2) It is in the national security interest of the United States for the National Interagency Fire Center to purchase aircraft for use in aerial firefighting so that military aircraft used for aerial firefighting may be available for use by the Armed Forces.

(b) AUTHORITY TO PURCHASE AERIAL FIREFIGHTING EQUIPMENT.—(1) The Secretary of Agriculture is authorized to purchase 10 aircraft, as described in paragraph (2), for the National Interagency Fire Center for use in aerial firefighting.

(2) The aircraft referred to in paragraph (1) shall be—

(A) aircraft that are specifically designed and built for aerial firefighting;

(B) certified by the Administrator of the Federal Aviation Administration for use in aerial firefighting; and

(C) manufactured in a manner that is consistent with the recommendations for aircraft used in aerial firefighting contained in—

(i) the Blue Ribbon Panel Report to the Chief of the Forest Service and the Director of the Bureau of Land Management dated December 2002; and

(ii) the Safety Recommendation of the Chairman of the National Transportation Safety Board related to aircraft used in aerial firefighting dated April 23, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture for fiscal year 2005 such funds as may be necessary to purchase the 10 aircraft described in subsection (b).

Mr. ENZI. Madam President, I thank the chairman and ranking member for their cooperation on this amendment.

The purpose of this amendment is to authorize the Secretary of Agriculture to purchase 10 aircraft that were designed and built to fight fires.

The U.S. Forest Service and Bureau of Land Management need to develop a new fleet of aircraft for aerial firefighting in order to free up current military aircraft to fly military missions.

My amendment takes the first step to create a new fleet of aircraft specifically designed for aerial firefighting. Once the new fleet is in place all dedicated military aircraft will be freed up and allowed to be dedicated, once again, for military missions.

On May 10, 2004, the USDA Forest Service and the Department of the Interior terminated the contract for 33 large airtankers used for aerial fire fighting because of ''concerns over the airworthiness of the aircraft and public safety.'' The large, fixed-wing airtankers were used in wildland firefighting primarily for initial attack and structure protection support.

The old fleet was made up of aging, former military aircraft that were purchased at bargain basement prices from the surplus military market. They were the worst of the worst and required extensive repairs and refurbishing before they were ready for aerial firefighting.

The USFS has planned to replace the 33 air tankers with 8 military C130s that will be dedicated during the fire session to fly support for domestic fire fighting missions. These planes, therefore, will not be available to support necessary military missions.

The first step in relieving these planes from domestic duty, and making them available for military utilization, is to find a reasonable replacement that is safe and specifically designed for aerial fire fighting.

One example of the kind of aircraft that could be purchased is the Be-200 that would be serviced by a company in my home State of Wyoming.

It was specifically designed to operate as an air tanker and can deliver up to 6,000 gallons of water or other fire suppressants.

It is an amphibious plane that can scoop up the water on the fly.

It can mix the water with slurry in regulated amounts while in the air so it will not be required to fill up at a slurry base after every run.

And, because the water tanks were designed to fit under the cabin floor, it can also carry up to 60 firefighters and their gear as a transport plane while it is functioning as a firefighting tanker.

Our pilots put their lives on the lines to save our property and to save other lives. We owe it to them to have a modern fleet where the risks they face are significantly diminished.

We also owe it to our military to free up our military aircraft for military missions. Right now there are 8 C–130 transport aircraft that cannot be used to fly support missions in the Middle East because they have to be on hand to fight fires in the West.

We have options available to free those aircraft up and we should be developing those options as quickly as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH. Madam President, I ask unanimous consent to set aside the pending amendment so that I might bring up amendment 3183.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Without objection, the pending amendment is set aside.

AMENDMENT NO. 3183

(Purpose: To provide Federal assistance to States and local jurisdictions to prosecute hate crimes)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH] proposes an amendment numbered 3183.

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

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Oregon.

Mr. SMITH. Mr. President, if there were a Senator here objecting to laying aside an amendment, I apologize to him or her, but I make no apology for the amendment I am submitting.

The Senate knows well the substance of this amendment because we have debated it in every Congress because it

needs to be debated. But, more importantly, it needs to be passed; that is, the whole issue of hate crimes. People will wonder why it is on a defense authorization. The answer is simply: Because the military, as I will demonstrate, is not immune to the scourge of hate crimes in our country. Second, this is a piece of legislation that needs to pass, and this issue needs to get as far in the process as possible, and I hope to the desk of the President so it can be signed into law.

It needs to be taken up as well because it has overwhelming support in the Senate. On this Defense authorization and in a previous Congress, 57 Senators voted in favor of this amendment. I believe it will have well over 60 this time.

Unfortunately, despite the fact that a majority of Senators support the legislation, Senator KENNEDY and I have felt we need to look for opportunities where there is an obvious nexus between this needed law and a piece of legislation that is likely to move.

The last time, 13 Republicans voted in favor of this legislation. I urge more to do so at this time.

It is no secret that with all the turmoil on the issue of gays and lesbians and their rights in this country, there are very strong feelings on both sides of this issue. I, for one, seek happiness for gays and lesbians in America. I believe in gay rights. But I also believe it is not right in the case of marriage for a few liberals to dictate to the rest of the country a new standard.

Notwithstanding that, I have always felt before you get to marriage, you ought to get rid of hate. I say that as a man who has been married nearly 30 years now. And I think before we take up the issue of marriage we ought to deal with the issue of hate crimes.

Back to the nexus between hate crimes and the defense of our Nation. Two obvious examples come to mind.

In 1992, Navy Seaman Allen R. Schindler was brutally murdered by his shipmate Terry Helvey in Okinawa, Japan. Helvey beat and stomped Schindler to death simply because he was gay. He was attacked so viciously that he destroyed every organ in Schindler's body. He was so badly beaten that Schindler's own mother could not identify him except by the remains of the tattoo on his arm. The medical examiner compared Schindler's injuries to those sustained by victims of fatal airplane crashes.

In another tragic case, PFC Barry Winchell was forced outside his barracks at Fort Campbell Army Base where he was stationed. In the early morning hours of July 5, 1999, Winchell was repeatedly beaten with a baseball bat by another Army private. He was beaten with such force and his injuries so severe that he died shortly thereafter. Barry was only 21, and he was murdered simply because he was gay.

As a nation—a nation that serves as the beacon of freedom and liberty everywhere—we simply cannot tolerate violence against people based on their race, color, religion, or national origin.

No matter how far our Nation has come and the progress we have made in protecting civil rights for all Americans, there is much work that remains. You cannot fight terror abroad and accept terror at home. We have had in this country hate crimes laws on our books for well over 30 years. They were contested as to their legitimacy all the way to the U.S. Supreme Court. For conservatives who would argue we should not have this as a category of crime, I simply respond it is a category of crime. Motive has always been a category of crime and establishing whether a crime has occurred. William Rehnquist, Justice of the U.S. Supreme Court, now its Chief Justice, wrote the opinion. It is hard to think of a more conservative Justice than Justice Rehnquist. But he is the one who said hate crimes are not just legitimate, they are constitutional.

So the question then becomes, if we have constitutional hate crimes laws on the Federal books that cover race and religion, why not sexual orientation? Is it because some hate them? Do some think it is not legitimate to include them? I simply say that America, if it is to live up to its motto, e pluribus unum, must include them.

I think we all know too well the tragic story of James Byrd who was dragged to death in Texas because of his race. We all know the tragically heartrending story of Matthew Shepard who was beaten to death along a lonely stretch of Wyoming fence because he was hated—not because they wanted his watch or his wallet; they didn't like him because he was gay. So they beat him to death.

Why Federal hate crimes laws? Wyoming does not have them, but many States do have hate crimes laws. Why isn't that enough?

Look at what happened in Wyoming. When this little town of Laramie began to pursue the issue, it took on national ramifications. They could have used the help of the Federal Government and its resources. But because of the nature of this hate crime—because it would involve sexual orientation and not race—the Federal authorities were not able to be of any assistance to this case in Wyoming. A Republican sheriff from Wyoming told me they could have used the help, and that he supported this legislation based on his experience.

These last two Congresses, I have entered into the RECORD everyday statements on hate crimes, actual hate crimes committed in our country. I have entered countless hate crime statements into the RECORD—over 300 in the last 300 days we have been in session. I do it to raise awareness, not only about the severity of these crimes but to show the frequency of these crimes.

As the Nobel laureate Eli Wiesel once said: ''To hate is to deny another person's humanity.'' So I do it to remember the victims of these hate crimes and to give a human face to this violence—to the murderers of these men, the Navy man, the Army private, to Matthew Shepard, to James Byrd.

These murders have shocked the Nation. To think that such virulent hatred of another person's skin or sexual orientation drove another to commit such a heinous act is truly unthinkable, yet it has happened.

Hate crimes tear at the very fabric of our Nation. They seek to intimidate entire groups of Americans and as such divide our Nation. These kinds of crimes do more than harm the victims. They terrorize our entire society and send a message of hate and intolerance to millions of Americans.

What can we do? We can pass this legislation. This legislation, known as the Local Law Enforcement Enhancement Act, is a symbol that can become substance.

The law is a teacher, and we should teach our fellow Americans that bigotry will not be tolerated. The Federal Government must have the power to persuade, to pursue, and to prosecute when hate is the motive of violence against an American, no matter their race, sexual orientation, religion, disability, or gender. By changing the law, we can change hearts and minds as well.

I urge my colleagues to do so, to change hearts and minds, and in some cases to change their vote, and to vote in favor of this amendment. Don't go to marriage until we have gotten rid of hate.

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. SMITH. I yield the floor.

Mr. WARNER. Mr. President, the amendment from our distinguished colleague from Oregon will require the attention of a number of colleagues. While there was no specific agenda for the amendments today, as a matter of comity we need some time.

For the moment, I am wondering if we could put in a quorum so we can assert the availability of one or more Members who might wish to address this. If not, there are other amendments which the Senator from Michigan and I are prepared to clear. Without any procedure by which it impedes the Senate addressing the Senator's amendment, I am sure the Senator would be willing to lay the amendment aside for the purpose of clearing amendments.

Mr. SMITH. I would accommodate any colleagues in any sense of comity that is appropriate to the Senate. I do want to vote. I do want to debate. We do not need to take a lot of time. This has overwhelming bipartisan support. We do not mean to gum up this bill. As I believe the chairman knows, this is offered in good faith. I know there are some objections to it. It is fine to air those. But let's discuss it quickly and

vote on it so we can get on with the other defense issues.

Mr. WARNER. In no way do I indicate it would gum up the bill. I am just trying to address the procedure so colleagues on the other side are given the opportunity to come to the Senate. I am exploring that now. It is a very serious amendment, and it deserves careful consideration by the proponents as well as the opponents.

Mr. LEVIN. Mr. President, I know Senator KENNEDY cosponsored this bill and has a major interest in this bill. We are trying to determine whether he wishes to speak at this point.

For the reasons given by our chairman, I gather this amendment will be laid aside until other colleagues who wish to have something to say on it have that opportunity. We are checking also with Senator KENNEDY.

Mr. SMITH. I note that Senator KENNEDY did not know I was coming here today, but I was told by good authority that if we wanted this included at all, we should include it today. I would very much like to make available a time—a time agreement can be short—that includes remarks by Senator KENNEDY.

Mr. LEVIN. I don't know whether it is possible to enter into a time agreement. The chairman would have a better feel for that.

I am a strong supporter of this amendment and this effort of Senator SMITH and Senator KENNEDY. From my perspective, the sooner we vote on this, the better. It is long overdue that it become law. I commend the Senator on this amendment and Senator KENNEDY for his tenacity as well. I hope the chairman can work out with other colleagues who want to speak on it in relation to some time agreement.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3312, AS MODIFIED

Mr. LEVIN. Mr. President, I think now the order of business is that we have 2 minutes, as I remember, equally divided on the Dodd amendment. Then we will proceed to a vote at 5:30.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, I thank my colleagues on the Armed Services Committee, the chairman, Senator WARNER, and Senator LEVIN. I do not want to speak for the majority, but based on what Senator WARNER said earlier, I believe he may be supportive of the amendment. If that is the case, I welcome that.

Very briefly, the amendment is designed to provide reimbursement dollars for expenditures incurred by people in the military, their family members, or nonprofit organizations that have purchased body armor, additional protection for our men and women serving in Afghanistan and Iraq.

There are limitations. There is a time-definite period during which those acquisitions had to occur. The acquisitions must be approved by field commanders rather than just the individuals. There is a dollar-amount limitation of $1,100 on any purchase.

I do not know how widespread this is. I have commended the Armed Services Committee for substantially increasing the President's request of some $57 million to $262 million in this area, which I believe is going to tremendously assist in seeing to it that our men and women in uniform have whatever they need to allow them to perform their very difficult functions in two very different and difficult theaters.

Certainly, having loved ones acquire this equipment is unacceptable to all of us. This amendment is designed to make whole those who have incurred the costs. Again, I am grateful to the Armed Services Committee for what I assume is an indication of some support of the amendment.

Mr. LAUTENBERG. Mr. President, I rise today to discuss a very important amendment to the Defense authorization bill. I have worked with my colleague from Connecticut to draft an amendment that will reimburse U.S. troops serving in Iraq and Central Asia and their family members for flak jackets, weapons and other equipment they have bought out of their own pocket.

At the beginning of this war, the President claimed, ''We must always make sure that America's soldiers are well-equipped and well trained to fight this war on terror.'' However, the administration has not provided the adequate equipment the troops need to do their work, such as enough body armor or the most up to date Global Positioning Systems, GPS.

In March 2004, I traveled to Iraq with a group of Senators. I spoke to soldiers from all different types of units, both active duty and reservists. When I spoke to the brave members of our Armed Services, I was appalled to hear that many of them needed higher quality flak jackets, more modern, lighter rifles, and armor for their HUMVEE vehicles.

I have since learned that worried mothers and fathers throughout the country have gone to great lengths to purchase expensive equipment for sons or daughters, because they are dissatisfied with the inferior, inadequate equipment the Pentagon is providing.

In a few instances, parents in New Jersey and elsewhere have gone out and bought the equipment for their sons and daughters and shipped it through Federal Express to Iraq. I find this fact incredible. It is unconscionable that the parents of our service members and their loved ones fighting on behalf of our country have been abandoned by the civilian war planners at the Pentagon.

The administration, because of its inept planning and military miscalculations has forced hardworking Americans to pay for equipment that should be provided by the Armed Services.

Our amendment instructs the Secretary of Defense to immediately reimburse our courageous troops and their families for protective, safety or health equipment they have purchased with their own funds. This includes both the cost of the equipment itself and the shipping costs.

The civilian Pentagon war planners have been planning the Iraq war since 2002. That is two years to figure out how to get the correct body armor and lighter weapons to our troops. The Pentagon's inability to equip our young men and women who are sacrificing their lives on behalf of this country is just among many egregious, unforgivable mistakes they have made.

I am deeply disappointed with the civilian war planners at the administration and I hope through this amendment, the Senate will speak on behalf of the over 170,000 U.S. personnel currently serving in Iraq and Afghanistan and their safety and protection.

I yield the floor.

Mr. WARNER. Mr. President, I have indicated my support. I ask unanimous consent that I may proceed for 2 minutes.

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

Mr. WARNER. I had asked my colleague, in the course of our colloquy, and I think he agreed with me, that so much of this purchase of odd pieces of equipment is anecdotal. You actually had a case in which you had documentation. But a lot of the other instances are anecdotal. Given the callup of so many people in the Reserves and Guard and so forth, coming loyally to do their duty, I think there had been some misunderstanding. We agreed in the area of Humvees, the Army got a bit behind on some of the modifications necessary. The Army got somewhat behind on the body armor. But generally speaking, the U.S. military has been well supplied and well equipped, and no large numbers of them were sent into harm's way—in this particular situation, two of them in Afghanistan and Iraq—without the benefit of that equipment. We concur on that.

But I am glad to assist the Senator and indicate a willingness to support the amendment in those isolated areas where in good faith citizens of our community and the soldiers themselves bought bits and pieces of equipment.

Mr. DODD. Mr. President, I have no information to argue with the conclusions of the chairman of the committee. My hope would be that is exactly the case. There are only a few isolated cases. If there are more, we will discover that. But on the basis of what we know thus far, there was a case in Connecticut, a serious one in Alabama, one in New Jersey. There

have been others. Even if there are a few, they are a few too many. In this case, we will provide some compensation for them as a result of those acquisitions.

Mr. WARNER. Mr. President, it is my understanding the yeas and nays have been ordered. We are prepared to move forward with the vote.

The PRESIDING OFFICER. That is correct. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 3312, as modified. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Utah (Mr. HATCH) is necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Delaware (Mr. CARPER), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Vermont (Mr. JEFFORDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), and the Senator from Vermont (Mr. LEAHY) are necessarily absent.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote ''yea.''

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—91

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

NOT VOTING—9

Biden	Edwards	Kerry
Carper	Hatch	Kohl
Corzine	Jeffords	Leahy

The amendment (No. 3312), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the managers of the bill may proceed to do cleared amendments, and for that purpose I ask unanimous consent that all amendments be laid aside.

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

Mr. WARNER. I thank the Presiding Officer. We will be on the way here momentarily.

AMENDMENT NO. 3344

Mr. LEVIN. Mr. President, on behalf of Senator BYRD, I call up amendment No. 3344 which would modify the Report on the National Technology and Industrial Base required by section 841 of the bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BYRD, for himself, Ms. SNOWE, Mr. KERRY, Mr. ALLEN, and Mr. COLEMAN proposes an amendment numbered 3344.

The amendment is as follows:

(Purpose: To require the Commission on the Future of the National Technology and Industrial Base to consider shortages of critical technologies and to make recommendations regarding shortages; and to ensure adequate consideration of small business interests by the Commission)

Beginning on page 167, strike line 6 and all that follows through ''(4)'' on page 170, line 10, and insert the following:

(B) persons who are representative of labor organizations associated with the defense industry, and persons who are representative of small business concerns or organizations of small business concerns that are involved in Department of Defense contracting and other Federal Government contracting.

(3) The appointment of the members of the Commission under this subsection shall be made not later than March 1, 2005.

(4) Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) The President shall designate one member of the Commission to serve as the Chairman of the Commission.

(c) MEETINGS.—(1) The Commission shall meet at the call of the Chairman.

(2) A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(d) DUTIES.—(1) The Commission shall—

(A) study the issues associated with the future of the national technology and industrial base in the global economy, particularly with respect to its effect on United States national security; and

(B) assess the future ability of the national technology and industrial base to attain the national security objectives set forth in section 2501 of title 10, United States Code.

(2) In carrying out the study and assessment under paragraph (1), the Commission shall consider the following matters:

(A) Existing and projected future capabilities of the national technology and industrial base.

(B) The impact on the national technology and industrial base of civil-military integration and the growing dependence of the Department of Defense on the commercial market for defense products and services.

(C) Any current or projected shortages of a critical technology (as defined in section 2500(6) of title 10, United States Code), or the raw materials necessary for the production of such technology, that could adversely affect the national security of the United States.

(D) The effects of domestic source restrictions on the strength of the national technology and industrial base.

(E) The effects of the policies and practices of United States allies and trading partners on the national technology and industrial base.

(F) The effects on the national technology and industrial base of laws and regulations related to international trade and the export of defense technologies and dual-use technologies.

(G) The adequacy of programs that support science and engineering education, including programs that support defense science and engineering efforts at institutions of higher learning, with respect to meeting the needs of the national technology and industrial base.

(H) The implementation of policies and planning required under subchapter II of chapter 148 of title 10, United States Code, and other provisions of law designed to support the national technology and industrial base.

(I) The role of the Manufacturing Technology program, other Department of Defense research and development programs, and the utilization of the authorities of the Defense Production Act of 1950 to provide transformational breakthroughs in advanced manufacturing technologies and processes that ensure the strength and productivity of the national technology and industrial base.

(J) The role of small business concerns in strengthening the national technology and industrial base.

(e) REPORT.—Not later than March 1, 2007, the Commission shall submit a report on its activities to the President and Congress. The report shall include the following matters:

(1) The findings and conclusions of the Commission.

(2) The recommendations of the Commission for actions by Federal Government officials to support the maintenance of a robust national technology and industrial base in the 21st century.

(3) The recommendations of the Commission for addressing shortages in critical technologies, and shortages of raw materials necessary for the production of critical technologies, that could adversely affect the national security of the United States.

(4) Any recommendations for legislation or changes in regulations to support the implementation of the findings of the Commission.

(5) * * *

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

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

The amendment (No. 3344) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3435

Mr. WARNER. Mr. President, on behalf of Senator MCCONNELL and Senator GRAHAM of South Carolina, I call up amendment No. 3435 which would authorize the Secretary of the Navy to convey land at the Naval Weapons Station in Charleston, S.C.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCONNELL, for himself and Mr.

GRAHAM of South Carolina, proposes an amendment numbered 3435.

The amendment is as follows:

(Purpose: To provide for a conveyance of land at the Naval Weapons Station, Charleston, South Carolina)

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND CONVEYANCE, NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the Berkeley County Sanitation Authority, South Carolina (in this section referred to as the ''Authority''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of not more than 23 acres and comprising a portion of the Naval Weapons Station, Charleston, South Carolina, for the purpose of allowing the Authority to expand an existing sewage treatment plant.

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

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the Authority to cover costs incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including appraisal costs, survey costs, costs related to compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and environmental remediation, and other administrative costs related to the conveyance. If the amounts are collected from the Authority in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Authority.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be made available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Authority.

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

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

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

The amendment (No. 3435) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3314

Mr. LEVIN. Mr. President, on behalf of Senator LANDRIEU, I call up amendment No. 3314 which would authorize the Army to convey the inactive Louisiana army ammunition plant to the State of Louisiana in return for an agreement that the State would guarantee that the Army and the Army Guard can continue to use it as a training site and the State would also assume cleanup responsibilities after 5 years.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mrs. LANDRIEU, proposes an amendment numbered 3314.

The amendment is as follows:

(Purpose: To authorize the conveyance of land at Louisiana Army Ammunition Plant, Doyline, Louisiana)

On page 365, between lines 18 and 19, insert the following:

SEC. 2830. LAND CONVEYANCE, LOUISIANA ARMY AMMUNITION PLANT, DOYLINE, LOUISIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the State of Louisiana (in this section referred to as the ''State'') all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 14,949 acres located at the Louisiana Army Ammunition Plant, Doyline, Louisiana.

(b) CONSIDERATION.—As consideration for the conveyance of property under subsection (a), the State shall—

(1) maintain at least 13,500 acres of such property for the purpose of military training, unless the Secretary determines that fewer acres are required for such purpose;

(2) ensure that any other uses that are made of the property conveyed under subsection (a) do not adversely impact military training;

(3) accommodate the use of such property, at no cost or fee, for meeting the present and future training needs of Armed Forces units, including units of the Louisiana National Guard and the other active and reserve components of the Armed Forces;

(4) assume, starting on the date that is five years after the date of the conveyance of such property, responsibility for any monitoring, sampling, or reporting requirements that are associated with the environmental restoration activities of the Army on the Louisiana Army Ammunition Plant, and shall bear such responsibility until such time as such monitoring, sampling, or reporting is no longer required; and

(5) assume the rights and responsibilities of the Army under the armaments retooling manufacturing support agreement between the Army and the facility use contractor with respect to the Louisiana Army Ammunition Plant in accordance with the terms of such agreement in effect at the time of the conveyance.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the State to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the State in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to State.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

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

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

Mr. WARNER. Mr. President, I wonder if the Senator from Michigan would look at the preamble. It states ''and the Army Guard.'' That would be the Army National Guard.

Mr. LEVIN. The Senator is correct.

Mr. WARNER. There is no objection, Mr. President.

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

The amendment (No. 3314) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3229

Mr. WARNER. Mr. President, on behalf of Senator MCCAIN, I call up amendment No. 3229 that would authorize up to 50 permanent or career professors at each of three service academies to be excluded from consideration under existing statutory grade limitation for officers.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN, proposes an amendment numbered 3229.

The amendment is as follows:

(Purpose: To exclude service academy permanent and career professors from a limitation on strengths applicable to active duty officers in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain)

On page 60, after line 23, insert the following:

SEC. 403. EXCLUSION OF SERVICE ACADEMY PERMANENT AND CAREER PROFESSORS FROM A LIMITATION ON CERTAIN OFFICER GRADE STRENGTHS.

Section 523(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(8) Up to 50 permanent professors of each of the United States Military Academy and the United States Air Force Academy, and up to 50 professors of the United States Naval Academy who are career military professors (as defined in regulations prescribed by the Secretary of the Navy).''.

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

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

The amendment (No. 3229) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I would like to commend the distinguished Senator from Arizona. He serves on the Naval Academy Board. He is very familiar with the academy structure, being a graduate himself of the Naval Academy. I strongly support him in the objective he has in his amendment.

AMENDMENT NO. 3257, AS MODIFIED

Mr. LEVIN. Mr. President, on behalf of Senator KENNEDY, I call up amendment No. 3257 which would codify certain requirements for public-private competition for the performance of the Department of Defense functions, and also on behalf of Senator KENNEDY I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. KENNEDY, for himself and Mr. CHAMBLISS, proposes an amendment numbered 3257, as modified.

The amendment is as follows:

(Purpose: To provide for improved assessment of public-private competition for work performed by civilian employees of the Department of Defense)

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

Subtitle F—Public-Private Competitions

SEC. 856. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

''(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

''(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003;

''(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; and

''(iv) ensures that the public sector bid would not be disadvantaged in the cost comparison process by a proposal of an offeror to reduce costs for the Department of Defense by not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of such function under a contract or by offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than that which is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5.

''(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

''(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

''(D) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

''(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

''(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a public-private competition; and

''(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.''.

(b) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—(1) Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

SEC. 857. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—(1) The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) NEW REQUIREMENTS.—(1) No public-private competition may be required under Office of Management and Budget Circular A–76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences, the performance by Federal Government employees of work pursuant to subsection (a) commences, or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A–76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term ''National Security Personnel System'' means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term ''inherently governmental function'' has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

SEC. 858. COMPETITIVE SOURCING REPORTING REQUIREMENT.

Not later than February 1, 2005, the Inspector General of the Department of Defense shall submit to Congress a report addressing whether the Department of Defense—

(1) employs a sufficient number of adequately trained civilian employees—

(A) to conduct satisfactorily, taking into account equity, efficiency and expeditiousness, all of the public-private competitions that are scheduled to be undertaken by the Department of Defense during the next fiscal year (including a sufficient number of employees to formulate satisfactorily the performance work statements and most efficient organization plans for the purposes of such competitions); and

(B) to administer any resulting contracts; and

(2) has implemented a comprehensive and reliable system to track and assess the cost and quality of the performance of functions of the Department of Defense by service contractors.

Mr. WARNER. Mr. President, I believe the amendment has been cleared on this side.

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

The amendment (No. 3257) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3224

Mr. WARNER. Mr. President, on behalf of Senator COLLINS and Senator LEVIN, I send an amendment No. 3224 to the desk which would provide Federal employees with bid protection rights and actions under the OMB Circular 876 process.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Ms. COLLINS, for herself and Mr. LEVIN, proposes an amendment numbered 3224.

The amendment is as follows:

(Purpose: To amend title 31, United States Code, to provide Federal Government employees with bid protest rights in actions under Office of Management and Budget Circular A–76, and for other purposes)

On page 290, after line 22, insert the following:

SEC. 1107. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76.

(a) ELIGIBILITY TO PROTEST.—(1) Section 3551(2) of title 31, United States Code, is amended to read as follows:

''(2) The term 'interested party'—

''(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

''(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, includes—

''(i) any official who submitted the agency tender in such competition; and

''(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.''.

(2)(A) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

''§ 3557. Expedited action in protests for public-private competitions

''For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.''.

(B) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

''3557. Expedited action in protests for public-private competitions.''.

(b) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.''.

(c) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (b)), shall apply to—

(1) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004; and

(2) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A–76 on or after the date of the enactment of this Act.

Mr. LEVIN. Mr. President, the amendment has been cleared on this side. I am a proud cosponsor of this amendment.

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

The amendment (No. 3224) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3340

Mr. LEVIN. Mr. President, on behalf of myself and Senator FEINSTEIN, I call up amendment No. 3340 which would give authority to the Navy to settle a claim related to property associated with a former naval hospital in Oakland. This settlement has been agreed to by, I guess, all of the parties.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 3340.

The amendment is as follows:

(Purpose: To authorize the settlement of the claim of the Oakland Base Reuse Authority and Redevelopment Agency of the City of Oakland, California)

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

SEC. 2844. AUTHORITY TO SETTLE CLAIM OF OAKLAND BASE REUSE AUTHORITY AND REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND, CALIFORNIA.

(a) AUTHORITY.—The Secretary of the Navy may pay funds as agreed to by both parties, in the amount of $2,100,000, to the Oakland Base Reuse Authority and Redevelopment Agency of the City of Oakland, California, in settlement of Oakland Base Reuse Authority and Redevelopment Agency of the City of Oakland v. the United States, Case No. C02–4652 MHP, United States District Court, Northern District of California, including any appeal.

(b) CONSIDERATION.—As consideration, the Oakland Base Reuse Authority and Redevelopment Agency shall agree that the payment constitutes a final settlement of all claims against the United States related to said case and give to the Secretary a release of all claims to the eighteen officer housing units located at the former Naval Medical Center Oakland, California. The release shall be in a form that is satisfactory to the Secretary.

(c) SOURCE OF FUNDS.—The Secretary may use funds in the Department of Defense Base Closure Account 1990 established pursuant to section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for the payment authorized by subsection (a) or the proceeds of sale from the eighteen housing units and property described in subsection (b).

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

The amendment (No. 3340) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3432

Mr. WARNER. Mr. President, on behalf of myself, Senator LEVIN and others, I call up amendment No. 3432 which would amend the short title of the Defense authorization bill in honor of the late President Ronald W. Reagan.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. FRIST, Mr. STEVENS, Mr. MCCONNELL, Mr. LEVIN, Mr. MCCAIN, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. SANTORUM, Mr. ROBERTS, Mr. ALLARD, Mr. SESSIONS, Ms. COLLINS, Mr. ENSIGN, Mr. TALENT, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mrs. DOLE, Mr. CORNYN, Mr. INOUYE, Mr. COCHRAN, Mr. GRASSLEY, Mr. LUGAR, Mr. NICKLES, Mr. BURNS, Mr. LOTT, and Mr. LIEBERMAN, proposes an amendment numbered 3432.

The amendment is as follows:

(Purpose: To amend the short title to name the bill in honor of the late Ronald W. Reagan, the 40th President of the United States)

On page 2, beginning on line 2, strike ''National Defense Authorization Act for Fiscal Year 2005'' and insert ''Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005''.

Mr. LEVIN. The amendment has been cleared and very strongly cosponsored by many Members on this side of the aisle, as well as I think probably everyone if they had the opportunity which they can, of course, do at a later time.

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

The amendment (No. 3432) was agreed to.

Mr. WARNER. I appreciate the Presiding Officer's action on that. I am very proud to have initiated this. I am very proud of the number of cosponsors on both sides, and Senator LEVIN's strong bipartisanship.

I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3221

Mr. WARNER. Mr. President, on behalf of Senators LOTT, COCHRAN,

SNOWE, and COLLINS I call up amendment No. 3221, which ensures the continuity of search and rescue capabilities of the Federal Government.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. LOTT, for himself, Ms. SNOWE, Mr. COCHRAN, and Ms. COLLINS, proposes an amendment numbered 3221.

The amendment is as follows:

(Purpose: To ensure continuity of the search and rescue capabilities of the Federal Government)

On page 280, after line 22, insert the following:

SEC. 1068. PRESERVATION OF SEARCH AND RESCUE CAPABILITIES OF THE FEDERAL GOVERNMENT.

The Secretary of Defense may not reduce or eliminate search and rescue capabilities at any military installation in the United States unless the Secretary first certifies to the Committees on Armed Services of the Senate and the House of Representatives that equivalent search and rescue capabilities will be provided, without interruption and consistent with the policies and objectives set forth in the United States National Search and Rescue Plan entered into force on January 1, 1999, by—

(1) the Department of Interior, the Department of Commerce, the Department of Homeland Security, the Department of Transportation, the Federal Communications Commission, or the National Aeronautics and Space Administration; or

(2) the Department of Defense, either directly or through a Department of Defense contract with an emergency medical service provider or other private entity to provide such capabilities.

Mr. WARNER. The amendment has been cleared and is agreeable.

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

Mr. WARNER. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3221) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3376, AS MODIFIED

Mr. LEVIN. On behalf of Senator BILL NELSON, I call up amendment No. 3376, which will set forth the sense of the Congress that the Secretary of Defense should provide support for reduced launch costs and enhanced technical capabilities at space launch ranges through additional safety systems, and on behalf of Senator NELSON I send a modification to the desk and ask that the modification be considered.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. NELSON of Florida, proposes an amendment numbered 3376, as modified.

The amendment is as follows:

(Purpose: To express the sense of Congress on space launch ranges)

On page 256, between lines 10 and 11, insert the following:

SEC. 1035. SENSE OF CONGRESS ON SPACE LAUNCH RANGES.

It is the sense of Congress that the Secretary of Defense should provide support for, and continue the development, certification, and deployment of portable range safety systems that are capable of—

(1) reducing costs related to national security space launches and launch infrastructure; and

(2) enhancing technical capabilities and operational safety at the Eastern, Western, and other United States space launch ranges.

Mr. WARNER. The amendment has been cleared. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3376) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3167

Mr. WARNER. Mr. President, on behalf of Senator DOMENICI, I call up amendment No. 3167, which requires the Secretary of Defense to submit a report on potential missile defense test ranges.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DOMENICI, proposes an amendment numbered 3167.

The amendment is as follows:

(Purpose: To require a report on the availability of launch sites that permit realistic overland test flights for defenses against short-range ballistic missile systems)

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

SEC. 1022. REPORT ON AVAILABILITY OF LAUNCH SITES PERMITTING REALISTIC OVERLAND TEST FLIGHTS FOR DEFENSES AGAINST SHORT-RANGE BALLISTIC MISSILE SYSTEMS.

(a) FINDING.—Congress finds that the testing of defenses against short-range ballistic missile systems require overland flights of such systems of at least 1,000 kilometers in order to accurately simulate realistic environmental conditions that affect such defenses.

(b) REPORT ON AVAILABILITY OF LAUNCH SITES.—The Secretary of Defense shall submit to Congress a report assessing the availability to the Department of Defense of launch sites that permit overland flights of short-range ballistic missile systems of at least 1,000 kilometers in order to accurately simulate realistic environmental conditions that affect such defenses.

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

Mr. WARNER. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3167) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3296

Mr. LEVIN. Mr. President, on behalf of Senator SARBANES, I call up amendment No. 3296, which would grant a Federal charter to the Korean War Veterans Association, Incorporated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. SARBANES and Mr. WARNER, proposes an amendment numbered 3296.

The amendment is as follows:

(Purpose: To grant a Federal charter to Korean War Veterans Association, Incorporated)

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

SEC. 1068. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]"; and

(2) by inserting the following:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

"Sec.

''120101. Organization.
''120102. Purposes.
''120103. Membership.
''120104. Governing body.
''120105. Powers.
''120106. Restrictions.
''120107. Duty to maintain corporate and tax-exempt status.
''120108. Records and inspection.
''120109. Service of process.
''120110. Liability for acts of officers and agents.
''120111. Annual report.

"§ 120101. Organization

''(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), incorporated in the State of New York, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

"§ 120102. Purposes

''The purposes of the corporation are as provided in its articles of incorporation and include—

''(1) organizing, promoting, and maintaining for benevolent and charitable purposes an association of persons who have seen honorable service in the Armed Forces during the Korean War, and of certain other persons;

''(2) providing a means of contact and communication among members of the corporation;

''(3) promoting the establishment of, and establishing, war and other memorials commemorative of persons who served in the Armed Forces during the Korean War; and

''(4) aiding needy members of the corporation, their wives and children, and the widows and children of persons who were members of the corporation at the time of their death.

"§ 120103. Membership

''Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

''(a) BOARD OF DIRECTORS.—The board of directors of the corporation, and the responsibilities of the board of directors, are as provided in the articles of incorporation of the corporation.

''(b) OFFICERS.—The officers of the corporation, and the election of the officers of the corporation, are as provided in the articles of incorporation.

"§ 120105. Powers

''The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

''(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

''(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

''(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

''(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

"§ 120107. Duty to maintain corporate and tax-exempt status

''(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

''(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 120108. Records and inspection

''(a) RECORDS.—The corporation shall keep—

''(1) correct and complete records of account;

''(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

''(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

''(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

''The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§ 120110. Liability for acts of officers and agents

''The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 120111. Annual report

''The corporation shall submit an annual report to Congress on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by striking the item relating to chapter 1201 and inserting the following new item:

''1201. Korean War Veterans Association, Incorporated .....120101''.

Mr. WARNER. The amendment has been cleared.

I ask to be made a cosponsor as I am proud to have served in the Korean war in the Marines.

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

The question is on agreeing to the amendment.

The amendment (No. 3296) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3316, AS MODIFIED

Mr. LEVIN. Mr. President, on behalf of Senator HARKIN, I call up amendment No. 3316, which expresses a sense of the Senate that the Secretary of Defense should develop appropriate methods of oversight of the American forces radio and television service system to ensure presentation of all sides of important public questions, and on behalf of Senator HARKIN, I send a modification to the desk and ask unanimous consent the modification be agreed to.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. HARKIN, proposes amendment numbered 3316, as modified.

The amendment is as follows:

(Purpose: Expressing the sense of the Senate on Armed Forces Radio and Television Service programming)

At the appropriate place add the following:

Whereas it is the mission of the American Forces Radio and Television Service to provide U.S. military commanders overseas and at sea with a broadcast media resource to effectively communicate DoD, Service-unique, theater, and local command information to personnel under their commands and to provide U.S. military members, DoD civilians, and their families stationed outside the Continental U.S. and at sea with the same type and quality of American radio and television news, information, sports, and entertainment that would be available to them if they were in the continental U.S.; and

Whereas key principles of American Forces Radio and Television Service broadcasting policy, as outlined in Department of Defense Regulation 5120.20R, are to ensure political programming characterized by fairness and balance and to provide a free flow of political programming from U.S. commercial and public networks without manipulation or censorship of any news content to the men and women of the Armed Forces and their dependents; and

Whereas the stated policy of the American Forces Radio and Television Service is to select programming that represents a cross-section of popular American radio and television offerings and to emulate stateside scheduling and programming seen and heard in the United States; and

Whereas it is the policy of American Forces Radio and Television Service to select news and public affairs programs for airing that provide balance and diversity from available nationally recognized program sources, including broadcast and cable networks, Headquarters, American Forces Radio and Television Service, the military departments, and other government or public service agencies. Therefore, be it

Resolved, That it is the sense of the Senate—

that the mission statement and policies of the American Forces Radio and Television Service appropriately state the goal of maintaining equal opportunity balance with respect to political programming and that the Secretary of Defense should therefore ensure that these policies are fully being implemented by developing appropriate methods of oversight to ensure presentation of all sides of important public questions with the fairness and balance envisioned by the Department of Defense throughout the American Forces Radio and Television Service system.

Mr. WARNER. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3316) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3164, AS MODIFIED

Mr. WARNER. On behalf of Senator GREGG, I call up amendment No. 3164 that expresses the sense of the Senate that the Internal Revenue Service should provide further guidance to clarify under the tax laws the rights and responsibility of employers who generously continue payments to employees who are mobilized Reserve or Guard members, and on behalf of Senator GREGG, I send a modification to the desk and ask it be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GREGG, proposes an amendment numbered 3164, as modified.

The amendment is as follows:

(Purpose: To express the sense of the Senate on the coordination of rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 with the Internal Revenue Code of 1986)

On page 280, after line 22, insert the following:

SEC. 1068. COORDINATION OF USERRA WITH THE INTERNAL REVENUE CODE OF 1986.

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

(1) Employers of reservists called up for active duty are required to treat them as if they are on a leave of absence or furlough under the Uniformed Services Employment and Reemployment Rights Act of 1994 (in this section referred to as ''USERRA'').

(2) USERRA does not require employers to pay reservists who are on active duty, but many employers pay the reservists the difference between their military stipends and their regular salaries. Some employers provide this ''differential pay'' for up to 3 years.

(3) For employee convenience, many of these employers also allow deductions from the differential payments for contributions to employer-provided retirement savings plans.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Internal Revenue Service should, to the extent it is able within its authority, provide guidance consistent

with the goal of promoting and ensuring the validity of voluntary differential pay arrangements, benefits payments, and contributions to retirement savings plans related thereto.

Mr. GREGG. Mr. President, military action in Afghanistan and Iraq has brought to light yet another example of how outdated and burdensome government policies often punish generous employers in America. Apparently, when it comes to companies showing respect for employees who are called to active duty in the military, there is special meaning to the old cliche that ''no good deed goes unpunished.''

The National Committee for Employer Support for the Guard and Reserve, a nationwide association, reports that over 2,500 employers have signed a pledge of support and have gone above and beyond the requirements of the law in support of their National Guard and Reserve employees. This includes many of our Nation's largest and most reputable corporations, including 3M, McDonalds, Wal-Mart, Home Depot, Liberty Mutual and many others. These remarkable companies provide reservist employees who are on active duty with ''differential pay'' that makes up the difference between their military stipend and civilian salary.

National companies are not the only patriotic businesses providing special pay to our men and women who are called to serve overseas. Some of the most remarkable stories of corporate patriotism can be found in my state of New Hampshire.

BAE Systems of Nashua provides differential pay to their 25 called-up employees and continuing access to benefits to family members. The company even provides a stipend to make up the lost pay of active duty spouses of company employees when the spouse's employer is not able to provide differential pay. The corporate culture of support for the troops at BAE Systems is universal. Employees are encouraged to stay in touch with the families of fellow employees on active duty to help out where they can, and to avoid the Vietnam Syndrome of isolation. When you walk into BAE Systems headquarters, you cannot help but notice the flags of the branches of the United States armed services.

And then there is the story of Mr. Marian Noronha, Chairman and Founder of Turbocam, a manufacturer based in Dover, New Hampshire. An immigrant from India, Mr. Noronha has not only provided his employees with differential pay and continued family health benefits, but he has also extended to each of his activated employees a $10,000 line of credit. His active duty reservist and Guard employees have used this money to, among other things, purchase personal computers so their families can communicate with them while they are overseas. Beyond this, Mr. Noronha actively encourages other employers to treat their reservist employees in a similar manner.

Several other New Hampshire private-sector companies, including Hitchiner Manufacturing Company in Milford, also have exemplary records when it comes to dealing with their employees in the Reserves and National Guard.

Finally, New Hampshire's Governor Benson by Executive Order has also extended differential pay for up to 18 months to State employees who have been called to active duty.

Unfortunately, an arcane IRS interpretation of tax law actually penalizes these kinds of employers that voluntarily pay their National Guard and reservist employees the difference between their military stipends and their previous civilian salaries—which appropriately is called ''differential pay.'' The law also penalizes employers that continue making contributions to retirement plans for such employees.

According to the IRS, members of the Guard and reserves called up for active duty are required to be treated as if they are on a leave of absence by their employers under the Uniformed Services Employment and Reemployment Rights Act of 1994, USERRA. Therefore, the act does not require employers to pay workers who are on active duty. However, many employers—out of a sense of civic duty—continue to pay active duty Guard members and reservists the difference between their military stipends and their regular salaries with some employers providing such ''differential pay'' for up to 3 years. In additions, many of these remarkable companies go even further and allow their active duty employees to continue making contributions to their 401(k) retirement plans via deductions from the ''differential payments.''

However, rather than applauding and encouraging such selfless behavior by companies in continuing to provide retirement benefits for Reservists, the IRS's 1969 Revenue Ruling requires that the active duty workers be treated as if they were ''terminated.'' As a result, this law then puts at risk the retirement plan for an employer's entire workforce and could make all amounts in the plan immediately taxable to the plan's participants and the employer. Adding to the absurdity of the situation, preventing an employer from treating ''differential pay'' as wages under the law means employers are prohibited from withholding income taxes, which in turn causes their active duty former employees to face large and unexpected tax bills at the end of the year.

We should change this Vietnam War-era IRS interpretation of tax law that actually penalizes responsible, caring, patriotic employers like BAE Systems, Hitchiner Manufacturing, and many other companies who voluntarily provide differential pay. I have offered a bill to do just that, S. 2448, but the problem could be corrected more appropriately and quickly by the Internal Revenue Service by revising the outdated revenue ruling that effectively discourages employers from providing additional pay to their employees who are reservists or Guard members called to active duty. The sense of the Senate amendment I am offering today urges the Internal Revenue Service to reconsider the ramifications of applying a Vietnam-era revenue ruling to the prevailing circumstances of the present day.

Specifically it expresses the sense of the Senate that the IRS should, ''to the extent it is able within its authority, provide guidance consistent with the goal of promoting and ensuring the validity of voluntary differential pay arrangements, benefits payments, and contributions related thereto.''

Employers should not be penalized for the generosity they provide to our nation's reservists and members of the Guard. This sense of the Senate urges the Internal Revenue Service to help employers avoid these problems.

Mr. President, I also ask unanimous consent a newsletter be printed in the RECORD from BAE Systems titled ''Connections,'' published last month, that outlines the differential pay benefits that BAE provides their employees called up to active National Guard or Reserve duty.

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

BAE SYSTEMS SPOUSES GET SUPPORT WHILE LOVED ONES ARE MILES AWAY FROM HOME

Marine Corps Reserve Sgt. Hunter Philbrick returned to his civilian job as a Milford, N.H., police officer in January. His year-long military deployment in support of the War on Terrorism was made a little easier by BAE Systems' support for his family.

Sgt. Philbrick's wife Tina—a senior program control administrator on the F/A–22 program—says the Company helped to ease the difficulties of her husband's absence. Philbrick is one of four Information & Electronic Warfare Systems (IEWS employees whose non-BAE Systems spouses have been called to active duty over the past few years.

''It was really, really appreciated.'' says Philbrick.

''IEWS is committed to supporting its Reservists,'' said Jon Murphy, vice president of IEWS' Human Resources. ''IEWS' policy goes well beyond the 1994 Uniformed Serviced Employment and Reemployment Rights Act (USERRA).''

IEWS' policy is so strong, a New Hampshire state legislator recently attempted to model state policy after IEWS' outreach towards its Reserve and Guard employees.

''IEWS' policy is seen as a real beacon of support for our Guard and Reserve employees and their families.'' said Dennis Viola of the State Veterans Council. ''When we asked Ted Kerr of the New Hampshire Guard office about company policies to emulate, he didn't hesitate to mention BAE Systems and Public Service of New Hampshire.''

IEWS employs 72 U.S. military Reservists or National Guardsmen and women. Nine of these employees, currently on active duty, support operations Nobel Eagle, Enduring Freedom, and Iraqi Freedom. Four other employees have non-BAE Systems spouses also called to active duty.

''Anything the Company does for members of the military and their families is really appreciated'' Said Philbrick.

BAE Systems does all it can to support men and women in uniform and that includes employees who are ''Citizen Soldiers'' by

serving in the National Guard and Reserve. Not only do we support those directly serving in the Armed Forces, but we're also here to help the families of troops. Whether it's through a Charity Challenge bike drive where employees raise money and donate time to build bikes for distribution to local military families, or through a business unit stipend, we stand behind men and women who choose to serve our country. Support may vary somewhat between business units and locations, but the desire to do the right thing is always there.''

Mr. LEVIN. The amendment has been cleared.

Mr. WARNER. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3164) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3295

Mr. WARNER. Mr. President, I call up an amendment on behalf of the Senator from Wyoming, Mr. ENZI, amendment No. 3295. My understanding is it has been cleared on both sides.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3295) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3307

Mr. LEVIN. Mr. President, I call up an amendment on behalf of Senator HARRY REID. I believe it is No. 3307.

Mr. WARNER. There is no objection on this side.

The PRESIDING OFFICER. The amendment is pending.

Mr. LEVIN. Mr. President, this amendment provides for parallel compensation for our POWS from the first gulf war. I think the language is at the desk.

Mr. REID. I appreciate very much the hard work of these two great Senators. I especially appreciate their recognizing the importance of this amendment. We had 17 American prisoners of war, and they were treated very brutally, with jaws broken, electricity applied to various parts of their body. A number of the 17 have permanent damages as a result of this brutal treatment.

They had a large judgment at one time. It was opposed by the Justice Department. Last week, that was knocked out.

I simply want, as the ranking member of the committee said, that these POWs who were so brutalized have equal treatment with the Iraqis who were brutalized in the prison in Iraq. This does not call for a specific sum of money. It just says the Defense Department must come up with a plan for these 17 people before we agree to anything for the Iraqis who the Secretary of Defense has said should be compensated.

It is the fair thing to do. We have these 17 brave American patriots who feel put down by their Government for having had Saddam Hussein's money at one time taken away from them.

Mr. WARNER. Mr. President, I associate myself with the remarks of our distinguished Democratic leader. The amendment is carefully thought through. It should be given to these men and families.

I would like to be added as a cosponsor.

Mr. LEVIN. Mr. President, let me add my thanks to the Senator from Nevada for, as always, looking out for the interests of our troops, the men and women in the Armed Forces. Where it is necessary to make up for failures, he is the first to find ways to do that. It is a very important function of this Senate. I commend the Senator.

I ask to be added, also, as a cosponsor.

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

The question is on agreeing to the amendment.

The amendment (No. 3307) was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, while I have the attention of the two managers of the bill, just so other Senators have an idea of what we on this side are planning on doing, I have consulted with the distinguished manager of the bill on our side. Senator CRAPO is going to try to offer an amendment sometime tomorrow. Once that is resolved one way or the other, the next Democratic amendment in order will be by the distinguished Senator from Illinois. So that is going to be our next amendment in order following the Crapo amendment. We are having a few little parliamentary problems with that right now, but we will work on that through the evening and tomorrow.

Mr. WARNER. Mr. President, reserving the right to object, and I do not think I will, I just want to clarify the situation. I would have to object now to any further amendments being laid down tonight.

Mr. REID. No. If my distinguished friend will yield, Mr. President, what I simply said is that it is my understanding the next Republican amendment in order is the Crapo amendment. We have an objection on our side at this time that that amendment be laid down.

Mr. WARNER. Right.

Mr. REID. We are going to try to resolve that. What I indicated is that following that amendment, we would likely go to Senator DURBIN, unless Senator CANTWELL wants to offer hers. But those are our next two amendments in order, and the next one will either be Cantwell or Durbin, whenever she decides she wants to offer hers. That is just an agreement so people know what we are trying to do on our side.

Mr. WARNER. Fine. I hope we are not asking for any unanimous consent to lock anything in. You are simply notifying the Senate. I would like to be cooperative to see that sequence of events transpires. So at this time there will not be a laying down of an amendment.

Mr. REID. That is right. Until we get the matter resolved with Senator CANTWELL and Senator HOLLINGS, we will not be able to go to the Crapo amendment. We are going to work on that. But after that, we have a number of amendments on our side that we want to offer, and I have indicated to the Chair what we plan to do.

Mr. WARNER. So we have had a colloquy in which we have indicated this is the manner in which we hope to proceed. We will have the Kennedy amendment first. Once that is concluded—presumably there will be a rollcall vote—then we will proceed to the next amendment. It is a Republican that is in the queue. It is likely to be Mr. CRAPO. At that time, I hope this matter will be resolved so there can be this sequence of events.

Mr. REID. One reason I want to do this, I say through the Chair to the distinguished managers, is that Senator DURBIN is a very patient man. He has actually three amendments. He is only going to offer one at this time. He always is willing to wait until someone else does something else, and in this instance we believe he should be one of those first Democratic amendments offered because he has been ready to go for some time.

Mr. WARNER. Mr. President, that choice is entirely on your side. If that is your wish, I think, in all likelihood, it will take place.

Mr. DURBIN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. DURBIN. Mr. President, I am not sure who has the floor at this moment.

Mr. WARNER. At this point in time the Chair is perfectly in order to recognize the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President. I thank the chairman of the committee, Senator WARNER, and his ranking member, Senator LEVIN, for their endurance and patience.

This is an extremely important bill with many important issues. I say to the Senators, you have served the Senate well, both of you, in the manner you have handled this bill. Many of us with amendments that we consider of importance have stepped back, some

because of events, such as the departure and the demise of President Reagan, and others because of other issues.

It is my understanding that there will not be a unanimous consent request tonight in terms of the order of business. I am not going to make one. I thank Senator REID for acknowledging that I do have several amendments pending. I am anxious to call up the amendments. I will agree to time limits on debate so this will not go on for a lengthy period. I would just like to bring the matters to the floor for resolution.

Mr. WARNER. Mr. President, does the Senator from Illinois have the number of the amendment he is likely to propose in the event the sequence of events as outlined by the three Senators here, momentarily, evolves?

Mr. DURBIN. I thank the Senator from Virginia. I spoke to him earlier about an amendment relative to the policy on torture. That is amendment No. 3386. But I would like to defer that until the Senator from Virginia has had a chance to review it, in the hopes he will be supportive.

Another amendment is No. 3196, reservist pay. This is an amendment which passed the Senate with a 96-to-3 vote last year, which I am hoping we can make a part of this bill. Finally, I have an amendment relative to the sale of dietary supplements on base exchanges, amendment No. 3225. Those are the three amendments I have pending.

Mr. WARNER. I say to the Senator, thank you.

Now, Mr. President, I think that concludes the matters with regard to this bill for tonight. I believe we can now proceed to wrap-up session.

MORNING BUSINESS

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

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

TRIBUTE TO FORMER PRESIDENT RONALD REAGAN

Mr. LUGAR. Mr. President, I pay special tribute to Nancy Reagan who has been indispensable throughout the public life of the Reagans, and particularly during this past decade. It was my privilege to sit beside Mrs. Reagan during several White House and Republican Party events and to understand her strength and shared dream for America.

The service of President Reagan to our country can only be approached by understanding how wide he cast the net of potential achievement, and fulfillment of dreams, hopes and visions.

President Reagan actually believed and articulated that our country had a special destiny, that no barriers were insurmountable because we are Americans. He actually believed and said that the Soviet Union was an evil empire, that its political and economic institutions were disintegrating, and that if its leadership and people knew the alternatives which our country presented, they would choose democracy and market economics.

President Reagan was prepared to invest an increasing portion of our national treasure in military defense with the certainty that we would negotiate successfully with our adversaries from a position of strength. He shocked foreign policy and defense specialists by proposing that all intermediate nuclear missiles be destroyed, a negotiating position labeled universally as a bizarre arms-control non-starter.

He affirmed the staying power of NATO by deploying Pershing missiles to Germany and cruise missiles to Italy even after the Soviets declared that such deployment would end all arms control negotiations and stimulate Soviet nuclear buildup.

Add to this, President Reagan's startling proposal that the United States should develop a Strategic Defense Initiative to protect our country against incoming missiles fired upon us. He contended that we should and could try to defend ourselves against the so-called balance of terror.

He proposed to President Gorbachev that the United States and the Soviet Union ban all nuclear weapons. In fact, he was confident that if he could take Gorbachev on an extended tour of America that Gorbachev would want to shape the Soviet Union into many of our successful traditions.

Meanwhile, President Reagan knew that substantial new growth must occur in our domestic economy to pay for the special leadership role he had envisioned in foreign policy. He was confident that substantial cuts in individual marginal tax rates and a host of investment incentives would establish and sustain the longest peacetime prosperity we had ever enjoyed. Our prosperity underwrote the magnificent gains in free and fair trade which he championed and world wide wealth grew abundantly.

When Ronald Reagan stood on a balcony of the Reichstag in Berlin and challenged Gorbachev to tear down the Berlin Wall, he could see white crosses just below where courageous persons seeking freedom had lost their lives in that pursuit. Everything still appeared to be so locked up and grim, and sophisticated observers were barely patronizing in comment on his Berlin wall challenge.

The ''evil empire'' crumbled, the Berlin wall and other walls fell, all of the Intermediate Nuclear Force weapons were destroyed exactly in three years as the INF Treaty provided, and the United States became the only superpower with the strongest economy and the ability, uniquely, to extend military authority around the world.

All of this occurred because President Reagan persuaded the Congress and his countrymen to build our armed forces, to build our economy through the growth incentives termed ''Reaganomics,'' to maintain the successful strategies of our NATO alliance, to utilize military force to support foreign policy as required, and to commence Strategic Defense Initiative research.

We now know that the Soviets were much weaker than experts estimated. We now know that they could not keep up the pace and that desperate attempts to do so led to the collapse of the Soviet Empire and then to the collapse of the Union, itself.

President Reagan advocated two more things which were inspiring and critically important in world history.

First, he rejected the Brezhnev Doctrine, the idea that territory which socialism had occupied could never be reclaimed. When he advocated this roll back of the iron curtain, he created deep anxiety and alarm among most international foreign policy advisers who loved liberty a lot, but loved stability even more.

U.S. Stinger missiles shipped to the expert ministrations of the Mujadahin in Afghanistan were a major instrument of the Soviet roll back, and the world watched in awe as the Soviet troops withdrew to a smaller Socialist world.

Second, President Reagan enunciated a new policy in a statement sent to the Congress after the Philippine election and revolution. He stated that henceforth, we would oppose tyranny of the left and tyranny of the right, that we were for democracy developed by people who sought to know and enjoy democracy and human rights. This statement was severely criticized by experts who suggested that in the ''real world'' a good number of dictators were friendly to the U.S. and certainly useful in waging the cold war against Communism.

In articulating his vision on the roll back of the Iron Curtain; in identifying with nations all over the world who applauded our passion for building democratic institutions; in celebrating human rights and free market principles; in all of these areas, Ronald Reagan was far ahead of the prevailing wisdom. Yet he ultimately brought other leaders in America and around the world to his point of view in a relatively short interval.

President Reagan was courageous and on the right side of history. He performed these deeds in a very public way which instructed and inspired others. Those of us in public service learned much from President Reagan as we watched him speak and act. He was charismatic, he was determined and consistent, and he enjoyed a remarkable batting average of being right.

Mr. GRASSLEY. Mr. President, at sunset last Friday, the 40th President of the United States was laid to rest on a hill overlooking the Pacific Ocean. The consummate optimist, who etched the promise of a ''shining city upon a