

life. It was my privilege to join those who immediately volunteered to serve. I am proud of the service that I rendered as an Officer in the United States Army which included serving in the United States, Europe and the Pacific.

The attack on Pearl Harbor was the beginning of America's direct military participation in World War II. For nearly 4 additional years, the Allied Powers fought the forces of fascism and tyranny around the globe. With the passage of time, and understanding the great strength of our armed forces, it may be difficult to remember the challenge our military faced despite our resolve and resources. We faced formidable and determined foes, but ultimately they were no match for the courage and bravery of our Allied Forces.

On September 11 of this year, we again witnessed an attack on American soil. As Chairman Emeritus of the Senate Armed Services Committee, I am honored to be in a position to support our President and our brave men and women in uniform in the cause to rid the world of international terrorism. The terrorists who committed this act of cowardice thought they could destroy the American spirit, but as experience taught me 60 years ago, this will only make us stronger as a Nation. Furthermore, I see the same spirit of unity and determination that I saw then. They were wrong then, they were wrong now and we will prevail.

Today we honor the memory of those who fought for freedom in that great conflict 60 years ago. As a veteran, I have a special appreciation for the service and sacrifice of those men and women who fought so hard to protect and preserve American ideals and freedoms. We recognize that Americans are again in harm's way, fighting to protect our freedom and our way of life. My appreciation extends to all those who continue to answer the call of our Nation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, let me quickly join everyone else in congratulating our colleague from Hawaii who has always been very kind to me and to my wife and family. I appreciate it very much.

We have reached an impasse here. It is clear that we need something to sort of break the logjam. It seems to me the logical thing to do is to try to demonstrate the direction in which we are not going to go, so hopefully we can change direction and find bipartisanship in passing this bill.

Everybody knows we have to have a Defense appropriations bill. Often in trying to get on the right road, it is an important step to get off the wrong road. When you are going in the wrong direction, it is important to stop so that you might go in the right direction. In order to try to break this logjam, it is my purpose to make a point of order against the committee substitute.

Let me make a parliamentary inquiry. Are we on the Defense appropriations bill now and that substitute?

The PRESIDING OFFICER. The bill has not yet been laid down.

Mr. CARPER. Will the Senator yield?

Mr. GRAMM. I yield to the Democrat floor leader for the purpose of laying the bill down.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, what is the order before the Senate?

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 3338) making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I want to make sure the Senator from Texas maintains the floor. The Senator from Delaware wishes the floor.

Mr. CARPER. May I make a unanimous-consent request to address the Senate for 1 minute as in morning business.

Mr. REID. Madam President, that will be fine, if the Senator from Delaware addresses the Senate for up to 2 minutes, with the Senator from Texas having the floor as soon as he completes his statement as in morning business.

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

Mr. GRAMM. Was the request that he speak and then it come back to me, or I finish and then it goes to him?

Mr. REID. Let him do his 2 minutes.

The PRESIDING OFFICER. The Senator from Delaware.

HONORING SENATOR INOUE

Mr. CARPER. Madam President, Senator INOUE has been a good friend and mentor to this new Senator, as has a Senator I call "Mr. Secretary," the former Secretary of the Navy, Senator WARNER from Virginia, who also has been a good counselor and advisor to me. When these two Senators stood and entered the armed services six decades ago almost, they raised their arms and took an oath to defend our Constitution against all enemies, foreign and domestic. They participated in a war that brought us in the 20th century to become the great Nation we are today.

Sixty years ago today, Pearl Harbor was bombed. Two hundred fourteen years ago today, the Constitution which they took an oath to defend was first ratified by any State in the United States of America. Two hundred fourteen years ago today, in a place called the Golden Fleece Tavern in Dover, DE, about 30 delegates who had

been there for 3 days debating what steps to take decided that Delaware should be the first State to ratify our Constitution and provide the foundation which has enabled our Nation to survive World War I and World War II, the Korean war, the Vietnam war, the war against communism, to win the battle against the Great Depression.

We are fighting another war on terrorism around the world and here in this country and other places. That Constitution, which provides us with our three branches of Government—the legislative branch, of which we are one-half, the executive branch, and the judicial branch—the most enduring of any constitution in the world, which provides the foundation for the longest living democracy in the history of the world, was first ratified today 214 years ago.

Any country that can survive two world wars and a civil war and the Great Depression, vanquish the Communists, we can certainly handle the terrorists, and we can handle the issues that divide us here today. I am confident we will.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator from Delaware for his thoughtful remarks and for his service to the Nation in the U.S. Navy, when I happened to have been Secretary of the Navy. He is very respected for that period when I was the boss.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 2002—Continued

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I raise a point of order against the pending committee substitute amendment. The pending committee substitute amendment violates section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I also 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. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, the motion to waive the point of order is before the Senate. I ask unanimous consent that the time for debating that

motion to waive the point of order be divided 50/50; that is, Senator STEVENS and Senator BYRD each control 30 minutes. Additionally, I have a request for time from Senator BOXER, and I ask unanimous consent that she be given 5 minutes in addition to the 1 hour.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Did I understand there will be 1 hour equally divided on the debate?

Mr. REID. Yes, that is right.

Madam President, I state, through the Chair to the distinguished Senator from West Virginia, that I asked for 5 additional minutes for Senator BOXER. In fairness, we should give 5 additional minutes to the other side. So that would be an additional 10 minutes.

Mr. BYRD. Madam President, as the request is worded, time on quorum calls, et cetera, would not be counted because the word is "debate"; am I correct?

Mr. REID. The Senator is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

Mr. BYRD. Madam President, my inquiry was made because I want to be sure we have 1 hour on the debate. It is going to take us a few minutes to get some chairs, and I do not want that time coming out of the debate. So there is no ulterior or devious motive behind my having asked that question.

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.

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

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

Mrs. BOXER. Madam President, I thank Senator REID and my colleagues for giving me this 5 minutes in support of Senator BYRD's motion.

We are living through a very difficult time in our history. This particular campaign we are in is unlike any other we have faced. There are people in our own country and perhaps in as many as 80 countries who are dedicated to harming our people. As has been noted, we have had more casualties in this campaign on the homefront, in the homeland, than we have actually had in the theater of war.

We have a crisis to which we must respond. With his wisdom gained in al-

most 50 years in the Congress, Senator BYRD is leading us in a direction we should all follow. I am deeply distressed that the other side of the aisle does not seem to want to follow Senator BYRD's leadership.

I have been in the Congress for 20 years, Senator BYRD for 49 years. The President of the United States has served in office, all told, 7 years as a Governor and a year as President. Our President has said it is important to be humble. I call on him to be humble and to listen to the words of a man who understands what the role of the Congress should be in this time of terror, Senator ROBERT BYRD.

We are facing threats that we have never faced before. There is not any debate in this body on that. We are facing the threat of smallpox. Anyone who has seen the presentation called "Dark Winter," anyone who has spoken to physicians, knows this is a disease that will kill one out of three people it strikes. This is a weapon of a terrorist. Will it ever strike? We pray to God, no. Could it strike? Yes. In what form? Will it be someone spraying this deadly disease at a mall? Or will it be a number of people getting on a plane with the disease? We don't know. Maybe it will never happen. And we pray it will never happen. But we know we only have 15 million doses of the vaccine. We are very hopeful it can be diluted to provide up to 77 million doses. But the fact is, we need to move quickly.

I know our Secretary of Health and Human Services is moving to procure those vaccines. But we also need to buy antibiotics in case we get more anthrax cases. We need to find cures for diseases such as smallpox, Ebola virus. I have met with companies in California and other places that are working diligently to find cures for smallpox, for Ebola viruses, and other deadly viruses. We need the funding for that. Senator BYRD has done that.

We all worked hard on an aviation security bill and the President signed that bill, but there is much more to be done. Just listen to Norman Mineta. He will tell you. We have to have more of the machines that check for bombs in cargo holds. The FAA has not even ordered more machines. I have talked to the companies. They can produce 50 a month, and Envision, one of the companies, has not gotten a phone call. There is not the money. We need more air marshals. We are getting some; we don't have near enough. We need the funding for that.

I speak because on this one there is a hole in my heart. We lost 39 Californians. Every hijacked plane was heading for California. Those long-haul flights need air marshals. These flights had the heavy fuel loads and the light passenger loads. Those were the targets of the terrorists.

We need more security at our nuclear plant facilities. We must have more security there. That costs money. You don't do that on the cheap. In California, we have two plants at San

Onofre located at Camp Pendleton, two at Diablo Canyon near San Luis Obispo. They need the National Guard. They need permanent protection. We know about dirty bombs and what they can do—if they get their hands on that plutonium. We need to guard against that happening. Senator BYRD does that.

Our own Homeland Security Director has talked about all of these issues. Yet we seem to have a partisan battle where there should be no room for partisanship. I ask my colleagues on the other side of the aisle, what are they against? The money for food safety? The money to fight bioterrorism? The money to give to our law enforcement throughout the land, working so hard, 12 and 14 hours a day, to ease their pain? To put more people on the ground? Are they against firefighter programs? Border security? Airport security? Nuclear plant security? How about U.S. ports, those vulnerabilities? We know what could happen if we do not protect our infrastructure.

It is pretty simple to me. Senator BYRD has stepped out. There can be no one who has reached more across the aisle than Senator BYRD and Senator STEVENS, that is for sure. We saw it a couple of minutes ago. So I say to my colleagues, let's be bipartisan.

I ask for 30 additional seconds.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

Mrs. BOXER. Let's be bipartisan when it comes to defending the homeland, just as we are so bipartisan when it comes to supporting our President in this fight abroad.

My mother used to say, in the old days: Penny wise and pound foolish. It is something we always heard from our moms. You make these investments now.

Last point. The President does not have to spend the money. The way Senator BYRD has structured it, it is entirely up to him. Why would he not want to have that insurance in his pocket so if we had another attack we would not have to immediately be clamoring for another session of Congress? Let's do the right thing and follow the leadership of Senator BYRD today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Has the Senator from California completed her statement?

Mrs. BOXER. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. I will take 3 minutes off our side's time.

Mr. STEVENS. I suggest the time just be given to the Senator from North Dakota rather than invade Senator BYRD's time. We are happy to yield 5 minutes to the Senator without any limitation on it.

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

Mr. CONRAD. I thank my colleague from Alaska for his graciousness with

respect to the time. Once again, he has demonstrated why he is one of the most respected Members of this body. He is truly a gentleman.

Madam President, the question before us is whether or not the additional funds to strengthen homeland defense and to rebuild what has been destroyed in New York should be approved. The basic question is whether or not it goes over what is provided for in the budget. There is no question it is over and above what is in the budget. That is because America was subjected to a sneak attack on September 11.

Terrorists attacked this country and that has required a response. It has necessitated increases in spending for national defense. It requires us to build up our defenses against bioterrorism. It requires us to strengthen the security at our airports, at our harbors, at our nuclear facilities. All of that costs money.

Of course, it was not in the original budget agreement. These are funds over and above what was anticipated because no one could have anticipated in April a terrorist sneak attack against the United States. I am chairman of the Budget Committee. I have argued all throughout the budget process, all throughout the tax process, for us to respect the integrity of the trust funds of the United States. They are in danger. They were in jeopardy before the attack on September 11. Our first priority has to be the defense of this Nation. I think each and every Member of this Chamber understands that is the first obligation of each and every Member of this body and of the other body.

The basic argument on the Republican side is we should wait: We probably are going to have to have these additional expenditures, but we should wait until next year. Their argument is this adds to the deficit.

I think we should look at what else is being proposed, what else is being considered in this Chamber to evaluate the merits of their argument. The fact is, the Republican stimulus plan that is also being considered simultaneously with the legislation before us now adds \$146 billion more to deficits than the Democratic stimulus plan. The Democratic plan in 2002, with all that has happened—the attacks on this country, the additional spending, the economic downturn—will have a \$32 billion deficit in 2002. The Republican plan will generate a deficit in this fiscal year of \$47 billion. In fact, we could accommodate the entire additional spending to protect this Nation and to rebuild New York and not have more of a deficit than the Republican plan for fiscal year 2002.

For 2003, the Democratic plan has a deficit of \$3 billion. The Republican plan has a deficit of \$66 billion. That is 22 times as much of a deficit for the year 2003 than it is in the Democratic plan.

For 2004, the Democratic plan emerges from deficit with a \$45 billion projected surplus, while the Republican plan is still in deficit by \$23 billion.

Over the first 3 years of this budget plan, the Republican overall budget blueprint will create \$136 billion of additional deficits, of additional debt. The Democratic plan will actually have \$10 billion of surplus. So there is a total difference between the two plans—the Republican stimulus plan over the Democratic stimulus plan—of \$146 billion of budget deficits and of additional debt.

What Democrats are saying is we ought to accommodate the \$15 billion that Senator BYRD has identified that is critical to strengthening our homeland defense and to keeping the promise to rebuild New York. We can do that. We can do that and still have \$130 billion less of a deficit than the Republican budget plan.

To the extent this is an argument over deficits, there is no argument because the Democratic plan has far less in deficits—more than \$130 billion less—than the Republican plan.

We ought to thank and commend the chairman of the Appropriations Committee, Senator BYRD, and the Defense Appropriations Committee chairman, Senator INOUE, for coming forward with a plan that is responsible to defend America and to keep the promise to rebuild New York.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

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

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

Mr. BYRD. Madam President, how much time do I have?

The PRESIDING OFFICER. There are 30 minutes remaining.

Mr. BYRD. I thank the Chair.

Madam President, let us pause for a moment, back away, and determine if we might be able to see the forest and later see the trees.

Remember, Senators, that in this package I have offered, and which was adopted in the Appropriations Committee, I sought to do three things:

No. 1, to give the President every penny he asked for for defense. He requested \$21 billion. And there is not a penny cut away.

We have added \$7.5 billion for New York, et al, and \$7.5 billion for homeland defense.

We have a package that gives to the President \$21 billion for defense. It provides that New York City and other areas that were attacked on September 11 would get the \$20 billion that the President promised and to which we committed ourselves. On top of that, there is \$7.5 billion for homeland defense.

I didn't go to New York. I didn't go up there and promise that. But I saw, and I heard, with my heart and mind responding. We believe we ought to stand by our promises to New York, New Jersey, et al.

Some have argued that approval of \$15 billion for homeland defense and for New York disaster relief will result in pumping up spending for years to come. That is not my intent. In fact, I have included a provision in this bill directing OMB and the Congressional Budget Office to exclude the \$15 billion from baseline calculations of future spending. This \$15 billion supplemental is intended to respond to the urgent needs and vulnerabilities that have been created by the terrorist attacks of September 11 and the anthrax attacks. It is not a permanent increase in spending. It should not be a permanent increase in spending.

Having laid that to rest, let me read just a few excerpts from news stories. Let us talk about the homeland defense. Defense of the homeland is important and in the final analysis even more so than defense overseas.

The opposition that has raised this point of order is saying we can wait for defense of the homeland, we have to take care of our men and women overseas.

I am for doing everything within our power to defend the men and women whom we send overseas. As a matter of fact, I was the Senator who stepped forth several years ago during the war in Vietnam when my own party and my own majority leader at that time were opposed to attacking the Vietcong enclaves in Cambodia. I took the position that we had men in Cambodia and we ought to attack those enclaves. I took the position that we had a duty to do whatever was necessary and that the President of the United States, Mr. Nixon, had a duty to do whatever was necessary to protect the men and the women he sends overseas into battle—whatever is necessary. He had a right to do that. He had a duty to do it. My own party on that occasion took issue with that idea. They were opposed to bombing the enclaves in Cambodia, which were attacking our military men in South Vietnam.

So don't look at me and pretend I am a Senator who is battling for political reasons. I was not then. I am not now. This amendment is to protect the people here at home—relatives of those men and women who are overseas, children of those men and women who are overseas, mothers and fathers and sisters and brothers of those men and women who are overseas.

Ask the men and women overseas: How would you vote today? Would you vote for homeland security? Would you vote to advance the cause, to give homeland security a jump-start, to protect your people back home in the USA? And the people back home are not only the relatives of those men and women who are in Afghanistan; there are also military men and women here in this country, still. And they, too, might be subject to injury, to disease,

to death as a result of terrorist acts over here. How blind can we be?

So there is a division line here saying: Oh, we must do everything possible for our men and women overseas—and we are doing that; we are not cutting one penny out of defense abroad—but as to homeland defense, the Administration says let's wait, let's wait until we analyze and wait until we get further reports and wait until our department heads can come forward with proposals. Wait, they say.

Here is a story in *The New York Times* today in which [Mr.] Ridge Promises Security Funds "For States in Next Budget." When will that be? I will read just a bit:

A day after the nation's governors asked Congress for an immediate \$3 billion to fight terrorism, Tom Ridge, director of homeland security, promised that President Bush's budget proposal next year would include "substantial down payments" to the states for security.

Mr. Ridge spoke as questions of how much domestic security should cost after Sept. 11 have proliferated on Capitol Hill and as states, facing recession and budget shortfalls, are grappling with how to pay for new responsibilities to help guard borders, bridges, dams and nuclear power plants. . . .

On Wednesday, the National Governors Association released a preliminary survey of domestic security costs, estimating that they would run the states \$4 billion in the first year.

So here we are: The States of the Nation are grappling with serious problems involving their own budgets. They have budget shortfalls. They are crying out for help. And yet here we have the Director of Homeland Security saying: Wait—Wait.

We do not have time to wait. We do not have that luxury. A vote against my waiver of the point of order sends the message that it is more important to win a political battle than it is to win the war against terrorism.

Why will they not vote for this package? This package, as it was written originally, had an emergency designation which would say to the President: Here is the money. You do not have to spend it. You can spend it or not spend it, depending upon the circumstances at the time.

Well, the Senate has already stricken from that package the emergency designation. Now we are at the stage where we are going to vote to waive the point of order. Those who vote against the waiver send the message that it is more important to win a political battle than it is to win the war against terrorism. That is what a vote against the waiver means.

The President has said he will veto this bill if it has more money than he requested. Is the Senate going to be blind to the fact—and I have had Senators say to me: Well, why do we press ahead when the President has said he will veto? The answer is: If we back away every time a President threatens a veto, then the Chief Executive of this Nation will reign supreme. He will become an emperor. No matter what his political party, he will become an emperor, he will be king.

What would the Framers think of that? How would the Framers look upon this Senate that cringes when a President says he will veto? I think they would be dumbfounded to see that the time has come when the legislative branch will flinch, will cringe when a President issues a veto threat. Certainly the majority of the people in this broad land of ours feel that the time is at hand when we need to jumpstart homeland defense so that aid will immediately flow to the people at the local level: The policemen, the firemen, the paramedics, the people in the hospitals, the people in the labs, the people in the emergency rooms in the hospitals.

This is the time. If something happens tomorrow, tonight, next week, or the week after, the people at the local level need to know that their paramedics, their firemen, their policemen are going to have monetary assistance. The Governors will know that. The mayors will know that. Will our pleas fall upon deaf ears? Unfortunately, politics reigns supreme in this Capitol. Once again, the people will lose.

An entire Defense bill, representing months of work by Senator STEVENS, Senator INOUE, and others, is going to fall. Why? Because of political petulance. Ah, the Chief Executive, our people here say, must win. He has said he will veto. What is one man's judgment against the judgment of the majority of the people? It is obvious that the terrorists can strike. We know that. Anthrax taught us that.

I think this is an extremely unwise course to take in time of war. This is a war. Oh, Administration leaders say, we should not challenge the President. I say that this is not a challenge to anybody, except to the consciences of all of us who are sent here by the people of the United States. Will we let political blinders get in the way of what we know is right.

We all know it is right to provide protections to the people against the sinister, deadly attacks on our own shores. And we have seen them already. The people are crying out for help. Our military needs to know that games are not being played with defense. Can we not lift our eyes from Budget Act points of order long enough to do what our country needs us to do. Apparently not. So, keep your political blinders on. All that matters is winning for the President. Winning! That is all that matters.

I wish that, just once, the thick fog of cynicism—and it is so thick that you can cut it with a knife—could be lifted from this town. I wish, just once, we could listen to our hearts—pay no attention to politics, just listen to our hearts and clear our minds of fog and political partisanship. Let our hearts and clear, rational minds, not the hot-heads—not the hotheads of political gamesmanship—guide our actions. In this game of political cloak and dagger, the only ones being stabbed in the back are the American people.

Now, each of us is going to have to stand before the American people and answer questions. If this point of order prevails, we break our promise to the people to protect them. We break the promise to the people of New York City to help them with this tragedy. We continue the decades of partisan political squabbling that so often occupy us in this self-consumed, cynical, myopic town.

When I came to the legislative branch, we had two major political parties. In the year that I came here to the legislative branch, the Republicans were in control. Joe Martin of Massachusetts, Republican, was the Speaker of the House of Representatives. John Tabor of New York was the Republican chairman of the Appropriations Committee in the House. Yes, those men were politicians, but first of all they were patriots.

And how about those men at Valley Forge? How about those men who wrote the Constitution, how would they feel? How would those Framers feel? What would they think if they could hear the arguments, the pitiful, weak arguments that are being advanced against this package? How would they feel if they could read in the press of our day what is being said by those who oppose this package? Wouldn't they say: Let's work together? Wouldn't they say: We, the Framers, wrote "we the people, in order to form a more perfect union." How would the Framers feel about that? We are not forming a more perfect union here in this Senate. No, we are using a point of order that requires 60 votes to overcome. We are going to vote the party line and turn our backs and give the back of our hands to the American people.

We can't be proud of ourselves. Oh, we win the political battle: oh, yes, we will uphold the hands of our President when he carries out his veto threat.

Mr. President, I want to help the President. I want to help him keep his promises to New York. I want to help him keep his promises to the people of this country regarding homeland defense. We all know he made such promises. So it will be a political victory for the Administration. But where does that leave us? Where does that leave the people of the nation? They are going to have to wait. A supplemental will not be coming along for a while, and it won't be adopted for a while. I don't know how long. But we are going to say to the people: You wait.

Oh, yes, on fast track the President got on the White House phones, I am told, and called Members of the other body and said: Please, support your administration; we need fast track.

But, Mr. President, on Homeland defense, the Administration says, wait, wait, wait.

It seems to me to be a rather arrogant attitude on the part of the administration. They say: Wait, we will tell you, the Congress, how much we need. We will let you know when we have

done these analyses and after the departments have all gotten together and we have all come to a decision as to what we need, then we will tell you how much we need.

That is an arrogant attitude, Mr. President, in my opinion. What we are saying is, we want to help you, but we think the danger is there. We think we ought to act now. We ought not wait. That is what we are saying.

I hope all Senators will hear me. Hear me, Senators. Listen to what I am going to say. Under the Budget Act, legislation cutting taxes or increasing mandatory spending is supposed to be paid for because of the tax cut bill signed this summer. We are currently facing a 4-percent cut in Medicare spending in January. Hear me, Senators! I wish my voice could ring across the land, that the people could hear me, if they could have time to contact their Senators. Let me say it again: Because of the tax cut bill signed this summer, we are currently facing a 4-percent cut in Medicare spending in January.

A 4-percent cut in Medicare would result in \$8.5 billion in cuts for hospitals, physicians, home health agencies, skilled nursing facilities, and managed care plans. This isn't going to be easy. This is not going to be easy. You can wrap the robes of political partisanship around yourselves, but you won't keep out the chilly winds that are going to blow right in your face.

A 4-percent cut in Medicare would result in \$8.5 billion in cuts for hospitals, physicians, home health agencies, skilled nursing facilities, and managed care plans.

Such cuts may force health care providers to cut staff, threaten to cut the quality of care to our elderly who receive health care through Medicare, or force them to discontinue to see Medicare patients.

My proposal includes a provision to block—get this now, my proposal that is in this bill which is about to be brought down—my proposal includes a provision to block these Medicare cuts. So it is not going to be easy to explain to those people out there who are your constituents that it is more important to cast a political vote here than it is to cast a vote for the people back home.

Wait until those Medicare cuts face you, the Senators who will vote against this waiver. You will be hiding behind a sixty-vote point of order. I am not denying any Senator's right to make points of order. This is a 60-vote point of order. So we can hide behind that. Or can we? Think about it. There will be a few people, in this country at least, you will meet on the campaign trail who will have heard what you are about to do.

Any Member who votes against the motion to waive this 60-vote point of order is voting to allow the massive \$8.5 billion cut in Medicare to go into effect in January. Explain that one to your constituents. Explain that one to

your conscience. I don't propose to be anybody's keeper of conscience, but it would certainly be on mine if I voted that way.

There is no person of any party to whom I would give precedence for party reasons or preference in any way, over the obvious needs of the American people to be protected from terrorist attacks, and the needs of the people to be able to have their hospitals, their physicians, their home health agencies, their skilled nursing facilities and managed care plans not be jeopardized by this point of order.

Madam President, how much time do I have?

The PRESIDING OFFICER. Two minutes.

Mr. BYRD. Madam President, I again thank my friend. And we hear that term used so loosely in this body and on Capitol Hill, "my friend." He is my friend, this man. I admire him. There is something behind the political facade of this man. He is a man. He is a man, and here is a man in DANNY INOUE. I thank him as we soon will come to a close, I assume. I may need some more time. The distinguished Senator from Alaska yesterday gave me as much time as I asked for, and I will be requesting that time again.

I believe the Senator from Massachusetts wanted me to yield to him at this point. How much time does the Senator wish?

Mr. KENNEDY. Five minutes, I say to the Senator.

Mr. BYRD. Madam President, I only have something near 2 minutes left.

Mr. STEVENS. I yield the Senator 15 minutes of our time.

Mr. BYRD. The distinguished Senator yields me 15 minutes, and I thank him.

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

Mr. BYRD. I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Madam President, today is Pearl Harbor Day. Just a short time ago, we had an enormously moving moment in the Senate. We do not have many emotional moments in this institution; certainly few as important and emotional as we had earlier today when our good friend, the Senator from Alaska, paid tribute to our beloved friend, genuine patriot, and hero, Senator INOUE, for his service in World War II.

Americans are thinking about today December 7, a day when America was caught unprepared in World War II. We came together as a nation, and we were victorious, with a great deal of courage and a great deal of bravery, but also a great deal of suffering, certainly, at Pearl Harbor.

We are also mindful of what happened on September 11 when we saw the failure of our intelligence system and the failure of our security systems at our airports—two massive failures. We saw Americans suffer loss of life, and families who have lost loved ones are feeling it more now than ever at

the holiday season. I am sure everyone in this body has talked in their States with those families who have lost loved ones. This all because we were unprepared to deal with the terrorist attacks: during World War II on December 7 and again this year on September 11.

The amendment that is offered by the Senator from West Virginia says: Enough is enough. We are facing a new world, a new time. This Defense appropriations bill says we will give all the support our service men and women need who are fighting overseas in Afghanistan and across the world preserving peace and preserving our liberties. We are prepared to do that.

But we have been exposed in recent times to another kind of threat and danger. That threat and danger, even though it cost the lives of only 5 Americans, has touched those families. But more importantly, it has put a sense of concern and perhaps even anxiety in the hearts and souls of all Americans in every part of the Nation. It is the threat of the unknown, and that is the dangers of bioterrorism. This is a real problem in a real time.

The amendment of the Senator from West Virginia is in response to that challenge. It is the first opportunity to do something. His proposal is a modest program compared to what the experts have recommended. It is a proposal that ought to be supported now.

Yesterday we heard from former Governor Ridge saying next year the administration is going to propose hundreds of millions of dollars, perhaps even billions of dollars, for homeland security to help the Public Health Service, to build the laboratories, support the personnel, support the hospitals, develop the communications systems, do what is necessary in early detection, containment, and treatment of bioterrorism. Why are we waiting for next year when the danger is here today—Friday—when we will have a chance to vote on this measure?

The sad fact is that every day we delay is another day's head start for the terrorists. While we debate, they plan. While we defer, they prepare. Even now the terrorists may be preparing fresh batches of anthrax for wider and more deadly attacks.

We cannot wait until next year to fulfill our constitutional duty to protect the American people from this threat. Every day we delay means that States cannot buy the equipment necessary to upgrade their laboratories; they cannot buy the computers and fax machines to communicate the information crucial to identifying and containing an attack; they cannot hire the personnel they need to do the work. It means another day in which hospitals cannot purchase the reserve stocks of antibiotics; cannot add emergency room capacity; and cannot improve their ability to treat infected patients.

This is the issue. The Byrd amendment responds to this in a responsible way, in a way that is consistent with

all those who know the nature of this threat. We know there is a potential danger of Ebola. We have no possible cure for Ebola. Why are we waiting to get our best scientists and researchers into the laboratories to work on this issue?

That is what the amendment of the Senator from West Virginia is all about. It is responsible, it is responsive, it is thoughtful, and it is an essential step forward in protecting American families across this country. This amendment deserves the support of all the Members.

I thank the Senator from West Virginia for his leadership in this area, as in so many other areas.

Mr. BYRD. Madam President, I thank the distinguished Senator. How much time remains?

The PRESIDING OFFICER. Nine minutes thirty seconds.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. The junior Senator from Louisiana wishes to have some time. I understand. How much time does she desire?

Ms. LANDRIEU. I would like 3 minutes.

Mr. BYRD. I yield 3 minutes to the distinguished Senator.

Ms. LANDRIEU. I thank the Senator.

Madam President, I have come to the Chamber to support the Senator from West Virginia and to associate myself with the remarks that he has made and the Senator from Massachusetts has made. This is a very critical time and a very critical consideration.

I was given a most magnificent book yesterday—it is appropriate that I would have this book in the Senate Chamber today—which says, as the Senator from Alaska and the Senator from Hawaii beautifully called to our attention this morning, December 7, that 60 years ago our Nation became one.

On September 11, our Nation became one again. I wish the camera could pick up the opening of this Time Life book that is on the stands today as we speak: A firefighter from New York and Mayor Giuliani, one of the great leaders of this tragedy. The book details in some of the most graphic, horrific pictures of the Twin Towers that no longer exist, the devastation of that day, New York, the great symbol of economic freedom and justice in the world.

The television cameras cannot grasp the significance of the devastation, but in these still pictures in this book, one can see the slight wing of the plane as it comes to hit the World Trade Tower,

and then again the next picture of this plane coming from this direction, planned this way, 20 minutes later, so the world could catch the terrorists destroy the symbols of power and might of capitalism in the world because they do not like it, because it lifts millions of people out of poverty and gives hope where there is despair. They do not like what it stands for so they destroyed it.

Look at these flames. There is the body of one man burned beyond recognition. He chose to jump rather than be burned alive. There is another man crawling out of the window desperately hoping to reach the bottom from the 83rd floor which, of course, was not going to happen.

I do not know how quickly we forget—all of Manhattan up in smoke; one of the greatest cities not just in America but in the world in smoke, in flames. We think this is not going to happen again? It very well can.

In addition, not only is this an attack and a threat against our wellbeing, but it is an attack against our economy. Senator BYRD brings to us a responsible proposal to not only help make us more secure at home but create jobs in the spending and investments of these funds.

Today in the newspaper, anthrax was found again in the Fed's mail, anthrax found in the Federal Reserve Board of the Washington, DC, headquarters. This is what the Senator's amendment is trying to fund. I know there are disagreements about some of the details.

In conclusion, I hope we do not forget Pearl Harbor, I hope we do not forget September 11, and I hope we come together to find some kind of way to say, yes, it is important to fund the war in Afghanistan. But it is as important to contribute to the security of our buildings, our energy, our health care system at home.

I commend the Senator from West Virginia for his great work and am proud to support his efforts in the Senate.

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

The Senator from Alaska.

Mr. STEVENS. Mr. President, when the terrible terrorist attacks occurred on September 11, the Congress immediately started to work on meeting the needs of the people affected directly. On September 18, the President had signed the bill we passed providing the authority to spend \$40 billion. That \$40 billion was to deal with providing Federal, State, and local preparedness for mitigating and responding to attacks; providing support to counter, investigate, or prosecute domestic or international terrorism; providing increased transportation security; repairing public facilities and transportation systems damaged by the attacks; and supporting national security.

It provided that those funds could be transferred to any Federal Government activity to meet the purposes of the act: \$10 billion available to the Presi-

dent immediately, another \$10 billion available to the President 15 days after the Director of the Office of Management and Budget has submitted to the House and Senate Committees on Appropriations a proposed allocation and plan for use of the funds for that department or agency, and \$20 billion may be obligated only when enacted in a subsequent emergency appropriations bill.

That is this bill that is before us now. The House has passed it and the amendment that is the subject of the point of order is before the Senate. It is for the \$20 billion, but it is also for an additional \$15 billion beyond that.

I call attention to the Senate the fact the act that was signed by the President has these clauses in it:

That not less than one-half of the \$40 billion shall be for disaster recovery activities and assistance related to the terrorist acts in New York, Virginia, and Pennsylvania on September 11.

That is from the whole \$40 billion.

Provided further, that the Director of the Office of Management and Budget shall provide quarterly reports to the Committees on Appropriations on the use of these funds, beginning not later than January 2, 2002.

That is when the first quarterly report is available. And here is the key phrase:

Provided further, that the President shall submit to the Congress as soon as practicable detailed requests to meet any further funding requirements for the purposes specified in this act.

Let me read that again:

Provided further, that the President shall submit to the Congress as soon as practicable detailed requests to meet any further funding requirements for the purposes specified in this act.

I take no joy in being part of the process to bring down the substitute that has been offered by the Senator from West Virginia. As a matter of fact, as I said before, I spent hours working on some of the details in this bill. I do not think it is politically motivated at all. It is a sincere desire to make funds available, but in many ways those funds are beyond the basic act and that is why they were designated an emergency \$15 billion beyond the act, but they are for further funding requirements for the purposes specified in the act.

The President has taken the position he should be allowed to follow this law, he should be allowed to present detailed requests for the further funding requirements to meet the changed conditions of the country, in effect, following the September 11 terrorist attacks.

I originally started in the same position the Senator from West Virginia is in now. As the chairman of the committee, he had the duty to think through these things. I started out in the same position he had, but the further I thought about it and dealt with the President's request, the more I realized it was rationally based and it was what the Congress intended when

we passed the original law that provided the \$40 billion.

We said the President shall submit. It was a law that demanded the President submit to the Congress as soon as practicable detailed requests to meet any further requirements for purposes specified in this act.

By bringing down this substitute, what we do is allow the President to proceed under the law we have already enacted. He will present to us further requests to meet the needs of the Nation as detailed by him sometime after the first of the year and after that first report that is going to be filed on January 2 of next year to tell us how this money he had control over, the first \$20 billion, was spent.

We do not know that yet. We have estimates on how it might be spent, but we do not know how it has been spent. We will know in quarterly reports starting January 2, and the law presumes we are going to get another report every quarter on how that money was spent. That is good management.

While I regret supporting the position taken by the Senator from Texas as he has made the point of order against the substitute of the Senator from West Virginia, I think we will be back reviewing the President's detailed request early next year, and I expect that many of the requests the Senator from West Virginia has made will be honored by the Congress and by the President at that time.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 14 minutes. The Senator from West Virginia has 5 minutes 15 seconds.

Mr. STEVENS. I yield the remainder of our time to the Senator from West Virginia. The yeas and nays will be ordered at the expiration.

The PRESIDING OFFICER. The yeas and nays were ordered on the motion.

Mr. BYRD. I thank the distinguished Senator from Alaska. How much time do I have now?

The PRESIDING OFFICER. The Senator now has 19 minutes.

Mr. BYRD. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as we come to the conclusion of this debate, I draw to the Members' attention what those on the front lines of this battle have been saying about the need to dramatically increase our bioterrorism preparedness. It is important. They are the ones who have to deal with this challenge if we have a bioterrorist attack. They are the ones whose lives will be at risk. They are the ones who will detect and identify the threat. They are the ones who have to deal with it.

From the Association of the Public Health Laboratory: "Through the events of the past few months we have learned just how critical our public

health laboratories are to the public health system and to the nation's well-being," said the president, Mary Gilchrist, the president of the Public Health Laboratory. "While State and local lab have been effective so far, they are stretched. To respond adequately to future threats we must update our labs, staffing and technology and security."

The Byrd proposal would add the resources necessary to make us effective in dealing with this crisis.

From the National Association of County and City Health Officials—they are the first ones to detect this challenge: "[the association] believes that every community deserves the protection of a fully prepared public health system."

That is one of the great assets of the Byrd proposal. It will cover the whole country, not just some areas. The Byrd proposal provides the "resources needed to build the local public health infrastructure that the country lacks." We urge the "Congress to recognize the great urgency and magnitude of this task" and support the Byrd proposal.

This is the Council of State and Territorial Epidemiologists: "A number of the State organizations, including the Association of Territorial Health Officials, and the National Governors Association, have written to the President requesting" the funds that are included in the Byrd amendment.

Members could say those organizations want it because they have a particular interest. The fact is, they have the responsibility. They know what is needed.

We have statements from the American Medical Association supporting the need for increased bioterrorism preparedness:

We strongly support [this initiative] that would improve the public health, the hospital communications, the laboratory, emergency response preparedness focusing at the State and local levels.

American Academy of Family Physicians, the family physicians who will deal with this crisis:

By bolstering the role [in this instance] of CDC, in improving both the Federal and laboratory capacity and surveillance systems, the legislation provides the tools for early warning and quick response. And by enhancing the nation's stockpile of vaccines and by supporting the FDA's food inspection systems, the legislation builds a strong bioterrorism prevention.

Finally, the Association of American Universities:

As you well know, this research [involving hazardous pathogens and toxic agents] is a crucial component of an effort to protect the public from terrorism and disease, through the development of vaccines, diagnostics, and cures.

This amendment moves us down the road. These are all the front line organizations. They are the ones that know what the need is. Each and every one of them rise in total and complete and wholehearted support for increasing the nation's ability to respond to bioterrorism.

I thank Senator BYRD for yielding.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, to the credit of the administration and the Congress, a scant 3 days after the assault on New York, a \$40 billion emergency supplemental spending package was approved. My colleague, Mr. STEVENS, has called attention to that. At that time we could not fathom the anthrax-laced letters that were to disrupt the U.S. mail, cause the Hart Senate Office Building to close, taint letters up and down the east coast, and cause death and illness to postal workers and several other citizens who simply were unfortunate enough to open their mail.

At that point we did not know the extent of bin Laden's terror network in the United States and in 59 other countries. In the early days after the tragedy, we did not fully understand what the impacts would be on our Federal law enforcement entity. We were only just beginning to come to grips with the holes in our border security, the inadequacies of our customs inspection procedure, the potential for misuse of our largely unprotected nuclear facilities, food supplies, water supplies, and networks of communications and transportation. We had not fully come to grips with our deficit of small pox vaccines or the stretched-thin capacity of the CDC and local public health facilities and hospitals. We had no idea of the loss of life and financial devastation that had actually occurred in New York. We knew there was a deep hole in Lower Manhattan; that deep hole is still there today.

It was early at that time and we acted quickly, as we should have and did, but we did not have the full picture. Since that time we have learned much. We have learned that there are hundreds of vulnerabilities here at home. We have learned that bin Laden has thousands of faces in terrorist cells throughout the world and here at home. At a time when we are engaged in a war in Afghanistan, at a time when we are hunting bin Laden and his ilk worldwide, at a time when the administration has warned that any nation that harbors or funds terrorists might be subject to a military response from the United States, at a time when tensions in the Middle East are at powderkeg levels, I do not believe that a cut in the proposal for Homeland defense is wise or prudent.

We are in uncharted waters in stormy seas with a potential hurricane of violence just across the horizon. We know not what may be required of the brave men and women who wear the uniform of this great Nation abroad nor on how many fronts, including the homefront, simultaneously.

We may need every dollar of defense and more before it is over, but defense is defense, whether it is defense in Afghanistan or defense in New York or California or Alabama or Georgia or West Virginia. Airwars are effective, up to a point. They are also expensive. We

must not shortchange our national defense—at home or aboard.

Throughout our short history, Americans have always been able to pull out of such nosedives through a rallying of our spirit, the American spirit. Positive leadership—positive leadership by our Government, positive leadership that is not blinded by political party interests—is needed. American determination has taken on challenge after challenge and turned history our way, time after time, because we all came together.

Consider the Herculean task of building the Panama Canal; President Kennedy's call to put a man on the Moon, the Presidents' call to end the long twilight struggle of the Cold War; the phenomenal progress against cancer and other dread diseases. Americans are at their best when we actively take on a problem and marshal our energies, unblinded by political partisanship toward a goal.

But what is missing this time is bipartisanship in Washington. We talk a lot about it; we don't practice it. The people are united. As usual, they know what is important. But we do not seem to be able to pull together in this town, even in this time when the people of the United States are united. We are facing such a challenge now. Our people have responded bravely. We are aggressively pursuing terrorists and a government that sanctions terrorists in Afghanistan. But there is a need to do more here at home. The Nation needs to actively engage in a coordinated campaign to protect our people from the scourge of terrorist attacks on all possible homefronts.

We have been sent a horrifying message from the skies above New York and Washington, DC. In the evil content of tainted mail, we have seen this horrifying message. Up and down the east coast of this Nation, we have seen it.

To call these unbelievable acts a wake-up call is an understatement in the extreme. We have been roused from our sleep by a tornado of violence. We dare not risk an anemic response. To be tepid now is to be foolish. To be timid now is to tempt fate. The first responsibility of any government is to ensure the safety of the people. And tangential to that responsibility is to assure their peace of mind.

We cannot now afford the luxury of complacency. We dare not slip into a sense of false confidence. Every possible effort must be brought to bear to thwart this new and different kind of enemy, and we have not yet done enough.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, I want to say what I am about to say without giving an appearance that I am saying it with rancor or that I am attempting to lecture my colleagues. I am often charged in

the press with "lecturing" my colleagues.

I think of that great man in Roman history whose name was Helvidius Priscus. He was a Roman Senator.

The Emperor at that time was the Emperor Vespasian. He and Helvidius Priscus, the Senator, were very much at odds over a given issue, and the Roman Senate was about to decide this issue. The Emperor saw Helvidius Priscus as Priscus was about to enter the Senate. The Emperor stopped Helvidius Priscus and said: Don't go in to the Senate today.

Helvidius Priscus—ah, there was a man of courage. There was a man who saw his duty first, a man who saw his duty to the people, his duty under the Roman Constitution. And he saw through the cynical fog and kept his eyes on his duty. And he said: O Emperor, you have the power to make a Senator and to unmake a Senator. But as long as I am a Senator—and you appointed me—it is my duty to go into the Senate.

Vespasian said: All right, but don't answer any questions.

Helvidius said: If I am not asked any questions, I will keep quiet. But if I am asked a question, I must answer it.

Vespasian said: Then, if you answer it, you will die.

Helvidius Priscus responded: O Emperor, it is in your power to do what you will. It is my duty to say and do where my conscience leads me. If I am asked a question, I will answer it.

The question was asked. Helvidius Priscus answered the question—not in accordance with the Emperor's will. Helvidius did his duty. Vespasian kept his promise that he would execute Helvidius. And Helvidius Priscus died because he stood with his own conscience where duty lay, rather than with an emperor's demand with which he strongly disagreed.

I say that today so that the record for all time will be reminded of a Roman Senator who did his duty as his own conscience directed him, rather than obey a ruler's command—even though the ruler had appointed him to the high office of Senator.

Thank God we in this country of ours are not appointed as Senators by any President. When I was majority leader of the Senate and the President of the United States was Jimmy Carter, I said: I am the President's friend, but I am not the President's man. I am the Senate's man.

I don't hold myself to be a great paragon of anything. But I do believe in a Senator's constitutional oath. I am not appointed by any President, whether it is Mr. Carter, whether it is Mr. Clinton. I will be courteous, I will try to be fair with any President, but no President will tell me, as a Senator, how to vote.

Now, that ought to be the attitude of every Senator. I have seen other Senators here, on both sides of the aisle, who have stood by that duty. But I have seen a change in this body. Where

are our heroes? Where are our Senators of today, Mr. President? Having been a Member of this Senate, now, 43 years, about to enter my 44th year in the Senate, my 50th year in the Congress, and in my own 85th year, I must say that it troubles me, more than anything else, to look about me and see men and women who are elected by the people of their respective States, to come here and to represent the people, who would bow the knee before any President of any party.

We have no king in this country. To those who say, "Well, he has threatened a veto, why should we push on?" that is as much as to say that any time a President says he will veto a measure, we as Senators should not press forward with what we believe is right, we should not do what we think is right, instead, we must listen to that threat of veto and do what the President tells us to do. That makes an emperor of a man who is not an emperor.

How much time do I have?

The PRESIDING OFFICER. Thirty seconds.

Mr. BYRD. Mr. President, I have great respect for every Senator. I have tremendous respect for Mr. GRAMM, the Senator from Texas who made the point of order. I have the highest respect for TED STEVENS on that side of the aisle. I have said that many times.

I don't indulge any rancor at all in my heart, nor should any Senator toward any other Senator. But I must say that I am troubled greatly when we have come to the point in this Republic of ours when men and women who are elected and who swear an oath to support and defend the Constitution while standing at that desk with their hand on the Holy Bible, let their political partisanship cloud their vision. The President didn't elect me. I don't say that out of disrespect for him. He didn't elect me. The people of West Virginia elected me. They elected me to use my best judgment on great national issues. They did not elect me to say whatever the President wants me to say, or to allow any President to tell me how to vote.

It hurts me in my heart to think that men and women fail to see where their duty lies under the Constitution.

I beg all Senators' forgiveness, but after being here 49 years this year, I cannot help but say that that troubles me.

When you get what you want in your struggle for pelf,

And the world makes you King for a day,
Then go to the mirror and look at yourself,
And see what that guy has to say.

For it isn't your Father, or Mother, or Wife,
Who judgement upon you must pass.

The fellow whose verdict counts most in your life

Is the guy staring back from the glass.

He's the fellow to please, never mind all the rest,

For he's with you clear up to the end,
And you've passed your most dangerous,
most difficult test

If the man in the glass is your friend.

You may be like Jack Horner, and "chisel" a plum,

And think you're a wonderful guy,
 But the man in the glass says you're only a
 bum
 If you can't look him straight in the eye.
 You can fool the whole world down the path-
 way of years,
 And get pats on the back as you pass,
 But your final reward will be heartaches and
 tears
 If you've cheated the man in the glass.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say through you to the distinguished senior Senator from West Virginia that I can remember the first press conference we did on homeland security. I stood proudly by you on that day, and we have worked on this. He has worked on it 110 percent more than I. But I want the Senator to know that I am going to go home tonight, tomorrow, or whenever we finish this legislation, and I will be able to look in that glass because I know I did the right thing by standing next to the Senator from West Virginia on this legislation.

It is the right thing to do. It is the important thing to do. I have been around a few years. I have seen it whittled away, and they are going to try to take this from you. The reason I feel so badly about it is I don't think the country is going to be as safe for my family and the people of the State of Nevada if this amendment is taken down. It is a good piece of legislation.

I wish to publicly express my appreciation to my friend from West Virginia for allowing me to stand by him on this legislation.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. All time having expired, the question occurs on the motion to waive section 302(f) of the Congressional Budget Act. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 50, nays 50, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—50

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Miller
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carnahan	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Cleland	Kennedy	Schumer
Clinton	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

NAYS—50

Allard	Craig	Gregg
Allen	Crapo	Hagel
Bennett	DeWine	Hatch
Bond	Domenici	Helms
Brownback	Ensign	Hutchinson
Bunning	Enzi	Hutchison
Burns	Feingold	Inhofe
Campbell	Fitzgerald	Kyl
Chafee	Frist	Lott
Cochran	Gramm	Lugar
Collins	Grassley	McCain

McConnell	Shelby	Thomas
Murkowski	Smith (NH)	Thompson
Nickles	Smith (OR)	Thurmond
Roberts	Snowe	Voinovich
Santorum	Specter	Warner
Sessions	Stevens	

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 50.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The substitute exceeds the allocation of the subcommittee in violation of subsection 302(f) of the Budget Act. The point of order is sustained. The amendment falls.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, would the President repeat for the benefit of all of us, those of us who couldn't very well hear what was being said, would the Chair repeat what he just said.

The PRESIDING OFFICER. The substitute exceeds the allocation to the subcommittee in violation of section 302(f) of the Congressional Budget Act. The point of order is sustained. The amendment falls.

The Senator from West Virginia.

Mr. BYRD. Mr. President, the Senate has spoken on the point of order. I ask the leadership—and I will yield to the Senator from Nevada without losing my right to the floor—if we could have a period of time during which Senators may speak, perhaps as in morning business—misstating the true purpose of morning business, but that is understood by all—so that I could meet off the floor with my own leadership, hopefully for a brief time, after which I would hope that I could meet with my own leadership, Senators DASCHLE and REID, together with my chairman of the Defense Appropriations Subcommittee and with the ranking member of the Defense Appropriations Subcommittee, in other words, Mr. INOUE, and Mr. STEVENS, and that in the meantime, Senators can continue speaking or whatever the leadership would like to be doing. I would say that we would need probably an hour and a half, maybe a little longer, to consider the matter as it faces us now. I wonder if the leadership wishes to respond to that.

Mr. REID. I say to my friend from West Virginia, I wonder if it would be appropriate that we proceed now, if the Senator will agree, to a period for morning business for 1 hour, and then we will come back and revisit the situation.

Mr. MCCAIN. I object. I reserve the right to object. We have been on this bill now for a long period of time. There are a lot of us who want to talk about the bill, a lot of us who have a lot of amendments. It is time to move forward with the process.

I object to going into morning business. I am glad to have discussion of the legislation. I intend to speak on it at some length, and I intend to propose an amendment or amendments and begin their consideration. Those of us who strongly object to this legislation

and the porkbarrel spending—it is the most egregious I have ever seen—should very soon have the right to begin amending to restore some kind of sanity and fiscal discipline to this process. So I object to going into morning business.

I will seek recognition both for addressing this legislation and for amendments. I hope there are other colleagues of mine on both sides of the aisle who share this concern.

Mr. REID. Mr. President, who has the floor, the Senator from Nevada or the Senator from West Virginia?

The PRESIDING OFFICER (Mr. WYDEN). The Senator from West Virginia has reserved his right to the floor.

Mr. BYRD. Mr. President, I yield to no man when it comes to putting the defense of this Nation ahead of all other things. I have no problem with the Senate proceeding—I expected it to at some point—with the Defense bill. I expected Senators to have an opportunity to offer their amendments. But I also think at the moment, this matter that we have thought so much about, worked hard to develop some approach; namely, homeland defense—we are at a point where we think this is the matter that is most important before the Senate.

I did not hold up this Defense appropriations bill to this point. The House did that, but I have the right—I can hold the floor also. I want to reach a sensible, commonsense conclusion to this, and I am willing to sit down with our counterparts and do so. I make no threats. The Senator is not impressed by threats. Neither am I. I am not wanting to hold up the bill ad infinitum, but it only came to us a few days ago. Our committee has responded magnificently.

The Senator can say what he wishes and do what he wishes, but there are others in here who are just as firm in our patriotism for this country as is the Senator from Arizona. If he wants to talk about pork, we will talk about pork at an appropriate time. I hear that theme song over and over and over, and I see items in the newspapers that are not accurate when they talk about pork. They are not accurate today, but this is no time to go into that. There is something more important.

If the Senator wants to object, he can object. If he thinks that will gain time, let him see.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded for the purpose of talking about Pearl Harbor Day.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue with the call of the roll.

The assistant legislative clerk continued the call of the roll.

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

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

Mr. INOUE. Mr. President, I ask unanimous consent that for the next 60 minutes no amendments be in order to the bill; that Senator CLELAND now be recognized to speak for up to 5 minutes, followed by Senator MCCAIN for 45 minutes, followed by Senator WELLSTONE for 10 minutes, and at the end of that time the majority leader or his designee be recognized.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Mr. President, I ask for 5 minutes at the end of that to make this a 65-minute request.

Mr. INOUE. I am happy to add the additional 5 minutes for Mrs. HUTCHISON.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. CLELAND. I thank the Chair.

(The remarks of Mr. CLELAND pertaining to the introduction of S. 1785 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I am sorry to say that whether or not we resolve our differences over spending that exceeds limits set by the Budget Act, the Department of Defense appropriations bill will still fail to meet its most important obligation. In provisions too numerous to mention, this bill time and time again chooses to fund porkbarrel projects with little, if any, relationship to national defense at a time of scarce resources, budget deficits, and underfunded urgent defense priorities.

America is at war, a war that has united Americans behind a common goal of defeating international terrorism. Our service men and women are once again separated from their families, risking their lives, working extraordinarily long hours under the most difficult conditions, to accomplish the ambitious but necessary tasks their country has set for them.

The weapons we have given them, for all their impressive effects, are in many cases neither in quantity nor quality the best our Government can provide.

For instance, stockpiles of the precision guided munitions that we have relied on so heavily to bring air power to bear so effectively on difficult, often moving targets, with the least collateral damage possible, are dangerously depleted after only nine weeks of war in Afghanistan. This is just one area of critical importance to our success in this war that underscores just how carefully we should be allocating

scarce resources to our national defense.

Yet despite the realities of war and the responsibilities they impose on Congress as much as the President, the Senate Appropriations Committee has not seen fit to change in any degree its usual blatant use of defense dollars for projects that may or may not serve some worthy purpose, but that certainly impair our national defense by depriving legitimate defense needs of adequate funding.

Even in the middle of a war, a war of monumental consequences and with no end in sight, the Appropriations Committee, still is intent on using the Department of Defense as an agency for dispensing corporate welfare. It is a terrible shame and derogation of duty that in a time of maximum emergency, the Senate would persist in spending money requested and authorized only for our Armed Forces to satisfy the needs or the desires of interests that are unrelated to defense and even, in truth, uninterested in the needs of our military.

In this bill, we find a sweet deal for the Boeing Company that I'm sure is the envy of corporate lobbyists from one end of K Street to the other. Attached is a legislative provision to the fiscal year 2002 Department of Defense appropriations bill that would require the Air Force to lease one hundred 767 aircraft for use as tankers for \$20 million apiece each year for the next 10 years.

The cost to taxpayers? More than \$2 billion per year, with a total price tag of \$30 billion over 10 years. This leasing plan is five times more expensive to the taxpayer than an outright purchase, and it represents more than 20 percent of the Air Force's annual cost of its top 60 priorities. But the most amazing fact is that this program is not actually among the Air Force's top 60 priorities nor do new tankers appear in the 6-year defense procurement plan for the Service!

That's right, when the Air Force told Congress in clear terms what its top priorities were tankers and medical lift capability aircraft weren't included as critical programs. In fact, within its top 30 programs, the Air Force has asked for several essential items that would directly support our current war effort: wartime munitions, jet fighter engine replacement parts, combat support vehicles, bomber and fighter upgrades and self protection equipment, and combat search and rescue helicopters for downed pilots.

This leasing program also will require \$1.2 billion in military construction funding to build new hangars, since existing hangars are too small for the new 767 aircraft. The taxpayers also will be on the hook for another \$30 million per aircraft on the front end to convert these aircraft from commercial configurations to military; and at the end of the lease, the taxpayers will have to foot the bill for \$30 million more, to convert the aircraft back—

pushing the total cost of the Boeing sweetheart deal to \$30 billion over the ten-year lease. That is a waste that borders on gross negligence.

But this is just another example of Congress's political meddling and how outside special interest groups have obstructed the military's ability to channel resources where they are most needed. I will repeat what I've said many, many times before—the military needs less money spent on pork and more spent to redress the serious problems caused by a decade of declining defense budgets.

This bill includes many more examples where congressional appropriators show that they have no sense of priority when it comes to spending the taxpayers' money. The insatiable appetite in Congress for wasteful spending grows more and more as the total amount of pork added to appropriations bills this year—an amount totaling nearly \$14 billion. And although we are 68 days into the new fiscal year, we still have four appropriations bills left to complete before we adjourn.

This defense appropriations bill also includes provisions to mandate domestic source restrictions; these "Buy America" provisions directly harm the United States and our allies. "Buy America" protectionist procurement policies, enacted by Congress to protect pork barrel projects in each Member's State or district, hurt military readiness, personnel funding, modernization of military equipment, and cost the taxpayer \$5.5 billion annually. In many instances, we are driving the military to buy higher-priced, inferior products when we do not allow foreign competition. "Buy America" restrictions undermine DoD ability to procure the best systems at the least cost and impede greater interoperability and armaments cooperation with our allies. "They are not only less cost-effective, they also constitute bad policy, particularly at a time when our allies' support in the war on terrorism is so important.

Secretary Rumsfeld and his predecessor, Bill Cohen, oppose this protectionist and costly appropriations' policy. However, the appropriations' staff ignores this expert advice when preparing the legislative draft of the appropriations bill each year. In the defense appropriations bill are several examples of "Buy America" pork—prohibitions on procuring anchor and mooring chain components for Navy warships; main propulsion diesel engines and propellers for a new class of Navy dry-stores and ammunition supply ships; and, other naval auxiliary equipment, including pumps for all shipboard services, propulsion system components such as engines, reduction gears, and propellers, shipboard cranes and spreaders for shipboard cranes.

If it was not for the great cost to our military and the taxpayer, drafting "Buy America" provisions must be a somewhat amusing project for staff and the Members of the Appropriations

Committee. An example of this language follows:

None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under, unless the anchor and mooring chair are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

That has to be entertaining to some government classes around America.

Also buried in the smoke and mirrors of the appropriations markup is what appears to be a small provision that has large implications on our warfighting ability in Afghanistan and around the world. Without debate or advice and counsel from the Committee on Armed Services, the appropriators changed the policy on military construction which would prohibit previous authority given to the President of the United States, the Secretary of Defense, and the Service Secretaries to shift military construction money within the MILCON account to more critical military construction projects in time of war or national emergency. The reason for this seemingly small change is to protect added pork in the form of military construction projects in key States, especially if such projects have historically been added by those Members who sit on the Military Construction Appropriations Subcommittee at the expense of projects the Commander in Chief believes are most needed to support our military overseas.

In the usual fashion, legislative riders that probably would not make it through the normal legislative process are tacked onto this must-pass appropriations bill. For example, a provision was added to this bill to enact legislation to federally recognize native Hawaiians, similar to the status afforded to American Indians and Alaskan Natives.

I have no objection to the substance of this legislation on its face. I do object that not a hearing has been held—no consideration, no debate—on an issue that could obligate the Government of the United States to billions and billions of dollars in funding, but also significant obligations as far as land, water, and other vitally needed national resources are concerned.

How in the world do you justify, on a Defense Appropriations Committee bill, a change in policy, a far-reaching change in policy regarding our treatment of native Hawaiians?

In fact, no one would even know what we are passing into law because only

vague references are included. Only careful observers would recognize what these three lines in this appropriations bill actually stand for in a 24-page bill. Does the Appropriations Committee have any respect for the authorizing committees in the Senate?

This bill also clearly tramples on the jurisdiction of the Commerce Committee by making unauthorized appropriations out of the airport and airways trust fund, particularly for the Airport Improvement Program. There are hundreds of millions of dollars in spending out of the trust fund, perhaps as much as \$715 million, that are not explicitly authorized. Furthermore, \$306.5 million of the civil aviation spending in this bill was not requested by the President. Of the money that was requested, the President did not ask that it be taken out of the aviation trust fund.

Finally, the trust fund is supposed to be devoted to the infrastructure needs of the national aviation system, but this bill uses the trust fund essential air service, which may be a worthy program but is not eligible for these moneys.

Earlier this week, the Senate approved the Department of Transportation appropriations bill. That bill was an egregious overreach by the appropriators. In redirecting the programmatic expenditures and directives developed under the law by the authorizing committee, there were more than \$4.1 billion in earmarked projects in that bill and a statement of managers redirecting funding that should have gone to the States but instead was used as a slush fund by the appropriators to earmark their home State projects.

Here we are, only a few days later, and we are once again facing another appropriations bill that continues the unacceptable overreaching by the appropriators with respect to authorized transportation programs. For example, under division B, chapter 10, the bill provides \$100 million for Amtrak for "emergency expenses to respond to the September 11, 2001 terrorist attacks, for necessary expenses of capital improvement."

This funding is not authorized, nor has it been requested by the administration. The Senate-Commerce-Committee-reported S. 1550, the Rail Security Act of 2001, would authorize funding for Amtrak safety and security needs, primarily tunnel improvements in New York, Maryland, and DC. Under S. 1550, however, the funding would only be released to Amtrak after Amtrak submits a plan to the Secretary of Transportation for addressing safety and security that is then approved by the Secretary. The accompanying DOD report language states that the funding provided for Amtrak:

... will be used solely to enhance the safety and security of the aging Amtrak-owned rail tunnels under the East and Hudson Rivers.

However, neither the bill nor the report provides any Federal oversight by the Department of Transportation of

the additional taxpayer dollars that would be provided to Amtrak.

Additionally, the bill provides for \$110 million, \$10 million of which was requested by the administration in "miscellaneous appropriations" to the Federal Highway Administration.

By the way, I want to remind my colleagues, this is a Defense Appropriations Committee bill—to the Federal Highway Administration. The accompanying report directs that \$100 million of these funds be used for construction of ferries and ferry facilities in New York to cover for the loss of the PATH transit services between New York and New Jersey that have not been requested by the administration.

Not only did the administration not request the funding, it is not even clear if the ferry services being sought are the right solution. The goal should be to rebuild the PATH system, not replace it with a less efficient ferry service. While ferry service may be required, it may be a relatively short-term need and is one that can and is being addressed with current assets. Further, the bill provides \$100 million for Federal transit administration capital investment grants that were not requested by the administration. The accompanying report then earmarks the entire amount for use by transit authorities most impacted by the September 11 terrorist attack.

Under division C, the DOD appropriations bill provides \$12 million for shipbuilding loan guarantees under title XI of the Merchant Marine Act of 1936. This is by far the most egregious use of a national emergency designation as an excuse for porkbarrel spending that I have ever seen.

The Maritime Administration is today preparing to make one of the largest single default payments in the history of the Shipbuilding Loan Guarantee Program, due to the bankruptcy filing of the American Classic Voyages Company on its loans. MARAD has asked the Treasury for \$250 million to pay off loans which have been called under American Classic's guarantees.

Further, the Department of Transportation Inspector General is investigating the loan guarantee program as a result of American Classic's default, the default of the SEAREX program earlier this year and problems with several other title XI loan guarantee projects that are having difficulties at this time.

Specifically, the inspector general is looking into the title XI procedures for submitting reviewing, approving, and monitoring title XI loan guarantees, and whether merit procedures were adequately effected and implemented in order to protect the interests of the United States. Why would we now have an additional \$12 million for new loan guarantees when there are obviously problems with the program, I might add, for a program the administration has recommended not to fund at all.

While a report accompanying the bill recommends new funding to be used to

cover the loans for port security infrastructure and equipment, that is not allowed under current law. The funding will go into an account that is designated solely for shipbuilding loan guarantees. I note the bill provides \$11 million in appropriations to the Maritime Administration for general port security improvements. While I fully support the need for increased security at our Nation's seaports, and I am a co-sponsor of legislation that would create a new program to provide port security funding, I cannot support funding for a program in a manner that is not allowed under the law while we are in a period of deficit spending.

The President has repeatedly said that he will come back to Congress in the spring with a request for additional funding as needed, and if legislation to change the law with respect to port security funding is successful, the funding could be provided at that time. But for now, providing \$12 million for shipbuilding loan guarantees at a time when the program's current and future operations are under review would be a serious breach of our responsibilities to the American taxpayer.

Under division E, the so-called technical corrections division, the appropriators do what they do best, redirect current laws developed by the authorizers. Amazingly, the appropriators are already seeking to "correct" the Transportation appropriations bill approved by the Senate earlier this week, and it hasn't even been signed into law.

For example, under Section 109, the appropriators take an additional \$29.5 million from the State's funding that was to be distributed according to the Transportation Equity Act, TEA-21, the multiyear highway funding legislation of 1998, and to be effective through 2002, and transfer that \$29.5 million to the Woodrow Wilson Bridge Project to restore the project's funding that will be reduced as a result of the enactment of the Transportation appropriations bill. This provision would now bring the total loss for the State allocation to over \$450 million.

The Department of Transportation appropriations bill already has reduced the State's funding by \$423 million, but this bill will ensure the Wilson Bridge Project is held harmless with respect to the appropriators' earlier funding redirectives.

Section 111 also amends TEA-21 just as it did so many times in the Transportation appropriations bill and, in this case, adds additional directives for the benefit of Alaska. Specifically, Section 111 would amend the list of high priority project designations by adding to item 1497, which states, "construct new access route to Ship Creek access in Anchorage" and words "construct capital improvements to intermodal marine freight and passenger facilities and access thereto."

Under section 112 it would amend the Department of Transportation appropriations bill which, as I just mentioned, hasn't even been signed into

law. First, it would add yet another earmark in the Transportation Community System Preservation Program, a program the appropriators funded at more than 10 times the authorized level, and earmarked every cent, and directed \$300,000 for the US-61 Woodville widening project in Mississippi. It then directs \$5 million of the Interstate Maintenance Program for the City of Trenton/Port Quendall, WA, Project.

Haven't these States had enough earmarks already?

I note the bill would direct that \$3,170,000 of the funding provided for the Research and Special Programs Administration be used for research in special programs, and \$226,000 of funds provided for the pipeline safety program shall remain available until September 30, 2004.

Since when do we appropriate money beyond the fiscal calendar year?

The \$273 million for the Coast Guard in the \$20 billion supplemental is a plus-up of \$70 million over the \$203 million requested by the Administration. The Administration's request would fund the personnel costs for reserve personnel brought on active duty, purchase small boats for port security, and prevent several cutters and aircraft from being decommissioned. The additional \$70 million not requested by the administration would fund \$50 million for entitlements authorized by the National Defense Authorization Act (NDAA), but not provided in the Transportation appropriations act and \$20 million for additional domestic port security teams.

The \$12 million for the Coast Guard in the Byrd homeland defense supplemental would provide additional funding not requested by the Administration for the Coast Guard to provide enhanced port security operations and conduct port vulnerability assessments. The Department of Transportation currently has a Maritime Direct Action Group that is studying port security requirements. The administration plans to base future port security funding requests on this group's recommendations.

This legislation includes language that recommends \$8.25 million for emergency grants to assist public broadcasters in restoring broadcasting facilities that were destroyed in the collapse of the World Trade Center. This provision allows public broadcasters to receive 100 percent of the total amount for cost recovery of their facilities. Other public broadcasters seeking funding for the construction of similar facilities will only receive 75 percent of the total amount, as set forth in section 392(b) of the Communications Act of 1934. This provision is inconsistent with the act and is selectively unfair to those who are seeking similar funding.

I look forward to the day when my appearance on the Senate floor for this purpose are no longer necessary. There is over \$2.2 billion in unrequested defense programs in the defense appro-

priations bill and another \$2 billion for additional supplemental appropriations not directly related to defense that have been added by the chairman of the committee. Consider what that \$4.2 billion when added to the savings gained through additional base closings and more cost-effective business practices could be used for. The problems of our armed forces, whether in terms of force structure or modernization, could be more assuredly addressed and our warfighting ability greatly enhanced. The public expects more of us.

But for now, unfortunately, they must witness us, blind to our responsibilities in war, going about our business as usual.

I ask unanimous consent that a list of Appropriations Committee earmarks be made a part of the RECORD.

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

FY 2002 Defense Appropriations Pork (in millions)

DIVISION A	
Operation and Maintenance, Army:	
Fort Knox Distance Learning Program	3.0
Army Conservation and Ecosystem Management	5.0
Fort Richardson, Camp Denali Water Systems	0.6
Rock Island Bridge Repairs	2.75
Memorial Tunnel, Consequence Management	19.3
FIRES Programs Data	8.0
Skid Steer Loaders	10.0
USARPAC Transformation Planning	10.0
USARPAC Command, Control, and Communications Upgrades	3.7
Hunter UAV	5.0
Field Pack-up Systems	5.0
Unutilized Plant Capacity	25.0
SROTC—Air Battle Captain	1.25
Joint Assessment Neurological Examination Equipment	3.0
Operation and Maintenance, Navy:	
Naval Sea Cadet Corps	2.0
Shipyards Apprentice Program ..	4.0
PHNSY SRM	15.0
Warfare Tactics PMRF	24.0
Hydrographic Center of Excellence	3.5
UNOLS	3.0
Center of Excellence for Disaster Management and Humanitarian Assistance	5.0
Biometrics Support	3.0
Operation and Maintenance, Air Force:	
Pacific Server Consolidation	10.0
Grand Forks AFB ramp refurbishment	10.0
Wind Energy Fund	0.5
University Partnership for Operational Support	4.0
Hickam AFB Alternate Fuel Program	1.0
SRM Eielson Utilidors	10.0
Civil Air Patrol Corporation	4.5
PACAF Strategic Airlift planning	2.0
Elmendorf AFB transportation infrastructure railroad alignment	12.0
Operation and Maintenance, Defense-Wide:	
Civil Military programs, Innovative Readiness Training	10.0

<i>FY 2002 Defense Appropriations Pork (in millions)—Continued</i>	<i>FY 2002 Defense Appropriations Pork (in millions)—Continued</i>	<i>FY 2002 Defense Appropriations Pork (in millions)—Continued</i>
DoDEA, Math Teacher Leadership	Direct Support Squadron Readiness Training	Dermal Phase Meter
1.0	5.0	0.6
DoDEA, Galena IDEA	Shipbuilding and Conversion, Navy:	Minimally Invasive Surgery Simulator
4.0	SSGN (AP) Program Acceleration	2.0
DoDEA, SRM	193.0	Minimally Invasive Therapy
20.0	Other Procurement, Navy:	10.0
OEA, Naval Security Group Activity, Winter Harbor	JEDMICS	Anthropod-Borne Infectious Disease Control
4.0	5.0	3.0
OEA, Fitzsimmons Army Hospital	Pacific Missile Range Equipment	VCT Lung Scan
7.5	6.0	4.5
OEA Barrow landfill relocation	IPDE Enhancement	Tissue Engineering Research
4.0	6.0	5.5
OEA, Broadneck peninsula NIKE site	Pearl Harbor Pilot	Monoclonal Anti-body based technology (Heteropolymer System)
1.5	5.0	3.55
OSD, Clara Barton Center	AN/BPS-15H Navigation System	Dye Targeted Laser Fusion
1.5	9.0	4.0
OSD, Pacific Command Regional initiative	Tactical Communication On-Board Training	BESCT Lung Cancer Research Program (MDACC)
7.0	6.5	5.0
OEA, Adak airfield operations ..	Air Traffic Control On-Board Trainer	Joint Diabetes Program
1.0	4.0	10.0
OSD, Intelligence fusion study ..	WSN-7B	Center for Prostate Disease Research
5.0	6.0	7.5
Operation and Maintenance, Army National Guard:	Naval Shore Communications ..	Spine Research
Distributed Learning Project ...	48.7	2.5
30.0	Missile Procurement, Air Force:	Brain Biology and Machine Initiative
ECWCS	NUDET Detection System	3.0
5.0	19.066	Medical Simulation training initiative
Camp McCain Simulator Center, trainer upgrades	Other Procurement, Air Force:	0.75
4.7	CAP COM and ELECT	TACOM Hybrid Vehicle
Fort Harrison Communications Infrastructure	10.4	2.0
1.2	Pacific AK Range Complex Mount Fairplay	N-STEP
Communications Network Equipment	7.4	2.75
0.209	UHF/VHF Radios for Mount Fairplay, Sustina	IMPACT
Multimedia classroom	3.5	5.0
0.85	Clear Laser Eye Protection	Composite Body Parts
Camp McCain Training Site, roads	4.0	2.0
2.5	Procurement, Defense-Wide:	Corrosion Prevention and Control Program
Full Time Support, 487 additional technicians	Lithium Ion Battery technology	2.0
13.2	10.0	8.0
Emergency Spill Response and Preparedness Program	National Guard and Reserve Equipment:	Vehicle Body Armor Support System
0.79	Navy Reserve Misc. Equipment ..	3.8
Distance Learning	15.0	Casting Emission Reduction Program
30.0	Marine Corp Misc. Equipment ..	8.36
SRM reallocation	10.0	Managing Army Tech. Environmental Enhancement
25.0	Air Force Reserve Misc. Equipment	1.0
Operation and Maintenance, Air National Guard:	10.0	6.0
Extended Cold Weather Clothing System	Army National Guard Misc. Equipment	Visual Cockpit Optimization
5.0	15.0	12.0
Defense Systems Evaluation ...	Air Guard C-130	JCALs
2.5	182.0	12.0
Eagle Vision (Air Guard)	Research, Development, Test, and Evaluation, Army:	Electronics Commodity Pilot Program
10.0	Environmental Quality Technology Dem/Val	1.0
Bangor International Airport repairs	10.36	Battle Lab at Ft. Knox
10.0	End Item Industrial Preparedness Activities	5.0
Aircraft Procurement, Army:	Defense Research Sciences Cold Weather Sensor Performance ..	10.0
Oil debris detection and burn-off system	4.0	TIME
5.0	Advanced Materials Processing ..	Force Provider Microwave Treatment
ATIRCM LRIP	5.0	2.0
Procurement of Weapons and Tracked Combat Vehicles, Army:	FCS Composites Research	Mantech Program for Cylindrical Zinc Batteries
BFVS MOD	5.0	2.6
14.0	AAN Multifunctional Materials ..	Continuous Manufacturing Process for Mental Matrix Composites
Bradley Reactive Armor Tiles ..	2.5	3.0
24.0	HELSTF Solid State Heat Capacity	Modular Extendable Rigid Wall Shelter
Arsenal Support Program Initiative	5.0	3.0
5.0	Photonics	Combat Vehicle and Automotive technology
Other Procurement, Army:	Army COE Acoustics	20.0
Automated Data Processing Equipment	5.0	Auto research center
14.0	Cooperative Energetics Initiatives	3.0
Camouflage: ULCANS	5.0	Research, Development, Test, and Evaluation, Navy:
8.0	TOW ITAS Cylindrical Battery Replacement	Southeast Atlantic Coastal Observing System (SEA-COOS) ..
Aluminum Mesh Tank Liner	3.0	8.0
AN/TTC Single Shelter Switches w/Associated Support	2.1	Marine Mammal Low Frequency Sound Research
38.0	2.0	1.0
Blackjack Secure Facsimile	Improved High Rate Alkaline Cells	Maritime Fire Training/Barbers Point
10.0	1.3	3.0
Trunked Radio System	Low Cost Reusable Alkaline (Manganese-Zinc) Cells	3-D Printing Metalworking Project
2.0	0.6	3.0
Modular Command Post	Rechargeable Cylindrical Cell System	Nanoscale Science and Technology Program
5.0	2.0	3.0
Laundry Advance Systems (LADS)	Waste Minimization and Pollution Research	Nanoscale devices
3.0	3.0	1.0
Abrams & Bradley Interactive Skills Trainer	Molecular and Computational Risk Assessment (MACERAC) ..	Advanced waterjet-21 project ...
9.0	2.0	4.0
SIMNET	Center for Geosciences	Modular advanced composite hull
15.0	3.0	3.0
AFIST	Cold Regions Military Engineering	DDG-51 Composite twisted rudder
9.0	1.5	4.0
Ft. Wainwright MOUT Instrumentation	University Partnership for Operational Support (UPOS) ..	High Resolution Digital mammography
6.5	4.0	3.0
Target Receiver Injection Module Threat Simulator	Plasma Energy Pyrolysis System (PEPS)	Military Dental Research
4.0	3.0	4.0
Tactical Fire Trucks	DOD High Energy Laser Test Facility	Sonarman Eascom Technology Energy and Environmental Training
5.5	15.0	3.0
IFTE	Starstreak	Precision Strike Navigator
15.0	16.0	2.5
Maintenance Automatic Identification Technology	Center for International Rehabilitation	Vector Thrusted Ducted Propeller
6.0	2.0	4.0
National Guard Distance Learning Courseware		Ship Service Fuel Cell Technology Verification & Training Program
8.0		4.0
JPATS (16 aircraft)		Aluminum Mesh Tank Liner
44.6		3.0
Smart Truck		AEGIS Operational Readiness Training System (ORTS)
4.0		4.0
Aircraft Procurement, Navy:		
ECP-583		
46.0		
PACT Trainer		
6.0		

FY 2002 Defense Appropriations Pork (in millions)—Continued

Research, Development, Test, and Evaluation, Defense-Wide:	
Bug to Drug Identification and CM	3.0
American Indian higher education consortium	3.5
Business/Tech manuals R&D	4.5
AGILE Port Demonstrations	10.0
Arrow Missile Defense Program	141.7
Defense Health Program:	
Hawaii Federal healthcare network	18.0
Pacific island health care referral program	5.0
Alaska Federal healthcare Network	2.5
Brown Tree Snakes	1.0
Tri-Service Nursing Research Program	6.0
Graduate School of Nursing	2.3
Health Study at the Iowa Army Ammunition Plant	1.0
Coastal Cancer Control	5.0
Drug Interdiction and Counter-Drug Activities, Defense:	
Mississippi National Guard Counter Drug Program	2.6
West Virginia Air National Guard Counter Drug Program	3.5
Regional Counter Drug Training Academy, Meridian, MS ..	2.0
Earmarks:	
Maritime Technology (MARITECH)	5.0
Metals Affordability Initiative	5.0
Magnetic Bearing cooling turbin	5.0
Roadway Simulator	13.5
Aviator's night vision imaging system	2.5
HGU-56/P Aircrew Integrated System	5.0
Fort Des Moines Memorial Park and Education Center ...	5.0
National D-Day Museum	5.0
Dwight D. Eisenhower Memorial Commission	3.0
Clear Radar Upgrade, Clear AFS, Alaska	8.0
Padgett Thomas Barracks, Charleston, SC	15.0
Broadway Armory, Chicago	3.0
Advance Identification, Friend-or-Foe	35.0
Transportation Multi-Platform Gateway Integration for AWACS	20.0
Emergency Traffic Management	20.7
Washington-Metro Area Transit Authority	39.1
Ft. Knox MOU site upgrades ..	3.5
Civil Military Programs, Innovative readiness training	10.0
ASE INFRARED CM ATIRCM LRIP	10.0
Tooling and Test Equipment	35.0
Integrated Family of Test Equipment (IFTE)	15.0
T-AKE class ship (Buy America)	
Welded shipboard and anchor chain (Buy America)	
Dwight D. Eisenhower Memorial	
Gwitchyaa Zhee Corporation lands	
Air Force's lease of Boeing 767s Enactment of S. 746	
2002 Winter Olympics in Salt Lake City, Utah	
Total Pork in Division A (FY 2002 Defense Approps) = \$2.144 Billion	
DIVISION B	
Commerce related earmarks:	
DoT Office of Intelligence and Security	1.5

FY 2002 Defense Appropriations Pork (in millions)—Continued

Airports and Airways Trust Fund, payment to air carriers	57.0
Coast Guard, operating and expenses (\$203 m was requested)	273.35
DoT Office of the Inspector General	2.0
National Transportation and Safety Board	0.836
FAA Operations	300.0
FAA Facilities and Equipment	108.5
FAA Research, Engineering, and Development	12.0
Federal Highway Administration misc approps (\$10 m was requested)	110.0
Capital Grants to the National Railroad Passenger Corporation	100.0
Federal Transit Administration Capital Investment Grants	100.0
Restoration of Broadcasting Facilities	8.25
DIVISION C	
National Institute of Standards and Technology	30.0
Federal Trade Commission	20.0
Maritime Administration	11.0
Maritime Guaranteed Loan (Title XI) Program	12.0
Coast Guard, operating expenses	12.0
FAA research, engineering, and development	38.0
FAA Grants-in-AID for Airports ..	200.0
DIVISION E	
Woodrow Wilson Bridge Project ..	29.542
Research and Special Programs Administration	3.170
Pipeline Safety Program	22.786
Provisions relating to Alaska in the Transportation Equity Act for the 21st Century	
US-61 Woodville widening project in Mississippi	0.3
Interstate Maintenance Program for the city of Trenton/Port Quendall, WA	5.0
Total Earmarks in Divisions B, C, and E = \$1.457 Billion	
Total = \$3.6 Billion	
Mr. MCCAIN. Mr. President, a lot of these I don't understand. A lot of them no one understands, and yet the money is disbursed.	
I am a little bit embarrassed to note there are two additional unrequested porkbarrel projects at Camp McCain in Mississippi: Camp McCain Simulator Center, trainer upgrades; and the Camp McCain Training Site, roads.	
I also am happy to see Camp McCain functioning with efficiency in defending our Nation. But I am curious why they couldn't have requested this funding.	
Several at least warrant inquiry: Rock Island Bridge Repairs; Memorial Tunnel, Consequence Management; Pacific Server Consolidation, \$10 million; Wind Energy Fund; \$500,000, El-mendorf Air Force Base transportation infrastructure; Clara Barton Center, \$1.5 million; Multimedia Classroom, \$850,000; Distance Learning, \$30 million; Bangor International Airport repairs—I don't believe Bangor International Airport is a military base—that is \$10 million; oil debris detection and burn-off system, \$5 million; Aluminum Mesh Tank Liner, \$7.1 million.	
All of these may be worthwhile projects. The Department of Defense	

did not find them worthwhile enough to request them.

National Guard Distance Learning Courseware, \$8 million; Smart Truck—that has always been one of my favorites—\$4 million.

The old brown tree snake is in here; Spine Research, \$20.5 million; Heat Actuator Coolers, \$2 million; Starstreak whatever that is—\$16 million; 3-D Printing Metalworking Project, \$3 million.

None of these that I mention was requested nor given any consideration in the authorizing process.

Auto Research Center, \$3 million; Bug to Bug Identification and CM—Bug to Bug—that is only \$3 million; Hawaii Federal health care network, \$18 million; Brown Tree Snakes, \$1 million; Coastal Cancer Control, \$5 million; Pacific Island Health Care Referral Program, \$5 million.

There are many, and for some of them we still haven't been able to figure out exactly what they mean.

One of them is the Gwitchyaa Zhee Corporation lands; leasing of the Boeing 767s. Enactment of S. 746 means more money for the 2002 Winter Olympics in Salt Lake City, UT.

Then there are huge amounts of money for Commerce, and others, including, as I mentioned, \$29 million for the Woodrow Wilson project; \$22 million for the Pipeline Safety Program; U.S. 61 Woodville widening project; Interstate Maintenance Program for the City of Trenton-Port Quendall, WA.

It is quite remarkable.

Mr. GRAMM. Mr. President, will the Senator yield for a question?

Mr. MCCAIN. I am glad to yield for a question.

Mr. GRAMM. I want to be sure I have it straight about this Boeing aircraft thing. Am I to understand that there is a provision in the bill that would have us lease 100 Boeing aircraft, paying \$11 billion per year for the lease, and the Air Force did not ask for these aircraft? Is that right?

Mr. MCCAIN. The Senator is right; only he may have left out another aspect of it. We have to spend an additional \$1.2 billion in military construction to build new hangars for these aircraft because existing hangars for our existing fleet, which does need upgrading—and they have requested repair and upgrading of our existing fleet—is also an additional cost.

I would like to mention to my friend from Texas that once the 10 years is over, Boeing gets the aircraft back.

Mr. GRAMM. I know the Senator is a very senior member of the Armed Services Committee. Is there any evidence anywhere that the Air Force said it wanted these planes?

Mr. MCCAIN. I have looked at the Air Force's 6-year program top priorities and their top 60 priorities. These are not in their top 60 priorities, nor in the 6-year defense procurement plan for the Air Force.

I would like to remind my friend that not long ago a major decision was

made in a competition between Lockheed Martin and Boeing for the procurement of a new fighter aircraft. Lockheed Martin won that competition.

Also, as the Senator from Texas knows, there have been many cancellations for orders from Boeing for new airliners because of the economy.

If it is the judgment of the Senator from Texas and the majority of this body and the administration that Boeing Aircraft—which, by the way, has facilities in 40 States throughout America—needs to be bailed out, then I say OK. Maybe we could write them a check for \$10 billion. Maybe it is a matter of national security. But to do it this way and take 20 percent of the entire budget for new projects from the Air Force is remarkable.

I know the Senator doesn't agree with me, but this is living, breathing testimony for the need for campaign finance reform.

Mr. GRAMM. Let me pose another question, if I may. The Air Force doesn't want these planes. We are going to spend \$10 billion plus another \$1 billion to build hangars, and then we are going to give the planes back. Does the \$10 billion sound to you like an inflated price to lease these airplanes for 10 years?

Mr. MCCAIN. Well, according to the people we talk to, it is actually about \$10 billion more. I want to point out there is a provision in this bill that does not allow competition. In other words, if Airbus wanted to offer to lease their airplanes to the U.S. Air Force, they would be prohibited from doing so. So not only is it earmarked for at least \$20 billion, we could purchase these aircraft outright for approximately one-third of the cost of what we are going to incur through this cockamamie leasing program.

Mr. GRAMM. And we have them for only 10 years.

Mr. MCCAIN. Yes.

Mr. GRAMM. Where does the price come from? Do you have any idea where the price came from?

Mr. MCCAIN. I have no idea. But I also point out to the Senator from Texas, these tankers have long lives—20, 30, 40 years—because we continuously maintain them and upgrade them. So after 10 years, Boeing would get these airplanes back. And it is really remarkable, it costs taxpayers \$2 billion a year for a total pricetag of \$20 billion over 10 years.

Mr. GRAMM. Let me ask a question. Maybe there is a shortage of tanker capacity now with the war in Afghanistan. Can we get these planes immediately? Do you know how long it is before the first one would be delivered?

Mr. MCCAIN. It is my understanding it would take 6 years to acquire these 100 aircraft.

Mr. GRAMM. So we don't get anything for 6 years.

Mr. MCCAIN. I am sure we could get a few of them right away. I have to tell the Senator from Texas, I do not think

I have ever seen anything quite like this before. When we are talking about \$20 billion, that, even in these days, is not chump change.

Mr. GRAMM. Well, I just want to say to the Senator from Arizona, I am sure it pains many people to hear the Senator from Arizona go through and list all the things in all these appropriations bills that nobody requested that are being funded, but I think it gives some insight into how big the level of waste is in this process and how out of control spending is. I thank the Senator for bringing it to light.

I would also say that about this Boeing proposal I do not think I have ever seen a proposal that makes less sense economically—and it is a big statement to say as Senator McCain and I have been here together for 22 years. Lease something for 10 years, and pay a higher price than you could buy it for, with no negotiation of price—I guess Boeing and whoever wrote this amendment came up with a price—and no competition.

The Air Force does not want the plane, and we do not get a plane for 6 years under the procurement proposal. I am not aware there has ever been a worse proposal in the 22 years we have served together. If so, I have never seen it. I mean, that is a big statement.

Some people may think that is an overstatement—and maybe we are prone toward it—but I do not think, in the 22 years I have been here, I have ever seen anything to equal this Boeing lease agreement.

Mr. MCCAIN. I thank my friend from Texas.

Mr. President, I ask unanimous consent to print in the RECORD the prioritized list submitted by the Air Force.

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

Priority and description	Remaining shortfall	Cumulative
1 Space Lift Range Viability	53.9	53.9
2 BOS/Base Maintenance Contracts	182.1	236.0
3 Wartime Reserve Munitions Replenishment ..	362.0	598.0
4 Readiness Spares	46.5	644.5
5 Depot Maintenance	113.7	758.2
6 Comm Readiness I	224.2	982.4
7 Link-16/Digital Data Link	232.8	1,215.2
8 Civil Airspace Access (GANS/GATM)	50.9	1,266.1
9 ICBM Batteries	4.2	1,270.3
10 Time Critical Targeting	291.0	1,561.3
11 Real Property Maintenance I (1.2% PRV) ..	520.0	2,081.3
12 Military Personnel	71.6	2,152.9
13 Peacekeeper (PK) Retirement (Pending Congressional Approval)	12.2	2,165.1
14 Supports Future C-17 Multi-year	180.9	2,346.0
15 Target Drones (Aerial Targets)	6.2	2,352.2
16 Combat Support Vehicles	51.2	2,403.4
17 Comm Readiness II	325.9	2,729.3
18 Bomber Upgrades	730.7	3,460.0
19 Fighter Upgrades	640.9	4,100.9
20 JPATS Disconnect	5.8	4,106.7
21 BRAC	22.0	4,128.7
22 Aging Aircraft Enablers	30.0	4,158.7
23 T&E Maintenance and Repair (M&R)	45.0	4,203.7
24 Real Property Maintenance II (1.6% PRV) ..	679.6	4,883.3
25 F-16 SEAD	331.3	5,214.6
26 Contractual Commitments	123.6	5,338.2
27 Munitions Swap Out/Cargo Movement	127.0	5,465.2
28 Classified	89.8	5,555.0
29 Comm Readiness III	130.6	5,685.6
30 Military Family Housing Investment	138.0	5,823.6
31 Real Property Maintenance III (2.0% PRV) ..	746.0	6,569.6
32 Fighter/Bomber Self Protection	45.0	6,614.6
33 ISR Upgrades	127.0	6,741.6
34 Combat Search and Rescue	128.7	6,870.3
35 Ground Training Munitions	19.0	6,889.3
36 Antiterrorism/Force Protection II	24.6	6,913.9
37 ICBM Sustainment Shortfall	56.0	7,014.8
38 Full Combat Mission Training	44.9	6,958.8

Priority and description	Remaining shortfall	Cumulative
39 Weapon System Sims	44.1	7,058.9
40 AEF Combat Support	27.3	7,086.2
41 Theater Missile Defense	24.7	7,110.9
42 EAF NBC Training & Equipment	56.2	7,167.1
43 Science & Technology	104.4	7,271.5
44 Space Surveillance/Control	8.1	7,279.6
45 Recruiting & Retention	27.5	7,307.1
46 Space Ops Training-Simulator	85.0	7,392.1
47 C-130J	81.0	7,473.1
48 Missile Defense Enablers	150.0	7,623.1
49 MILSATCOM Shortfall	37.6	7,660.7
50 GPS Anti-jam User Equipment	25.8	7,686.5
51 Nuclear Detonation Detection Sustainment ..	12.0	7,698.5
52 DoD/Intel Community Space Coop	8.0	7,706.5
53 NORAD/USSPACE Warfighting Support	11.5	7,718.0
54 Space Maneuver Vehicle (SMV) Ops Demo ..	31.0	7,749.0
55 USAFA Logistics Support	8.3	7,757.3
56 Space Warfare Center (SWC) Shortfalls	16.5	7,773.8
57 Carryover	275.8	8,049.6
58 MILCON	1,029.7	9,079.3
59 AFRC	52.0	9,131.3
	9,131.3	

Mr. MCCAIN. If you look at No. 1 through No. 59 on the list of priority items, there is no request for Boeing 767s. I agree with the Senator from Texas, I have never seen anything quite like it. You would think that just the size of this leasing—the \$20 billion deal, plus the \$1.5 billion for the construction of the hangars, et cetera, not to mention the cost of reengineering the airplanes, which the taxpayers will pay for, and the deengineering of the airplanes—you would have thought at least there would have been a hearing—a hearing, some kind of a hearing in the Armed Services Committee when you are talking about this kind of an amount of money. But instead, we had to thumb through the appropriations bill, and all of a sudden it came upon us.

Mr. KYL. Mr. President, will the Senator from Arizona yield for a quick comment?

Mr. MCCAIN. I am happy to yield to the Senator.

Mr. KYL. I just say to the Senator, in the time I have served with my colleague from Arizona, he has never flagged in his effort to save taxpayer money, and he looks for the kind of pork projects that he has identified over the years in all of the different bills. The bill before us happens to relate to defense.

I am sure it does not give any pleasure to my colleague from Arizona, any more than it does any of the rest of us, to be talking about these things with regard to the Defense Department while there is a war on.

But I recall comments yesterday from the Secretary of Defense who was briefing us on the war effort, and in a great fit of patriotism, one of my colleagues said to him: So, Mr. Secretary, we want you to know we are all for you. We are for the troops. What else can we do to help you?

His immediate response was: Well, we could start with base closures and stop funding things that I have not asked for and start funding things I have requested. That is what you could really do to help.

And the pretty universal reaction among our colleagues was: Well, other than that, what could we do to help you?

So my point, Mr. President, is to compliment my colleague from Arizona. He has been fighting this battle for a long time. It does not give us any pleasure to point these things out, but it is critical, if we are really serious about supporting the troops we put in harm's way, that we try to focus on the priorities we need the most and not fill the bill up with special projects for people who have special status in the Congress.

So I compliment my colleague for the work he is doing. I hope later we will have an opportunity to offer amendments to deal with some of this.

Mr. McCAIN. I thank my friend from Arizona, who has been steadfast.

But I would ask for the consideration of my colleague from Texas and my colleague from Arizona, and all others who are concerned about this. Perhaps it might not be a bad idea if we proposed a substitute, that we sheared all of the pork off it and proposed a substitute that was just the fundamental requests of the administration and all those projects that have gone through the normal authorizing and appropriations process. I think that would be a very interesting vote.

I say to my colleagues that maybe we ought to try that, since none of these other things seem to be working—maybe just the bill that contains the requested and authorized and within the budgetary restrictions of the budget process.

Mr. GRAMM. Let me be sure I understand. You are saying you have all these programs in here that nobody ever asked for: these planes the Air Force does not want, paying more to lease them than we could buy them and what you are proposing—

Mr. McCAIN. If I may interrupt, billions of dollars that have nothing whatsoever to do with defense.

Mr. GRAMM. The proposal you are talking about is to take all those out and then ask the military, if they had a chance to spend the money, what would they spend it for?

Mr. McCAIN. Absolutely.

Mr. GRAMM. Well, it seems to me you could do that by striking all of these add-ons and basically asking the Defense Department to submit a list, and then give Congress the ability to say yes or no; and if we said yes, you would release the money. I think that might be an interesting way to go about it. I commend that to my colleague.

Mr. McCAIN. I thank my colleague from Texas.

I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from Texas is recognized to speak for up to 5 minutes.

Mr. CONRAD. Mr. President, might I ask the Senator from Texas to delay

for just a moment so we might seek a unanimous-consent agreement?

Mrs. HUTCHISON. I will, Mr. President.

Mr. CONRAD. I thank the Senator from Texas.

I am just wondering if we can have in place an agreement that the Senator from Texas would speak, and then the Senator from Minnesota would proceed, and then I would like to have the chance to respond to the remarks of the Senators from Arizona and Texas with respect to this lease agreement, because there is another side of this story that has not been told that I think would be important for our colleagues to hear.

I ask unanimous consent, on behalf of myself and the Senator from Washington, that I be granted 10 minutes for myself, 10 minutes for the Senator from Washington, and that the Senator from Iowa—you would like how much time? Five minutes. I ask unanimous consent that following the Senator from Texas and the Senator from Minnesota, I be recognized for 10 minutes, the Senator from Washington be recognized for 10 minutes, and the Senator from Iowa be recognized for 5 minutes.

Mr. REID. Mr. President, reserving the right to object, Senator WELLSTONE has 10 minutes under the order previously entered to speak. I would ask that he be given that right as soon as the Senator from Texas completes her remarks.

Mr. CONRAD. That is part of our request.

Mr. REID. I would also say, just so the Members here have some idea what is going on, we are going to be in a parliamentary situation, as soon as this morning business talk is completed, to begin the offering of amendments.

There are a number of people who have expressed a desire to offer amendments. Just to get this started someplace, the Senator from Minnesota would be recognized to offer his amendment following the statement of the Senator from Iowa.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Reserving the right to object, I will not object, but I would like to clarify, we have now added 25 minutes beyond the original unanimous consent. And my question, before this unanimous consent goes forward, is, Would we be encroaching on the ability to get directly to the bill so that we can start the amendment process by adding this many extra minutes?

Mr. REID. I respond to the Senator from Texas, the answer is yes. The Senator from Arizona has made a number of statements to which somebody has to respond. Whether they do it now or at some later time, they will be responded to. I thought this would be an appropriate time to get into this. As soon as it is completed, we will get into the amendment process. There are other Senators—not too many—who have expressed a desire to offer amend-

ments. The first would be the Senator from Minnesota.

Mrs. HUTCHISON. I would just ask if we could assure that if we have the capability to go directly to the bill, that that take precedence, and then all of us have the ability to speak in some shortened way to assure we can get onto the bill and start this amendment process. It would seem that we would have plenty of time to be able to debate once we are on the bill; is that correct?

Mr. REID. The answer is, if the Senator would allow us to have this consent agreement entered, I think it would expedite things a great deal. We could get to the substance of the legislation.

The PRESIDING OFFICER. Is there objection to the consent request?

Mr. McCAIN. Reserving the right to object, I don't understand the unanimous consent agreement.

Mr. REID. I say to my friend from Arizona, the Senator from Texas will speak for 5 minutes; the Senator from North Dakota, 10 minutes; the Senator from Washington, 10 minutes; the Senator from Iowa, 5 minutes. That would be following the Senator from Minnesota, who already has 10 minutes. Then he would offer his amendment when the morning business time is completed.

Mr. McCAIN. Further reserving the right to object, does the Senator then plan on voting on that amendment?

Mr. REID. We can do that. Whatever Senators DASCHLE and LOTT decide. We could either vote on that or someone else could offer an amendment and vote in a stacked fashion. Whatever the leadership decides.

Mr. KYL. Reserving the right to object, might I inquire what that amendment is seeking to amend?

Mr. REID. I don't know. Do you mean what part of the bill?

Mr. KYL. We have the House bill before us at this point.

Mr. REID. I say to the Senator from Arizona, what we thought would expedite matters also, Senators INOUE and STEVENS and BYRD are working on a substitute. We have an agreement here that we put in so people will just offer amendments. At such time as that substitute is entered, they would apply. If somebody objects to that, we will just wait around until the substitute is done. We thought we could save time by doing that.

Mr. KYL. Mr. President, I would object. It seems to me we could talk about the amendment. It is then a mere formality, once we know what it is we are amending, to simply lay down the amendments.

Mr. REID. I say to the Senator from Arizona, we don't need permission to offer amendments. We can offer them. It doesn't take unanimous consent to offer amendments.

Mr. KYL. Mr. President, I understand. What I am objecting to here is an order in which there would be a specific amendment that would be preferred to any others at the time there is a substitute offered.

Mr. REID. I appreciate that. Whoever gets the floor can offer an amendment. If the Senator would rather play jump ball, that is fine. The only part of the unanimous consent agreement I delete is the fact that Senator WELLSTONE would be the first to offer an amendment.

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

The Senator from Texas is now recognized.

Mrs. HUTCHISON. Mr. President, I am very pleased that we are beginning to get down to the serious business of passing the Defense appropriations bill. I hope we will be able to do that, perhaps next week. I don't know what the timetable will be. I don't want to stop the amendment process because there are legitimate differences.

The bottom line is, the Defense appropriations bill must be passed, and it must be passed in a form that the President can sign it.

The President has shown the leadership. He has told the Senate what his parameters are. He has made his budget submission to Congress so we know what the President's priorities are. And further, he has said he is going to keep the agreement that he made with the Democratic leaders in the House and Senate about the upper limit of that bill. I think it is incumbent on us to work within that framework to pass a bill that the President can sign.

This is a bill that will add \$26 billion more to defense spending than we passed last year. Today we are operating on last year's budget because the fiscal year ran out on October 1. So we are operating under a smaller budget in a time of great need in our military. It is our responsibility to pass a bill after our legitimate differences have been ironed out so our military will have the added \$26 billion to fight this war. That is the bottom line.

I appreciate the differences. They are legitimate. But it is time for us to get onto the bill, discuss those differences, and have a game plan for when the bill can be finished.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I ask unanimous consent that Senator MURRAY of Washington, Senator GRASSLEY of Iowa, and myself be permitted to go in front of Senator WELLSTONE. He himself has proposed this, so I know it is OK.

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

Mr. CONRAD. Madam President, I rise to answer some of the charges made by the Senator from Arizona with respect to this lease agreement between the Air Force and Boeing to acquire 100 Boeing 767s to replace 100 of the aging KC-135 tanker aircraft for the U.S. Air Force.

The Senator from Arizona and the Senator from Texas have suggested that this is a matter of the appropriators requiring the Air Force to ac-

quire planes that are not a priority for the U.S. Air Force. That is wrong. That is not even close to being right.

I know something about this, not because I am an appropriator, I am not. I know something about it because, as chairman of the Budget Committee, we saw in the appropriations bill a proposed lease agreement that we did not regard as a true lease. So I became involved in this effort and learned a good deal about what is being discussed.

First, the Air Force is not required to lease planes from Boeing or anyone else. The statement of the Senator from Arizona that the Air Force is being required to lease planes from Boeing or anywhere else is simply not true.

I direct my colleagues to the language that is before us:

The Secretary of the Air Force may, from funds provided in this act or any future appropriations act, establish a multiyear pilot program for leasing general purpose aircraft for tanker purposes.

That is what this is about. This is no requirement. This is an authorization so that if the head of the Air Force determines it is in the national interest to do so, they can acquire planes through the leasing process.

As I became involved in this matter, General Jumper, who is the head of the U.S. Air Force, called me personally on three occasions to say how urgently needed these planes are.

The Senator from Arizona and the Senator from Texas have suggested the Air Force does not want these planes. The head of the Air Force, General Jumper, called me on three occasions saying these planes are desperately needed and asked me not to stop the acquisition through lease of these aircraft. General Jumper made this case to me.

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

Mr. CONRAD. I will not yield at this point.

Mr. McCAIN. I did not think so.

Mr. CONRAD. Let me complete my remarks and then I will be happy to yield to the Senator from Arizona. I say to the Senator from Arizona, I hope he will stay and listen because the Senator from Arizona provided a good deal—

Mr. McCAIN. You do not want to answer a question and have a dialog. You will not do it.

Mr. CONRAD. I say to the Senator, this is on my time. The Senator provided a good deal of misinformation to our colleagues. It is unfortunate he does not want to hear the other side of the story.

General Jumper, who is the head of the Air Force, said to me the Air Force currently has 500 KC-135 tanker aircraft. The average age is 43 years; 100 of the 500 planes are in the depot for repair at any one time. Some have been in the depot for repair as long as 600 days.

The Senator from Arizona and the Senator from Texas said this is not a

priority for the Air Force. I do not think they are right when the head of the Air Force calls me and says it is an absolute priority. They are talking about past history. They are talking about before the attack on this country that occurred on September 11.

General Jumper said to me: Senator, the attack has changed everything. We now have to fly air cover over 26 American cities. We are providing the air bridge for half a world away to Afghanistan. These planes are being flown at an OPTEMPO that requires us to replace them sooner than was anticipated.

This is the head of the Air Force, and the Senator from Arizona and the Senator from Texas say it is not an Air Force priority? They better call the Air Force and ask them what their priorities are, and they better talk about the priorities that exist now, not the priorities that existed before this country was attacked.

The lease agreement that was proposed between the Air Force and Boeing did not meet our test for lease agreement. That is why I became involved. It is the only reason I know anything about this. As a result, I convened a meeting on November 1 with the Air Force, the head of the Congressional Budget Office, the top management of the Office of Management and Budget, Senator INOUE, Senator STEVENS, and the Senators from Washington to hear from OMB and CBO on their objections to this agreement. CBO and OMB said they would score this lease agreement not as a lease but as a purchase costing \$22 billion. We then worked with the Congressional Budget Office to structure a true lease agreement.

The Senator from Arizona says to our colleagues this would cost five times as much as a direct acquisition. That is absolute sheer nonsense. The fact is, to acquire these planes would cost \$22 billion. To lease the planes costs \$20 billion. In the math that I learned in North Dakota, \$20 billion is less than \$22 billion. Where the Senator from Arizona ever came up with the wild claim that this costs five times as much as an acquisition is beyond me because it is absolutely not accurate.

When we come out on the floor, it seems to me we have some obligation to report accurately to our colleagues. I do not hold it against anybody to come out here and offer an amendment on any matter, but there is some obligation to be accurate in reporting to our colleagues.

The only reason I got involved in this is because we saw a lease agreement that was truly not, according to the Congressional Budget Office and Office of Management and Budget, a lease. That is the reason I have learned what I have learned. But for the Senator from Arizona to come out here and assert the Air Force does not want these planes is not true. For him to assert that it is not a priority is not true. It may have been the case before the war occurred, but it is not the case now.

The simple fact is, the head of the Air Force himself has called me directly on three occasions to talk about this specific issue and to ask me not to block the acquisition of these planes, which I was prepared to do until they entered into what is, in fact, a lease agreement, a lease agreement that costs less than acquiring these planes directly.

As I have indicated, the head of the Air Force said to me, these planes are urgently needed in the national security interest of the United States of America. That is what General Jumper said to me on repeated occasions. I hope when we vote on this matter, we vote based on facts.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. It is my understanding I have 10 minutes under the time agreement.

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. I ask unanimous consent that the Senator from Kansas be allowed 3 minutes, and the Senator from Washington be allowed 2 minutes following my remarks, before the Senator from Iowa, on the same topic we are now discussing.

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

Mr. GRASSLEY. What does the Chair mean without objection? The Chair did not ask if there was any objection.

The PRESIDING OFFICER. Will the Senator from Washington restate the unanimous-consent request.

Mrs. MURRAY. I ask unanimous consent that the Senator from Kansas have 3 minutes, and the Senator from Washington 2 minutes, before the Senator from Iowa.

Mr. GRASSLEY. I hope it is after because I informed the Senator from Kansas I wanted to be out of here by 2:30 p.m.

Mr. ROBERTS. She only had 10 minutes to begin with.

Mr. GRASSLEY. I am sorry. If it is out of the 10 minutes of the Senator from Washington, that is OK.

Mrs. MURRAY. Madam President, I ask unanimous consent that following the remarks of the Senator from Iowa, the Senator from Kansas have 3 minutes, and the Senator from Washington State have 2 minutes on the topic of the 767s.

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

Mrs. MURRAY. Madam President, first of all, let me thank the Senator from North Dakota, the Budget Committee chair, for his strong remarks following the comments from the Senator from Arizona on the lease provisions of the 767s that are in the Defense bill before us.

I am extremely concerned for our country, for our military and, of course, for my own home State. In my home State, we have Fairchild Air Force Base which is home to the 92nd Air Refueling Wing. There are approxi-

mately 60 air refueling tankers that are based at that base outside of Spokane, WA.

I have been to Fairchild. I have visited personally with the families. I know the difficult missions these crews handle for each one of us every day, and I have the utmost respect for what they do.

I should also mention, in September some of these crews and these tankers were deployed in our military effort. So when the Air Force tells me, and they have told us, and tells Congress, and they have told Congress, that replacing the old KC-135 tankers is critical, I know it is important and my constituents know it is important. My State is home to Boeing, which would build the tanker replacements.

My friend from Arizona suggests the Senate should reject this proposal simply because it would benefit the manufacturer of the planes. Well, that argument ignores the facts. These tankers are the oldest planes in our fleet. They cost a fortune to maintain and they are often down for repairs. Since September 11, we rely on them more than before. We are going to have to replace these aging tankers anyway, and if we do it now, we will save at least \$5.9 billion in maintenance and upgrades on these antiquated tankers. This is something the Air Force has been concerned about for years.

It is clear we need to take immediate action to upgrade our overburdened tanker fleet, but do not take my word for it. Listen to what the Secretary of the Air Force, James Roche, wrote to me: The KC-135 fleet is the backbone of our Nation's global reach, but with an average age of over 41 years, coupled with the increasing expense required to maintain them, it is readily apparent we must start replacing these critical assets.

He ends: I strongly endorse beginning to upgrade this critical warfighting capability with the new Boeing 767 tanker aircraft.

That is from the Air Force Secretary, James Roche.

Will this help the people of my State? Absolutely. Because of the layoffs at Boeing since September 11 and the slowdown of our economy, my State now has the highest unemployment of any State in this Nation. The people I represent are hurting, and I am going to do everything I can to help them.

This is not just about my State. Every State involved in aircraft production will benefit. Even the home State of my friend from Arizona would stand to gain if this program moves forward. It is in our national interest to keep our only commercial aircraft manufacturer healthy in tough times, to keep that capacity, and to keep that skill set.

The Air Force has identified this as a critical need. Our ability to project force, to protect our shores, and to pursue terrorists in Afghanistan and around the world depends on our fighter aircraft and bombers being able to

stay in the air for long periods of time, and that is only possible through in-flight refueling.

Right now in the Afghanistan campaign, we rely on air refueling tankers known as KC-135s. In fact, since September 11, our use of these tankers is up significantly. We rely on these tankers to refuel our fighters over Afghanistan. We rely on them to refuel our B-2 and B-52 bombers on long-range missions. We rely on them to refuel the planes that view our troops in the region. Right now, in the skies over this Capitol Building and cities across America, we are relying on them to refuel the planes that are flying combat air patrols for homeland security.

There are very real problems with our existing fleet of tankers. They are old. The KC-135s were first delivered in 1957. On average, they are 41 years old, and we are paying for it. They have been around longer than most of the people who are flying them. These tankers are too expensive to maintain. A 41-year-old aircraft runs on parts that are not commercially available. Corrosion is a significant problem. In fact, KC-135s spend 400 days in major depot maintenance every 5 years.

This is an essential program. We will save \$5.9 billion in upgrade and maintenance costs. By moving forward with this program, we can save \$5.9 billion. These numbers come not from me but from the U.S. Air Force.

This is a longstanding need, and it is made even more urgent by 9-11. I want to be clear. This is a serious need that was identified by the U.S. Air Force long before September 11. It is not a new idea, but given the ongoing war and the new challenges we face with homeland security, it is clear we need to speed up the procurement process because relying on these planes is what we are doing after September 11. We have worked hard for these provisions.

I commend the Senator from Alaska and the Senator from Hawaii, who are managing this bill, who have worked long and hard hours to come together with an agreement on the critical replacement of these KC-135s with the new tankers. I thank Senator CONRAD and Senator DOMENICI, the chair, and ranking member of our Budget Committee, who have worked long and hard also. I recognize my colleague from Washington, Senator CANTWELL, who, too, has spent many hours sitting in Senators' offices explaining to them the need both from the Air Force and from our home State.

This is a critical program. It is the right way to do it. We have worked out a consensus among everyone who moves this program forward and, most importantly, it is for the men and women who serve us in the Air Force.

When I go home when this session is over, and I go to one of our Air Force bases in my home State of Washington, I want to be able to look in the eyes of those young men and women we are sending a continent away to defend and protect all of us and say we have done

everything we can to make sure they are safe when they are in the air. That is what this provision does.

When the Senator from Arizona offers his amendment, I hope my colleagues remember the men and women who are serving this country.

The PRESIDING OFFICER. The Senator from Iowa.

ECONOMIC STIMULUS

Mr. GRASSLEY. Madam President, I rise to give a status report on the negotiations of the economic stimulus. I report to the Senate as the lone Republican Senate negotiator.

Yesterday's Roll Call quotes numerous Democratic Senators as saying Senate Democrats won't agree to any stimulus deal unless the package has the support of two-thirds of the Democratic caucus. I ask unanimous consent that a copy of the article be printed in the RECORD.

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

[From Roll Call December 6, 2001]

DEMOCRATS SET STIMULUS HURDLE; SENATORS REQUIRE SUPERMAJORITY

(By Paul Kane)

Setting a high threshold for negotiating an economic-stimulus package, Senate Democrats have decided they will not accept any deal unless roughly two-thirds of their caucus agrees to support the final product.

Before agreeing to begin bipartisan, bicameral negotiations on a final stimulus plan, Majority Leader Thomas Daschle (S.D.) told his caucus last week that Democratic Senators in the House-Senate conference would not agree to a stimulus deal if there was significant opposition from within Democratic ranks.

"They're not going to agree to anything unless a significant majority of the caucus agrees with it," said Sen. Kent Conrad (D-N.D.), chairman of the Budget Committee and a Finance Committee member. "It's got to be a significant majority, two-thirds of the caucus."

Other Democratic Senators confirmed that the high bar for a stimulus deal was set around a two-thirds majority, although some said Daschle left wiggle room in case he feels the deal is good and he doesn't have precisely that much support.

"I don't think it's a hard-and-fast number," said Sen. John Breaux (D-La.), a senior Finance member.

Breaux said he remained hopeful that a deal could be reached that would gain enough Democratic support for a final package, but added, "It's going to be tough."

Asked about the threshold for reaching a deal, Sen. Jim Jeffords (I-Vt.) said, "It's a high one."

Negotiations continued yesterday among six key lawmakers trying to hammer out a stimulus deal: Senate Finance Chairman Max Baucus (D-Mont.); Sens. Jay Rockefeller (D-W.Va.) and Chuck Grassley (R-Iowa), ranking member on Finance; House Ways and Means Chairman Bill Thomas (R-Calif.); House Majority Leader Dick Armey (R-Texas); and Rep. Charlie Rangel (D-N.Y.), ranking member on Ways and Means.

Although some progress was reported on those talks, Senate Republicans worried that the Democrats were setting an impossible bar for reaching a deal and openly questioned whether Baucus' caucus colleagues trust the Montana Senator, who helped Grassley write a \$1.3 trillion tax cut last spring.

"I would hope we would not put [in place] this artificial threshold that is almost impossible to achieve," said Sen. Olympia Snowe (R-Maine), a key moderate on Finance. "Why do that? To set up failure? I hope not."

Snowe said the narrow margin in the Senate gave neither side the right to predetermine how many votes would come from their caucus, but rather mandated that negotiators shoot for a deal that cobbles together 51 votes, or 60 if needed to break a filibuster. "That is the essential marker here," she said.

An aide to Senate Minority Leader Trent Lott (R-Miss.) indirectly suggested that Daschle and Democrats simply don't trust Baucus. "Senator Lott has said this before and he'll say it again: He has every confidence in Senator Grassley's ability to negotiate a real economic security package on behalf of Senate Republicans," said Ron Bonjean, Lott's spokesman.

Baucus drew the ire of many Democrats when he and Grassley co-wrote the Senate tax package, most of which became law. On final passage, the bill was supported by just 12 Democrats. In the process, Baucus received numerous tongue lashings from colleagues at Democratic caucus meetings, including one exchange in which Daschle told Baucus he did not have "the authority" to negotiate a deal with Grassley.

Conrad acknowledged that requiring a caucus supermajority for the stimulus deal was "unusual", but said the circumstances in this negotiation—not the party's faith in Baucus—necessitated setting the high threshold. Conrad recalled Senate Democrats setting similar bars for approval of year-end budget deals in the early 1990s, including the 1990 compromise struck with the first Bush administration.

"We've not had an ending to a session quite like this one," Conrad said, noting that the Sept. 11 attacks, anthrax letters and a worsening recession have contributed to leaving Congress months behind in finishing up its business. "It's important that the caucus be behind any deal. We're not going to sign up to anything unless a substantial majority agree."

Conrad noted that it was both Daschle and Baucus who made the pledge to the caucus that a two-thirds majority would be required for a deal—a promise made at a caucus meeting held last Thursday to discuss the stimulus negotiations.

Jeffords, who caucuses with Democrats, said the feeling was that the stimulus plan was so crucial that everyone agreed a wide consensus was needed, not that the Senators needed any check on Baucus. "Max is doing a good job. I haven't heard anybody complaining."

Aides to Baucus agreed that the caucus is unified in this approach, noting that his plan to expand unemployment and health care benefits and reduce some business taxes had unanimous support in the body.

"We're hopeful that the package we negotiate is one that reflects the solid core principles we've been talking about since the beginning of this debate," said Michael Siegel, Baucus' spokesman.

Other Democrats contended that the bigger problem with negotiations is trying to forge a compromise with the House Republican plan, which is primarily titled toward business taxes. Digging in for a fight, Senate Democrats from both wings of the caucus said they would rather kill the stimulus plan than give away too large a corporate tax break.

"The better alternative may be no bill at all," said Sen. Robert Torricelli (N.J.), one of the 12 Democrats to support the tax-cut bill in the spring. "I would rather see that money stay in the treasury."

"I would rather see no stimulus than that," said Sen. Dick Durbin (Ill.), an assistant floor leader to Daschle.

Durbin said it was increasingly doubtful that a stimulus plan would pass, considering there are just two weeks left before the Christmas break. He noted it took a week to lay the ground rules for the conference and determine who would take part.

"Do the math. We took a week to set the table and say who would sit where," he said.

Not a negotiator himself, Daschle has set up a system to monitor the talks, including Breaux, a key moderate, in postconference meetings in his office with Baucus, Rockefeller and possibly Rangel.

Before substantive talks began this week, Rockefeller signaled that he intended to take a very hard line on the package. "I'm not much of a compromiser," he said.

But Baucus believes that moves by Thomas this week to offer unemployment extensions were a sign of compromises to come, Siegel said. "It's clear that we're making progress."

The entire Democratic caucus, however, will be the final jury on that outcome. "It was a commitment people wanted to hear," Torricelli said of the two-thirds majority decision.

Mr. GRASSLEY. As a preliminary comment, I want everyone to know something loud and clear. We are all here to do the peoples' business. My Republican caucus is here to do the peoples' business. We are in an extraordinary time. Our Nation is at war. Our Commander in Chief, President Bush, is occupied with the war effort. Our responsibilities to the people that sent us here are always high, but, extraordinarily high in this time of war. This is not a time to play political games with the people's business. In my view, we have a high duty to deliver a legislative product to the President on economic stimulus and aid to dislocated workers. I have committed all of my energy to get to the goal line on a package. I believe my chairman, Senator BAUCUS, also sincerely wants a stimulus package that the President can sign. When you look at the record, however, I am doubtful the Senate Democratic leadership really wants a package.

The President took the lead by proposing economic stimulus measures and a package of aid to dislocated workers. Chairman Greenspan gave us a green light on this effort about 2 months ago. The House passed a bill that the Senate Democrats, with some justification, viewed as partisan. The Senate Democratic leadership then responded with its own partisan bill, shut out all Republicans, and rammed it through the Finance Committee on a party-line vote. That partisan stimulus package dead-ended here on the Senate floor. We were stuck on in a partisan rut for awhile.

After much negotiation, the House and Senate leadership on both sides agreed to an extraordinary procedure. It is what I would call a "quasi conference." This agreement contemplates a conference agreement even though the Senate did not pass a bill on the subject matter. This agreement was a major concession by the House to Senator DASCHLE's insistence that Democrats have only one negotiation. Keep

in mind Senator DASCHLE insisted on one negotiation with a partisan product that has not passed the Senate because it was designed to be partisan. Republicans accommodated the Senate Democratic leadership. After that agreement was reached, I felt some optimism. It seemed that all sides realized it is our job to get this legislative product to the President. My optimism was a bit premature.

Now, there has been a lot of speculation about whether the Senate Democratic leadership really wants a stimulus deal. Some say that, inspired by Democratic interest groups and strategists, the Senate Democratic leadership has concluded that it is better to have an issue. The speculation is that, armed with polling data, the Senate Democratic leadership has decided on a strategy of covertly killing a stimulus package, while maintaining a public profile of support. If the economy doesn't recover, better to save the issue to use against the President and the other side for the fall 2002 elections. If the economy does recover, from a political standpoint, what is lost. Better to wait and see, the speculation runs, than to give any more tax relief at this time.

Mr. President, such a strategy, if it is the case, is particularly disappointing in wartime. It is a cynical strategy. If true, it short changes American workers and struggling business for an anticipated political shot. It makes economy recovery and aid to dislocated workers secondary to a partisan political objective. I ask, is that how we ought to be operating in wartime? Though I have heard and read this speculation, I had hoped that it was not true.

So, let's say I was a bit shocked when I read the Roll Call article yesterday. After reading the article, I concluded Democratic leaders are traveling back in time. They are regressing, not progressing. They are regressing to earlier contentions that the stimulus package had to be a Democratic product or nothing at all. I thought we had moved past that and on to negotiations to build a bipartisan stimulus package.

Instead, it appears the Democratic leaders don't want any real compromise. First, they have engineered a nearly impossible threshold. Second, they are conducting what appear to be required consultations between the Democratic negotiators and the rest of the Democratic caucus. If they are trying to prevent a stimulus deal, this is the way to do it.

It is important to remember the Senate is split nearly down the middle. There are 50 Democrats, 49 Republicans, and one Independent. Yet the litmus test set up by the Democratic leadership ignores the Senate's makeup. By its terms, this litmus test is designed to limit any agreement to a Democrats-only deal. Because it ignores the reality of an evenly split Senate, this litmus test guarantees failure. If the Democratic leaders real-

ly mean what they say, that they want a stimulus bill, I ask them to remove the partisan litmus test.

Any litmus test ought to go to the substance of the package.

Let's get back to the substance. We're not that far apart. Let's not hold the stimulus package and the aid to dislocated workers hostage to an arbitrary and destructive test like the two-thirds rule. I have been flexible on Republican priorities. It is time for the Democratic leadership to show some flexibility on Democratic priorities. The first sign of flexibility will be to remove a barrier, the two-thirds rule, that guarantees failure.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mr. MCCAIN. Will the Senator yield?

Mr. ROBERTS. Let me ask first, I thought I was granted 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas has 3 minutes.

Mr. ROBERTS. I actually thought it was 4; I was not quite sure. If it is 3, then my 3 minutes would be protected, as I understand it. If the distinguished Senator from Arizona would like to precede me, I am perfectly happy.

Mr. MCCAIN. I ask unanimous consent to be recognized. I had time remaining on the time previously granted.

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

Mr. MCCAIN. Madam President, I listened with interest to the comments, and I am sure there will be future comments, but these are the following facts on the airplane. One, on the acquisition of the 767, there is no formal request for it. Two, I had a conversation with the Secretary of Defense yesterday. He did not know about this. There has been no request from the administration, a formal request. Of course the Air Force would like it. We are talking about numbers. We can argue about how much it costs, but at the end of 10 years the planes go back to Boeing. At the end of 10 years, the planes go back to Boeing.

How in the world can you justify such a thing? The average age of the tankers is 42 years. I am sure these tankers would be eligible for at least 20 or 30 years of service.

Have some competition. Why isn't anyone else allowed to bid on this airplane? It is solely a bailout for the Boeing aircraft company. It is not in President Bush's defense request for the fiscal year. September 11 did not rearrange the priorities so it is a top 60 priorities. Of course, the Air Force will accept a gift. I am sure they would be glad to have it. They have other priorities they stated in testimony before the Armed Services Committee.

I cannot understand why at least there shouldn't be a hearing on a \$20 billion acquisition, which at the end of 10 years, after the reengineering and the \$1.2 billion for a hangar, gives it all back to the Boeing aircraft company when we should keep tankers, and have

been keeping them, for as long as 20 or 30 years. Remarkable.

I reserve the remainder of my time.

Mr. ROBERTS. Madam President, I appreciate the remarks of the Senator from Washington and the Senator from Alaska. I will address the three issues of concern raised by the Senator from Arizona.

First, with regard to the fact that the Secretary of Defense, according to the Senator from Arizona, knows absolutely nothing about it, it seems to me when the Secretary of the Air Force and General Jumper have been paying personal calls not only to the Senator from North Dakota but to me, as well, and I have a letter here from the Secretary of the Air Force that says: "I appreciate your interest in jump-starting the replacement program for our venerable KC-135 tanker fleet. These critical aircraft," and he goes into the fact this is absolutely essential to the expeditionary force of the United States, especially in Kosovo and Afghanistan—he says: I strongly endorse beginning to upgrade this critical war-fighting capability with new Boeing 767 aircraft; I very much appreciate your support; your interest and support are crucial; he indicates this whole effort is absolutely crucial—I cannot imagine that the Secretary of the Air Force, both he and General Jumper would be taking action and recommending this in an open letter to Congress without the knowledge of the Secretary of Defense. If that is the case, we have a real communication problem.

I would like to say that in terms of the cost, the estimate by the Air Force, they save \$3 billion. As to leasing or buying, we don't have money to buy them now, but we sure have the mission. That is like telling everybody in America: I am sorry, you can't lease a car.

At the end of the 10 years, I am aware that Boeing could take back the airplanes, and I am aware of the fact that then the Air Force or the Department of Defense could actually purchase this aircraft at a much lesser price.

Why will the Air Force say that the cost savings will be \$3 billion? Look at maintenance. Look at the depot maintenance today. Fifteen percent of our flights are tied up in depot maintenance. If Boeing does this, then that is cut to something like 30 days every 8 years. So we are saving money there.

In regard to competition with reference to Airbus and Boeing, I don't know where Airbus would do the maintenance. Boeing has a tremendous record with over 2,000 aircraft now serving nationwide.

If we want to preserve the expeditionary capability that we must have in this new asymmetrical war in this new era in which we are fighting, it seems to me this represents a cost saving. It also represents something the Air Force wants, and it represents a way we can really upgrade their aircraft.

I do not know how much time I have, but I think I made my point.

Mr. CONRAD. Madam President, will the Senator yield for a question?

Mr. KYL. Yes. I would be happy to yield.

Mr. CONRAD. The Senator from Kansas indicated he has a letter from the Secretary of the Air Force specifically requesting these planes.

Mr. ROBERTS. Madam President, I ask unanimous consent that it be printed in the RECORD.

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

SECRETARY OF THE AIR FORCE,
Washington, DC, October 9, 2001.

Hon. NORMAN DICKS,
House of Representatives,
Washington, DC.

DEAR MR. DICKS: I appreciate your interest in jump-starting the replacement program for our venerable KC-135 tanker fleet. These critical aircraft, which are the backbone of our nation's Global Reach capability, have an average age of over 41 years and are becoming more and more expensive to maintain. Due to the effects of age, these aircraft are spending over 300 days on average in depot maintenance, which affects our ability to respond to the many global demands on our force.

I strongly endorse beginning to upgrade this critical warfighting capability with new Boeing 767 aircraft. If Congress provides the needed supporting language, we could initiate this program through an operating lease with an option to purchase the aircraft in the future. This leasing approach will allow more rapid retirement and replacement of the KC-135Es. However, if the Congress determines this approach is not advisable, completing the upgrade through the purchase of new 767 airframes beginning in FY 02 will be in the best interest of the Air Force. To implement this transition, we intend to work with the USD(AT&L) and the OSD Comptroller to amend the FY 03 budget currently being vetted through the Department.

From the warfighter's perspective, this initiative could provide the opportunity to expand our tanker vision from air refueling and limited airlift to include other key mission areas. We intend to consider elements of command and control, as well as intelligence, surveillance, and reconnaissance (ISR) for the KC-X—in other words, a smart tanker. This initiative will further enhance our efforts to expedite development and fielding of a Joint Stars Radar Technology Improvement Program on a 767 multi-mission command and control aircraft platform which we are hopeful the Congress will also expedite in the FY 02 Appropriations Act.

I very much appreciate your support in the FY 02 Appropriations Act as we work to upgrade our overburdened tanker and ISR fleets. Your interest and support are crucial as we move forward with this critical recapitalization effort.

Sincerely,

JAMES ROCHE.

Mr. CONRAD. The Senator from Arizona asserts that we are forcing these planes on the Air Force. Was the Senator from Kansas ever contacted by General Jumper or the Air Force and asked to support providing these planes to the Air Force?

Mr. ROBERTS. That is absolutely correct. I had that conversation with the Air Force. As a matter of fact, the people who really initiated this discussion with me were actually members of the Air Force.

The Senator from Arizona has asked me to point out that this letter I am reading from the Secretary addressed to Congressman NORMAN DICKS did not represent a formal request. But in the meetings with the Air Force and in writing to individual Members of Congress, which Mr. DICKS provided the members of the Armed Services Committee in the House, I think it speaks very clearly that the Air Force does want this program and does want the leasing program to start.

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

The Senator from Washington is recognized.

Ms. CANTWELL. Madam President, I, too, rise with my colleague, the Senator from Washington, who has done an outstanding job on the Appropriations Committee to steer this issue through the process which is both sound policy and very important for the State of Washington.

I also thank the chairman of the committee, Senator INOUE, and the ranking member for understanding the complexity of this problem.

What is at hand is a bipartisan effort where the committee has recognized the glaring Achilles' heel in our Nation's military preparedness. They developed a creative solution. We currently have an air fleet that is older than most of the pilots who fly them. With 546 air tankers in the fleet, the average age is 36 years, and the oldest plane is over 45. These planes were initially designed to have a 25-year lifespan. They are showing extreme wear and tear.

My colleague from Kansas entered into the RECORD a letter that shows the military, while being open and flexible, thought this idea was a sound way to provide tankers. Obviously, the amount of wear and tear on the aging tanker fleet is causing a lot of problems and increased maintenance costs. Indeed, the Air Force is projecting a 42-percent increase—over \$3 billion—in the next 30 years for maintenance in this area.

Compounding the problem is the decreased availability in a time of increased demand. We are also not just facing issues overseas, as mentioned by my colleague from Washington, but also a new mission on the homeland front in our Nation's security—defending our Nation's airspace. That requires the use of these crucial tankers. Without effective tanker force, our air superiority is wrecked.

This is a creative solution at a time when the need is great. I urge my colleagues to support this great bipartisan and common effort.

Mr. REID. Madam President, is there any time left in morning business?

The PRESIDING OFFICER. Only the time of the Senator from Minnesota, and 2 minutes 54 seconds for the Senator from Arizona.

Mr. MCCAIN. Madam President, I say again on this issue that the Air Force

has not made a formal request for this aircraft, No. 1. I am sure they would love to have it. It is not a bad deal.

The most important point is, the Senator from North Dakota has some numbers which make it less expensive to lease than to buy. I accept the numbers from the Senator from North Dakota, although I still disagree. There is a huge difference. You buy the airplanes, and you have them forever. There is no 10-year lease.

What would happen after 10 years? We would have to renew the lease or we would have to buy new airplanes. We are talking about a 10-year lease at practically the same amount of money it would take to buy them. That to me is absolute insanity.

The U.S. Air Force has 60 priorities which they submit to Congress every year. September 11 couldn't have changed that priority list very much, since it will be 2004 or 2005 before the first one of those aircraft is delivered.

This is a bailout for Boeing Aircraft—nothing more, nothing less. And there should at least be some competition. There should be a fair scrutiny of this issue. There should be hearings in the Senate Armed Services Committee when we are talking about \$20 billion or \$30 billion of the taxpayer moneys to be spent.

That is really the reason and the compelling argument why this system has to be repaired, which is so broken that at the 11th hour we put \$20 billion or \$30 billion worth of the taxpayers' money on an aircraft with a major policy decision, without a single hearing and without a single input from the Senate Armed Services Committee, on which I am proud to serve.

This is the wrong thing to do. And, clearly, we are going to spend \$20 billion-plus over a 10-year period and 10 years from now have nothing to show for it. We could buy the airplanes. The average age for these tankers, regrettably, is 42 years. We could have them for another 30 years if we bought them.

Instead, we are going to lease them for 10 years at practically the same price it would cost to buy them with no competition, no hearings, no scrutiny—no nothing but a request from the Secretary of the Air Force, to NORMAN DICKS.

I yield the remainder of my time.

Mr. REID. Madam President, on behalf of my friend from Minnesota, I yield his 10 minutes.

Madam President, I ask unanimous consent, notwithstanding the fact that a substitute has not been offered, that if any amendment is agreed to prior to the consideration of the substitute amendment, it be in order for these amendments to be inserted in the appropriate place in the substitute amendment upon its completion.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Madam President, reserving the right to object, am I correct that would mean that Members could offer amendments to, say, any

portion of the Defense bill as reported by the committee?

Mr. REID. The Senator is absolutely right.

Mr. STEVENS. I will not object. I wish I could find a way, though, to now start putting some time limit on these amendments.

Mr. REID. If we could get this entered, I think the process would begin quickly.

Mr. STEVENS. I know of no parliamentary way right now that we can impose a time limit. I would like a time limit, if we are going to finish these amendments tonight.

Mr. REID. I will work with the Senator from Alaska to see what we can accomplish.

Mr. MCCAIN. Reserving the right to object, I don't understand.

Mr. REID. I would be happy to read the unanimous consent request. This has been cleared on both sides. I ask unanimous consent, notwithstanding the fact that a substitute amendment has not been offered, if any amendment is agreed to prior to the consideration of the substitute amendment, it be in order for these amendments to be inserted in the appropriate place in the substitute amendment upon its completion.

Mr. MCCAIN. If I might ask the distinguished Senator from Nevada, does this mean amendments will be offered at this time with votes?

Mr. REID. Yes. This is an effort, while the staff is working on the substitute, for people who have had long-standing desires to offer amendments; they would be able to do so.

Mr. MCCAIN. Does the Senator from Nevada anticipate the amendments and bill will be voted on today?

Mr. REID. Yes.

Mr. STEVENS. Reserving the right to object, it is my understanding that if a person wants to strike, say, a provision—say the tanker provision from section A of the substitute—that amendment could be offered now, debated now, and voted on now. When the substitute is filed, it would be so amended; is that correct?

Mr. REID. To my understanding, the Senator is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2325

Mr. REID. Madam President, I send an amendment to the desk on behalf of Senators WELLSTONE, GREGG, DAYTON, DURBIN, LEAHY, BIDEN, CARPER, and REID of Nevada.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. WELLSTONE, for himself, Mr. GREGG, Mr. DAYTON, Mr. DURBIN, Mr. LEAHY, Mr. BIDEN, Mr. CARPER, and Mr. REID, proposes an amendment numbered 2325.

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

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

The amendment is as follows:

(Purpose: To treat certain National Guard duty as military service under the Soldiers' and Sailors' Civil Relief Act of 1940)

At the appropriate place, add the following:

SEC. 8135. Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: "and all members of the National Guard on duty described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: "and, in the case of a member of the National Guard, shall include training or other duty authorized by section 502(f) of title 32, United States Code, at the request of the President, for or in support of an operation during a war or national emergency declared by the President or Congress".

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the whip for offering the amendment.

Let me say to colleagues, I want to move forward. I am in your company. We have worked hard on this amendment. I think we have a lot of strong bipartisan support. I think it is definitely, as they say, the right thing to do. I thank all of my sponsors: my colleague from Minnesota, Senator DAYTON, Senator GREGG from New Hampshire, Senator DURBIN, Senator BIDEN, Senator LEAHY, and Senator CARPER. And I believe there will be others.

This amendment amends the Soldiers' and Sailors' Civil Relief Act to expand the protections of that act to National Guard personnel who are today protecting our Nation's airports and other vulnerable public facilities. Specifically, this amendment would provide civic relief to National Guard personnel mobilized by State Governors at the request of the President, in support of Operation Noble Eagle and potential future operations.

This amendment has the support of the Military Coalition, which is a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, as well as the support of the Minnesota National Guard.

The operative language here is, we are trying to provide this civic relief and protection for the Guard who are called out at the request of the President—this is the key language of the amendment, colleagues—for and in support of an operation during a war or national emergency declared by the President or the Congress.

This Soldiers' and Sailors' Civil Relief Act, which I think was passed in 1940, is important legislation which helps provide help to people who have taken on financial burdens without knowing they would be called up to serve in the military.

Today those people are men and women in our National Guard. They are called up to protect our Nation's airports—you see them out there—nuclear facilities, and a good number of them are going to be going to the northern border to protect us at the border.

Men and women of the National Guard serve the Nation and our States as a unique organization among all branches of the U.S. Armed Forces. The Guard is America's community-based defense force located in more than 2,700 cities and towns throughout the Nation. Some 60 of these units are in my home State, Senator Dayton's home State, Minnesota.

Let me talk about what is at issue. When our men and women serve our country, they may have built up financial obligations of one kind or another—such as a mortgage on their homes, debts related to buying cars, charge account debts from buying things with credit, you name it. What the Soldiers' and Sailors' Civil Relief Act does—and what this would do as applied to our Guard—is not wipe out any of these debts or financial obligations by people who are faced with being called up on active duty, but it does give them certain protections.

This is one of them. First of all, on the consumer debt—which is now 6 percent that goes to all other men and women who are now in the service protecting our country—there is a 6-percent ceiling that is charged.

Second, this is important because these members of the Guard, they are like us; they bought things on credit, and they have had the jobs that allowed them to pay off their debt, but now what has happened is they are out there at our airports or nuclear facilities—soon they will be on the northern border patrol—and they have taken pay cuts to protect our public facilities. But they do not have the same amount of income now, and they cannot necessarily cashflow, certainly, exorbitant interest rates. This just gives them the civic protection.

In other words, if they have been called out to duty by the President—and the President has called the Guard out to duty, but he has done it through the Governors—this just says, when the President says: "We need the Guard, it is a national emergency, we are at war," and the Guard is called up through the Governors, they get the same protection that goes to any other Guard members or any other members of our Armed Forces who are out there protecting us.

Also, they will get protection from being evicted from their homes. And they will get protection from being foreclosed on. They will get protection against the cancellation of life insurance.

The problem is, unfortunately, the Soldiers' and Sailors' Civil Relief Act right now only applies to National Guard personnel mobilized directly by the President of the United States, and

it does not protect those men and women who are mobilized by our Governors at the request of the President, as is the case with many of the Guard right now.

This distinction, colleagues, is inequitable. Those mobilized by a Governor at the request of the President face the same financial problems as those mobilized by the President directly. It is only right that they receive the same protections.

The Minneapolis Star Tribune, on Sunday, November 25, had a long story on the financial impact on Minnesota Guard members; but this applies to Guard members in every one of our States. I ask unanimous consent that the Star Tribune article be printed in the RECORD.

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

[From the Star Tribune, Nov. 25, 2001]

(By Sarah McKenzie)

WASHINGTON, DC.—When National Guard Cpl. Paul Dellwo was called up to patrol the Minneapolis-St. Paul International Airport, he traded in his police officer salary for a smaller \$1,600 monthly paycheck.

Dellwo, 30, said he's committed to his post, but now he's earning about \$1,000 less each month than he did as an officer with a Twin Cities area police force that does not continue paying those called to active duty.

"Within the next month or so it will be become extremely tight," said Dellwo, who has credit card, tuition and mortgage payments to make.

He's got plenty of company. Capt. Charles Kemper, who oversees the Guard at the Twin Cities airport, said some Guard members are "so financially strapped" that he has considered taking a half-dozen of them off of active duty.

On behalf of members of his unit, Kemper sought grants from the Red Cross. He also has called banks and lenders to urge them to defer payment deadlines or reduce interest rates until the soldiers have completed their deployments. About a third of them have agreed to do so, Kemper said.

The issue has captured the attention of Minnesota Sens. Paul Wellstone and Mark Dayton, who are promoting a bill that would provide financial protection for Guard members who are activated.

Among other things, the law would prohibit lenders from charging more than 6 percent interest on existing loans, and it would make it illegal to evict Guard members from rental or mortgaged property. Any civil action pending against the soldiers, such as divorces, custody disputes or foreclosure, would be delayed until the end of the deployment, under the bill.

Members of the Guard "are left without protection against financial ruin," said Wellstone, who plans to meet with Guard members Monday at the Twin Cities airport to talk about their economic troubles.

Minnesota's senators are not the only members of Congress who are interested in the issue. In the House, Rep. Gil Gutknecht, R-Minn., has written letters to the House Veterans' Affairs and Armed Services committees urging legislators to extend the same benefits.

EXEMPTION QUESTIONED

The legislation takes issue with a current federal law, known as the Sailors' and Soldiers' Relief Act. National Guard members are covered under the law only if they are activated by the president. But those pro-

tecting the nation's airports were called up by governors, after President Bush made the request in late September.

The exemption troubles many of the 176 Guard members patrolling the state's airports, even though some are faring well or better now than they did with their civilian jobs.

"There's a wide spectrum," Kemper said.

Kemper said his employer, Guidant Corp., a medical devices company in Arden Hills, has agreed to pay the difference in his salaries. As captain, he makes about \$4,200 a month in base pay, but as an engineer at Guidant he makes more than \$5,200 a month, he said.

Others are trying to figure out how to get by with less.

As an Internet sales manager working on commission for an automotive company, Craig Ford pulled in as much as \$15,000 during a good month.

Now, Ford, 29, of the West St. Paul Guard unit, earns \$2,600 a month as a specialist with the Army National Guard.

The gap in pay is wide for Ford, who is married and has two children, 5-month-old Mira and 2-year-old Dawson. But he said he recognized there could be financial hardships when he volunteered for the Guard on Sept. 29.

"I wouldn't have signed up if my family couldn't have handled it," he said.

SALARY DIFFERENCES

Plymouth-based Employers Association Inc., which provides management services to more than 1,700 businesses in the state, recently conducted a survey showing most Minnesota employers have policies to not pay Guard reservists called into active duty.

But bigger companies were more apt to pay the difference between the company's and the Guard's salaries. Of the 300 companies surveyed that have more than 500 employees, about half reported paying the difference. Of the smaller companies, about 30 percent reported paying the difference.

"Most employers want to do the right thing, but it's tougher for the smaller employers," said Christine Rhiel, a human resources generalist with the Employers Association.

Maj. Gary Olson, a Minnesota National Guard spokesman, said it would be unreasonable to expect all employers to pay the difference. The Guard members know they'll probably face financial hardships when called on for duty, but they should be provided some relief, he said.

"When these individuals are called . . . they should not be economically destroyed. There should be at least some protection for credit and interest payments provided to those individuals," Olson said.

The pay for the Guard starts at \$1,300 a month for a private with little experience and increases based on rank and years of service, Olson said. Those activated in October will be deployed at least through March, he said.

"It's very tough," said Platoon Sgt. Jason Hosch, 25, of the West St. Paul Guard unit, who is stationed at the Twin Cities airport. "How do these soldiers adapt to not being able to pay their mortgage payments?"

Hosch, who is single, said he's faring well with a \$36,000 yearly salary, but he sympathizes with older Guard members who have more bills to pay and children to care for.

In addition to his base salary, Dellwo receives some housing assistance toward his \$1,000 monthly mortgage payment. He said he stands to save \$200 to \$300 a month on his mortgage payment if he's covered under the Sailors' and Soldiers' Relief Act.

Despite the hardship, Dellwo said he's committed to his mission.

"I started this deployment, and I'm going to finish this deployment," he said.

Mr. WELLSTONE. Madam President, I ask unanimous consent to add Senator SCHUMER as a cosponsor.

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

Mr. WELLSTONE. Madam President, I would like to briefly summarize a couple stories of those who are in the Guard:

Cpl. Paul Dellwo is a local police officer. As he was patrolling MPS Airport, he was making \$1,600 a month. As a police officer, he was making approximately \$2,600 a month. On this \$1,600 a month he still has to make the same credit card, tuition and mortgage payments. At the end of November he thought he had only a month or two before his finances really became tight.

Craig Ford works as an internet sales manager who works on commission for an automotive company. He said that during a good month he could earn \$15,000. Now, as a specialist with the guard, he earns \$2,600 a month. Ford is married and has two children, a 5-month-old and a 2-year-old.

Mr. Ford speaks for all the troops that I met when he said he understood there would be financial hardships when he volunteered—he is more than willing to put up with the hardships but he would sure appreciate a little help. I heard this time and time again when I met with the Guard on Nov. 26: Specialist Justin Johnson—a salesman at Best Buy Company—estimates that he is losing about a third of his income during his deployment. Craig Forbes, a car salesman, estimates that he is losing half his monthly income during his deployment at the airport. And Major Gary Olson, Public Affairs Officer for the MN National Guard, told me that several others have had to be relieved of their deployment due to financial hardship. He also said several people have come in wanting to serve but realized they simply could not do it and provide for their families adequately. All these Guardsmen made the same point—look, I love my country and I'm pleased to serve but can we get a little financial protection?

I could go on. This is the point. Many of these Guard members are from working families. If they are lucky enough to be working for some of the larger companies, those companies say: Serve your country. It is a national emergency. They pay full salary. But many work for businesses that cannot afford to, so they are losing \$700, \$800, \$900, \$1,000 a month.

It is just not right. Again, it is the same emergency. The President has said so. He has called up the Guard, but we did it through our Governors. This just fixes this problem and makes sure they get the same civic relief. That is all this says.

It is a protection from them being foreclosed on, not for debts they build up now while serving our country for an emergency, but whatever debts they had built up before. So it is some relief

from being foreclosed on or from being evicted or protection from a life insurance policy being canceled.

These young people work very hard in their civilian lives. Some of them work in retail where their commissions during the holiday season are the difference between their family having a good year and their family just getting by. But now they are not working for commissions—they are not dealing with customers in a busy electronics store—they are toting an M16 and standing guard.

Some of the Guard work construction and, in Minnesota, you work construction until there is too much snow or it is too cold. This year it hasn't snowed much and it has been unseasonably warm. But instead of building houses, making good wages, these men and women are in the airports—protecting us while we travel during the holiday season.

These stories are but a few trees in a large forest. Just about every soldier or airmen I spoke to, from enlisted rank to officer, told the same story. They are proud to wear their uniform. They are proud of their service to their country, but they worried about their families. They are worried that the financial blow they are taking now will take years to work off. They are worried that they are not providing the way they should for their children. None of them asked for anything. But every one of them told me that they sure would appreciate whatever help we could offer.

The Minnesota Guard did a survey and showed it to me when I last visited. It showed that most Members of the Guard are losing between \$700 and \$1000 a month. This is real money to retail sales people, to construction workers, to auto mechanics and to police officers. This is real money that cannot be made up easily.

Today over 15,000 National Guard are serving in a full-time status nationwide—some of them six to seven days per week. They have been mobilized to protect everything from airports to the Golden Gate Bridge. Some are involved in clean-up efforts at the World Trade Center and Pentagon. And we must be aware that National Guard units may be asked to do more in the coming months. This important change to the SSCRA will provide them the civil relief they rightly deserve. Addressing these issues now will ease the burden placed upon these patriots and their families now and in the future. These young people are not asking for much. Extending these protections is an important way to say that we value their service and that will not forget them or their families' commitment to the United States.

Let me give you the genesis of this amendment. This is why I thank all of my colleagues, some of whom are on the floor. I know Senator BIDEN wants just 2 minutes, and then Senator DAYTON wants to speak. He has been working with me all the way, and Senator GREGG, and others.

I just say this: The genesis of this amendment is that I have been going out to airports—I am sure many of you have had the same experience—and I just thank people. I was doing that for a while, I say to my colleague from Delaware, and finally one of the Guard members said: Thank you, PAUL, but if you really want to help us, this is the problem for us. We are on guard duty. This is a national emergency. We are at wartime. It is national security. We are out here—by the way, they are going to be at our airport until the end of March, at least—yet we do not have the same protection. The President called us up, but through the Governors, and we do not have the same protection this way that other members have. Please give us this civic relief.

It would help us. I hope there will be 100 votes for this. I have worked my heart out on this amendment because I just think it is important we help people. I hope this will have unanimous support.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Delaware.

Mr. BIDEN. Mr. President, I will be brief. The Senator from Minnesota is the major player in this effort. The Senator from Delaware is not.

This is, in a sense, a real Minnesota tradition of progressive politics. The two guys who jumped out on this first and responded immediately were the two Senators from Minnesota. I have experienced the same exact thing in the State of Delaware as I go around and see the guardsmen.

One of the reasons the distinction was made in the past between whether a President called up the Guard or a Governor called up the Guard was the nature of the incident for which the Guard had to be called up in those circumstances. When the President called up the Guard, it was usually—not always—relating to a national defense issue. When Governors called up the Guard, it was for hurricanes and floods and very worthy and worthwhile and important things to our constituents.

Let's make it real clear: This is not a hurricane. This is not a flood. This is not a natural disaster. This is an unnatural disaster called a war. The reason my guardsmen in Delaware were called up and all of our guardsmen are called up now is for a war. This is a war.

Here we are on December 7, 60 years after Pearl Harbor, and where are we? We are once again faced with what we were faced with then. This is the first time since then American soil has been struck. What is the most likely place where the next terrible tragedy will occur if our enemies have their way? In America. The reason the Guard is on the border, at the airports, and throughout our communities is as if there were a foreign army marching on us. That is what this is about. The Soldiers' and Sailors Act was designed to take that into effect.

I compliment both my colleagues. I am flattered they let me be one of the

cosponsors. They deserve a great deal of credit for calling this to our attention. I will be surprised if they don't get 100 votes. I compliment them for their foresight.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I am very proud to rise in support of the amendment of my distinguished colleague, Senator WELLSTONE. I salute my good friend and colleague who has been in the forefront of these issues on behalf of the men and women of the National Guard not only in Minnesota but across the country, and our military personnel. Senator WELLSTONE deserves the full credit for his leadership in initiating this important amendment.

It grew out of visits and conversations which he and I have had together and which he and I have had separately with the National Guard men and women who are patrolling the major Minnesota airport in the Minneapolis-St. Paul area. It is extraordinary to see them hour after hour, early in the day, late at night, standing there protecting all the rest of us, their fellow citizens, and assuring our safety as we fly our Nation's skies.

As Senator WELLSTONE has pointed out, and the distinguished Senator from Delaware, Senator BIDEN, this is an unusual circumstance. It occurred because the President, very properly, wanted to respect the doctrine of posse comitatus and, therefore, since the Guard men and women were engaged in a patrolling function at our domestic airports, he asked the Governors to call them out rather than doing so directly himself.

As a result, as the Senator from Minnesota has said, they suffer these additional financial perils. These men and women are not just serving our country during these critical months, they are doing so at serious financial consequence to themselves and their families. For most of these National Guard men and women, the salary they receive for their Guard duty is but a fraction of what they are receiving in their civilian employment. Yet this amendment doesn't address that inequity, and they are not asking right now for us to do so.

All they are asking, and what this amendment does in a very important way, thanks to the leadership of Senator WELLSTONE, is give them equality or parity with their associates who are called up under other circumstances. It prevents these additional financial penalties from being imposed upon them and their families during this service and at no additional cost to the American taxpayer. It is for those reasons that, joining with my colleague Senator WELLSTONE, I can't imagine why anybody would want to oppose this amendment.

With that, I thank the others who have made this a bipartisan amendment and yield the floor.

Mr. WELLSTONE. Mr. President, I have two colleagues on the floor, one of

whom is Senator GREGG, a cosponsor of the amendment. I thank my colleague from New Hampshire.

The PRESIDING OFFICER. Senator GREGG from New Hampshire is recognized.

Mr. GREGG. Mr. President, I rise in support of Senator WELLSTONE's amendment, of which I am an original cosponsor. Senator WELLSTONE has identified a problem which just cries out to be examined and answered. National Guard personnel are really extraordinary people who serve us as citizen soldiers. They give up their daily lives, they put tremendous stress on their families to serve us, and it's truly inappropriate that they should not be treated with the deference and the fair treatment that they would get if they were called up under a different circumstance.

What Senator WELLSTONE is doing here is correcting what was an obvious loophole in the understanding of how the Soldiers' and Sailors' Civil Relief Act of 1940 would work and is applying that Act to our National Guard men and women who are called up as a result of a national emergency declared by the President but who happen to be called up by Governors, and so it is an extremely appropriate action. It's certainly something that should be done at this time and should be done quickly so that those folks who are guarding our airport, our borders, and may well be in harm's way, but are certainly giving up their private lives in order to make our lives safer through their public service should receive fair treatment from our Government.

During World War I, the Congress passed a law to help people who were called to serve in the military, people who had debts or financial obligations such as home mortgages, car loans, and bank loans. A similar law is in effect today, "The Soldiers' and Sailors' Civil Relief Act of 1940, as amended." Although not included in the title of the law, the safeguards of the law also apply to personnel in the Air Force, Marine Corps, and Coast Guard. Provisions of the law protect a service member, who is called-up to serve in the military, from being evicted from rental property or from mortgaged property, protect against cancellation of life insurance, and protect against loss of home because of overdue taxes, if the service member's ability to make payments is materially affected by military service. Further provisions of the law require that interest of no more than 6 percent a year can be charged by a lender on a debt which a person on active duty in military service incurred before he or she went on active duty.

The law does not cancel out the debt or financial obligations of those called up for active duty. What it does do is give them certain special rights and legal protections. The purpose of granting the special rights and protections, as stated in the law, is to help people who have been called up for active duty

"to devote their entire energy to the defense needs of the Nation."

In the normal case of a National Guard call-up by the President, members of the National Guard get this civil relief. But in the case of a National Guard call-up by a Governor, at the request of the President, members of the National Guard do not get this civil relief. The members of our National Guard now protecting our airports therefore do not get this relief, because the President thought it best to have the Governors call-up the Guard.

New Hampshire National Guard personnel are today assisting in providing protection at airports in New Hampshire, at the Manchester Airport, the Lebanon Airport, and the Pease International Tradeport Airport. The New Hampshire National Guard has a long and rich history. Colonial New Hampshire Governor John Cutt organized the New Hampshire militia in 1680. This militia served in all of the Colonial Wars. New Hampshire troops included Roger's Rangers, famed for their guerrilla tactics, and forerunners of today's U.S. Army Rangers, presently serving in the war on terrorism in Afghanistan. In December 1774, a group of patriots under the command of Captain Thomas Pickering, of Portsmouth, attacked and captured Fort William and Mary at Newcastle, NH. The "shot heard round the world" was not fired at Lexington, MA, until the following April. During the Civil War, New Hampshire furnished 17 infantry regiments, 1 cavalry regiment, 1 heavy artillery regiment, and 1 light artillery battery to the Union cause. The 5th New Hampshire Volunteers, led by Colonel Edward E. Cross, suffered the highest casualties of any Northern infantry regiment, having fought valiantly at Seven Pines, Malvern Hill, Antietam, Fredericksburg, Chancellorsville, and Gettysburg. And now other equally patriotic members of the New Hampshire Guard have been called up by the Governor, at the request of President Bush, to help protect airports, as part of our country's war on terrorism.

I assume members of the National Guards of my fellow Senators' States have also been called up by their respective Governors for airport protection duties. So this is not just a New Hampshire issue or a Minnesota issue. This is your issue also. When National Guard troops are called to active duty, whether by the President or by a Governor at the request of the President in response to war or national emergency declared by the Congress, they must essentially put their personal lives on hold.

The intent of the Soldiers' and Sailors' Civil Relief Act is to provide financial security and peace of mind to the men and women of our country who are unexpectedly called to serve their Nation in times of crisis. The law certainly should not be allowed to favor those called up by the President and

exclude those called up by State Governors, at the request of the President. The National Guard personnel now helping to keep our airports safe deserve the same protections extended to National Guard troops fighting for our Nation all over the world.

This amendment will allow the men and women who our Governors have called on, at the request of the President for an operation during a war or national emergency declared by the President or Congress, to focus on their task at hand without worrying about previous financial obligations. Fellow Senators, I ask you to support this amendment to correct a serious inequity involving National Guard men and women of our various States, including most likely your own States, who have been called to active duty for critical domestic operations such as protecting our Nation's airports.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank Senators WELLSTONE, GREGG, and DAYTON and those who have initiated this effort for giving me an opportunity to be cosponsor. I thank them for this amendment and for giving us a chance to express our gratitude to the men and women in the National Guard across America who are serving our country so well. They make extraordinary sacrifices, put their lives on the line and serve their country.

This amendment gives them the recognition and reward they need. We can do more. I believe we will. But this amendment is an excellent first start to say to these men and women: We know you are serving our country. You deserve our praise, our prayers, and the recognition and help of this amendment.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that letters of support from the Minnesota National Guard and the Military Coalition and other documents be printed in the RECORD.

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

THE MILITARY COALITION,
Alexandria, VA, December 6, 2001.

Hon. CARL LEVIN,
*Chairman, Senate Armed Services Committee,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Military Coalition, a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, would like to bring to your attention a serious inequity for National Guard members who have been called to active duty for Operation Noble Eagle in Title 32 status.

National Guard soldiers and airmen called to active duty under Title 32 do not have the protection of the Soldiers and Sailors Civil Relief Act (SSCRA). National Guard and Reserve members called to active duty under Operation Enduring Freedom in Title 10 status do have that protection.

The SSCRA was passed by Congress to provide protection for individuals called to active duty in any of the military services. The SSCRA suspends certain civil obligations to

enable service members to devote full attention to duty. The SSCRA protects the individual and his family from foreclosures, evictions, and installment contracts for the purchase of real or personal property if the service member's ability to make payments is "materially affected" by the military service. The SSCRA entitles a person called to active duty to reinstatement of any health insurance that was in effect on the day before such service commenced, and was terminated during the period of service. It also protects the service member against termination of private life insurance policies during the term of active service.

The Military Coalition believes that all members of the National Guard performing active duty service for a national emergency or war at the call of the President should be entitled to protection under SSCRA. Please support S. 1680 and its changes to the Soldiers and Sailors Civil Relief Act that will give National Guard members that protection.

Sincerely,

THE MILITARY COALITION.

THE MILITARY COALITION,

Alexandria, VA, December 6, 2001.

Hon. JOHN WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: The Military Coalition, a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, would like to bring to your attention a serious inequity for National Guard members who have been called to active duty for Operation Noble Eagle in Title 32 status.

National Guard soldiers and airmen called to active duty under Title 32 do not have the protection of the Soldiers and Sailors Civil Relief Act (SSCRA). National Guard and Reserve members called to active duty under Operation Enduring Freedom in Title 10 status do have that protection.

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The Military Coalition believes that all members of the National Guard performing active duty service for a national emergency or war at the call of the President should be entitled to protection under the SSCRA. Please support S. 1680 and its changes to the Soldiers and Sailors Civil Relief Act that will give National Guard members that protection.

Sincerely,

THE MILITARY COALITION.

THE MILITARY COALITION,

Alexandria, VA, December 6, 2001.

Hon. JOHN D. ROCKEFELLER,
Chairman, Veterans' Affairs Committee, U.S.
Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Military Coalition, a consortium of 33 nationally prominent uniformed services and veterans organi-

zations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, would like to bring to your attention a serious inequity for National Guard members who have been called to active duty for Operation Noble Eagle in Title 32 status.

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The Military Coalition believes that all members of the National Guard performing active duty service for a national emergency or war at the call of the President should be entitled to protection under the SSCRA. Please support S. 1680 and its changes to the Soldiers and Sailors Civil Relief Act that will give National Guard members that protection.

Sincerely,

THE MILITARY COALITION.

THE MILITARY COALITION,

Alexandria, VA, December 6, 2001.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: The Military Coalition, a consortium of 33 nationally prominent uniformed services and veterans organizations, representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, would like to bring to your attention a serious inequity for National Guard members who have been called to active duty for Operation Noble Eagle in Title 32 status.

National Guard soldiers and airmen called to active duty under Title 32 do not have the protection of the Soldiers and Sailors Civil Relief Act (SSCRA). National Guard and Reserve members called to active duty under Operation Enduring Freedom in Title 10 status do have that protection.

The SSCRA was passed by Congress to provide protection for individuals called to active duty in any of the military services. The SSCRA suspends certain civil obligations to enable service members to devote full attention to duty. The SSCRA protects the individual and his family from foreclosures, evictions, and installment contracts for the purchase of real or personal property if the service member's ability to make payments is "materially affected" by the military service. The SSCRA entitles a person called to active duty to reinstatement of any health insurance that was in effect on the day before such service commenced, and was terminated during the period of service. It also protects the service member against termination of private life insurance policies during the term of active service.

The Military Coalition believes that all members of the National Guard performing

active duty service for a national emergency or war at the call of the President should be entitled to protection under the SSCRA. Please support S. 1680 and its changes to the Soldiers and Sailors Civil Relief Act that will give National Guard members that protection.

Sincerely,

THE MILITARY COALITION.

MEMBERS OF THE MILITARY COALITION

Air Force Association.
Air Force Sergeants Association.
Army Aviation Assn. of America.
Assn. of Military Surgeons of the United States.
Assn. of the US Army.
Commissioned Officers Assn. of the US Public Health Service, Inc.
CWO & WO Assn. US Coast Guard.
Enlisted Association of the National Guard of the U.S.
Fleet Reserve Assn.
Gold Star Wives of America, Inc.
Veterans' Widows International Network, Inc.
Marine Corps League.
Marine Corps Reserve Officers Assn.
Military Order of the Purple Heart.
National Order of Battlefield Commissions.
Naval Enlisted Reserve Assn.
Naval Reserve Assn.
Nat'l Military Family Assn.
Non Commissioned Officers Assn. of the United States of America.
Reserve Officers Assn.
National Guard Assn. of the U.S.
The Military Chaplains Assn. of the USA.
The Retired Enlisted Assn.
The Retired Officers Assn.
United Armed Forces Assn.
USCG Chief Petty Officers Assn.
U.S. Army Warrant Officers Assn.
Veterans of Foreign Wars of the U.S.

DEPARTMENT OF MILITARY AFFAIRS,
STATE OF MINNESOTA, OFFICE OF
THE ADJUTANT GENERAL,

St. Paul, MN, November 1, 2001.

Hon. PAUL D. WELLSTONE,
U.S. Senator,
St. Paul, MN.

DEAR SENATOR WELLSTONE: I am writing to request your support for expanding the protections of the Soldiers' and Sailors' Civil Relief Act (SSCRA) to include National Guard personnel serving their country under the authority of Title 32 of the United States Code.

As you know, the SSCRA provides a spectrum of important protections for men and women called to active federal military service. The SSCRA recognizes the reality that a call to military service can negatively impact one's ability to meet certain civil obligations. Unfortunately, the SSCRA only applies to military duty performed under the authority of Title 10 of the United States Code. It does not protect the soldiers and airmen performing duty under Title 32.

This distinction between service under Title 10 and Title 32 is inequitable and nonsensical. Service performed under Title 32 is still military service and it is still valuable and important to the national defense. The men and women called away from home to serve their country under Title 32 face the same problems as those called under Title 10. It is only right that they receive the same protections.

The recent activations of National Guard personnel to support airport security nationwide illustrate the importance of the military service under Title 32. Your support for expanding the SSCRA to protect persons serving under Title 32 will be an important part of correcting the current inequity.

Thank you for your consideration of this important matter. If I can provide any additional information, please contact me.

Sincerely,

EUGENE R. ANDREOTTI,
Major General, Minnesota Air National
Guard, The Adjutant General.

ENLISTED ASSOCIATION OF THE NA-
TIONAL GUARD OF THE UNITED
STATES OF AMERICA,

Alexandria, VA, December 5, 2001.

Hon. PAUL DAVID WELLSTONE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: The Enlisted Association of the National Guard of the United States (EANGUS) would like to thank you for introducing S. 1680, which would amend the Soldiers and Sailors Civil Relief Act of 1940 (SSCRA) to include members of the National Guard called to active duty under Title 32.

The SSCRA was passed by Congress to provide protection for individuals called to active duty in any of the military services. The SSCRA suspends certain civil obligations to enable service members to devote full attention to duty. The SSCRA protects the individual and his family from foreclosures, evictions, and installment contracts for the purchase of real or personal property if the service member's ability to make payments is "materially affected" by the military service. The SSCRA entitles a person called to active duty to reinstatement of any health insurance that was in effect on the day before such service commenced, and was terminated during the period of service. It also protects the service member against termination of private life insurance policies during the term of active service.

Currently, the SSCRA only covers members of the National Guard called to active duty under Title 10 (federal active duty). Guardsmen and Reservists called to active service for Operation Enduring Freedom were called under Title 10 and therefore are entitled to all federal benefits including protection under SSCRA; however, the majority of National Guard members called to active service for Operation Noble Eagle are being called up under title 32 and, although they receive some federal benefits, they do not qualify for protection under the SSCRA.

EANGUS believes that all members of the National Guard performing active duty service should be entitled to protection under the SSCRA. A National Guardsman called to active duty status whether Title 10 or Title 32 deserve the same protection from foreclosure or eviction. While they are trying to do their best to insure that our airports are secure, our water supply remains safe, and our nuclear power plants will not be turned into weapons of mass destruction, they should not have to worry about whether or not their families will keep a roof over their heads or that bill collectors will be hounding them for payment because their military pay was processed late (which occurred in New York and Virginia). It is a shame that a member of the National Guard would have to go to their local Red Cross to receive help in paying their mortgages as well as their transportation costs.

The Army and Air National Guard are the United State's first line of defense against all enemies foreign or domestic. The men and women of the National Guard have volunteered to serve their country. They serve proudly and willingly. Your support in amending the SSCRA of 1940 to include Title 32 will send a very strong signal of support to our service members who will be going into harms way. It will alleviate some areas of concern to them; they will be less distracted and more secure knowing that their families

will be protected while they are protecting us.

If I can be of any assistance, please contact me at (703) 519-3846.

Working for America's Best!

MSG MICHAEL P. CLINE (Ret) ARNG,
Executive Director.

Mr. WELLSTONE. I take this opportunity to thank General Andreotti, the leader of our Guard in Minnesota, for his very strong support and his wisdom.

Mr. LEAHY. Mr. President, I thank my friend for introducing this amendment, which closes a troubling loophole in our military personnel system.

Currently, members of the National Guard called up under Federal title 32 status are not eligible for the protections of the Soldiers and Sailors Civil Relief Act. The act ensures that a servicemember can protect their house, life insurance, and health insurance while on active duty. It ensures a smooth transition back and forth between active service and civilian life, and it essentially underpins the entire military personnel system. We cannot defend the country without the National Guard, and we cannot attract qualified people to the Guard without the relief act.

The act has not applied to Guard members called up under title 32 status because most activations over the past fifty years have been under title 10, active military duty. However, September 11 tipped the balance in the other direction. Title 32 provides more flexibility to achieve missions in the United States and guarantees local control. As a result, thousands of Guard members have been called up across the country to secure our airports, railroads, bridges, and borders under this status.

This amendment extends the relief act to these proud citizen-soldiers. They must have these protections so they can focus on their mission. For them, I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I am pleased to advise the Senate that the subcommittee is prepared to accept the amendment. It is a fine amendment, very patriotic.

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

The amendment (No. 2325) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Senator HELMS from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to deliver my remarks seated at my desk.

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

AMENDMENT NO. 2336

(To protect United States military personnel and other elected and appointed officials of the United States Government against criminal prosecution by an international criminal court to which the United States is not party)

Mr. HELMS. I thank the Chair for recognizing me. Mr. President, I send to the desk an amendment which I ask to be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. MILLER, Mr. HAGEL, Mr. HATCH, Mr. SHELBY, Mr. MURKOWSKI, Mr. BOND, Mr. WARNER, Mr. ALLEN, and Mr. FRIST, proposes an amendment numbered 2336.

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

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Did the Senator ask the reading be dispensed with? I could not hear.

Mr. STEVENS. Yes.

The PRESIDING OFFICER. The Senator has sought that consent. Without objection, it is so ordered.

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

AMENDMENT NO. 2337 TO AMENDMENT NO. 2336

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DODD, proposes an amendment numbered 2337 to amendment No. 2336.

Mr. REID. 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:

Strike all after the first word in the pending amendment an insert in lieu thereof the following:

"SEC. . (a) FINDINGS.—The Rome Statute establishing an International Criminal Court will not enter into force for several years:

(2) The Congress has great confidence in President Bush's ability to effectively protect U.S. interests and the interests of American citizens and service members as it relates to the International Criminal Court; and

(3) The Congress believes that Slobodan Milosovic, Saddam Hussein or any other individual who commits crimes against humanity should be brought to justice and that the President should have sufficient flexibility to accomplish that goal, including the ability to cooperate with foreign tribunals and other international legal entities that may be established for that purpose on a case by case basis.

(b) REPORT.—The President shall report to Congress on any additional legislative actions necessary to advance and protect U.S. interests as it relates to the establishment of the International Criminal Court or the prosecution of crimes against humanity.

Mr. HELMS. Mr. President, without losing my right to the floor, I suggest the absence of a quorum temporarily.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACk. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded in order for me to speak for 2 minutes on an earlier discussion about the tanker fleet.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator cannot qualify.

Mr. HELMS. Reserving the right to object, I have no objection if it is understood that I shall be recognized immediately following the two amendments.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. BROWNBACk. 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. BROWNBACk. Mr. President, I ask unanimous consent to speak out of order for a period of 2 minutes regarding the issue of tanker replacements.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, the question I have, is there any order in effect as to who gets the floor when the quorum is called off?

The PRESIDING OFFICER. Senator HELMS is entitled to the floor.

Mr. REID. That is my understanding.

The PRESIDING OFFICER. And Senator BROWNBACk seeks recognition.

Mr. BROWNBACk. For 2 minutes.

The PRESIDING OFFICER. Without objection, Senator BROWNBACk is recognized.

Mr. BROWNBACk. Mr. President, I will not be long. I wish to speak about the leasing of 100 aircraft tankers, many of which will be remodeled in the State of Kansas. I have great respect for the Senator from Arizona and the issue he is raising about the lack of review, but I also wish to be very specific about what is taking place.

The current tanker fleet is 40 years old, some of it 45 years old. That is my age. Some days I feel very old. A lot of these tankers are spending a great deal of time in depot. They are spending up to 60 percent of their time being repaired. If we do not go through this lease arrangement, we are not going to have the tanker fleet to conduct our current long-range bombing missions.

While I have great respect as to how this has come up—the lack of hearings—the fact is we cannot conduct campaigns, such as we are in Afghanistan, unless we do something like this.

I also think this lease arrangement is going to allow us to do something we could not do if we were on a straight purchase basis. It is something we need to do now.

For those reasons, I want to be clear on my support, even though I have great admiration for the Senator from Arizona and the legitimate issues he is bringing up. We simply cannot do this any other way. This will get us 100 aircraft that we need to replace some that are 40 to 45 years old. This legislation will get this going now while we have the operational capacity to build them. Because of the lack of construction that is taking place at Boeing and the rest of its fleet construction, we are going to be laying people off. Instead of laying them off, we can put them to work.

It has come up in a questionable fashion. For that I have respect for those who are challenging this provision. Still, these are extraordinary times. If we do this, we can get something of value at a time when we can construct the aircraft. And it can be scored such that we can afford to pay for this at this point in time.

For all those reasons, I think this is a legitimate and a proper thing for us to do. I add my voice to that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the previous order will be obtained, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

AMENDMENT NO. 2336

Mr. HELMS. I do thank the Chair. Mr. President, there is a little bit of manipulation going on, but let me emphasize the President of the United States is in favor of the underlying amendment, to which a second-degree amendment proposes to gut the amendment I have just offered.

If we are going to play this sort of game around here, that is fine. I can play it, too, and I have been around a little while, and I know how to do it.

The International Criminal Court will be empowered if and when just 13 more countries ratify the so-called Rome Treaty. Forty-seven have ratified it as of this past Friday, November 30.

It has been a privilege to work with the distinguished Senator from Georgia, Mr. MILLER, in crafting this amendment to protect American soldiers and officials from illegal prosecutions by that Court. In addition to Senator MILLER and me, Senator LOTT, Senator WARNER, Senator HAGEL, Senator HATCH, Senator SHELBY, Senator FRIST, and Senator MURKOWSKI joined in introducing the American Service Members Protection Act on May 9 of this year. The pending amendment is the result of our converting that act into an amendment to the pending Defense appropriations bill.

As I said at the outset, there are going to be attempts to defeat this pending amendment despite the support of the President of the United States, despite the support of all manner of organizations, including veterans and members of the armed services.

I feel a bit of resentment. What they are doing is well within the rules. We will see how the Senate stacks up on this little bit of play.

Without this amendment, the Rome Treaty can expose U.S. soldiers and civilian officials to the risk of prosecutions separate and apart from the laws of the United States of America. Therefore, they could very well be battling international bureaucrats and prosecutors instead of terrorists such as those who on September 11 committed mass murder against thousands of innocent American citizens in New York City and at the Pentagon, not far from here.

The pending amendment ensures that neither the International Criminal Court nor overzealous prosecutors and judges will ever be able to prosecute and persecute American military personnel.

At this time, along with the mobilization to fight terrorists, there is unanimous support in Congress for giving the President the tools he needs to wage the war against terrorism.

Accordingly, the distinguished chairman, HENRY HYDE, of the House International Relations Committee, and I have negotiated with the Bush administration some needed refinements to the American Servicemembers' Protection Act that is now pending for consideration by this Senate.

This amendment then is a sort of revised version of the original bill to give the President flexibility and authority to delegate provisions in the legislation that he needs in this time of national emergency to protect our service men and women.

I have in hand two letters dated September 25, 2001, and November 8, 2001, respectively, from Assistant Secretary of State for Legislative Affairs Paul V. Kelly indicating that the administration does support the language of the pending amendment.

Instead of placing these letters in the RECORD, I want to read them. The first one, Paul V. Kelly, Assistant Secretary of Legislative Affairs of the U.S. Department of State:

DEAR SENATOR HELMS: This letter advises that the administration supports the revised text of the American Servicemembers' Protection Act (ASPA), dated September 10, 2001, proposed by you, Mr. Hyde and Mr. DeLay.

We commit to support enactment of the revised bill in its current form based upon the agreed changes without further amendment and to oppose alternative legislative proposals.

We understand that in the House the ASPA legislation will be attached to the State Department authorization bill or other appropriate legislation.

The Senate has a responsibility to enact an insurance policy for our men

and women serving at home and overseas. Secretary of Defense Rumsfeld and Secretary of State Powell agree it is essential to protect all of them from a permanent kangaroo court where the United States has no veto.

Precisely, this amendment does the following: It will prohibit U.S. cooperation with the court, including use of taxpayer funding or sharing of classified information. Two, it will restrict U.S. involvement in peacekeeping missions unless the United Nations specifically exempts U.S. troops from prosecution by the International Criminal Court. Three, it limits U.S. aid to allies unless they also sign accords to shield U.S. troops on their soil from being turned over to this kangaroo court. And four, it authorizes the President of the United States to take necessary action to rescue any U.S. soldiers or service people who may be improperly handed over to that court.

When former President Clinton signed the Rome Treaty on December 31, 2000, he stated he would not send the treaty to the Senate for ratification and recommended that President Bush not transmit it to the Senate either, given the remaining flaws in the court. Moreover, I understand my colleague from Connecticut, Senator DODD, said this about the Rome Treaty on September 26, and I quote the distinguished Senator from Connecticut:

If for some reason miraculously the proposal were brought to this Senate chamber this afternoon, and I were asked to vote on it as is, I would vote against it because it is a flawed agreement.

Many Americans may not realize that the Rome Treaty, so-called, can apply to Americans even if the Senate has declined to ratify the treaty. This international legal precedent lacks any basis in U.S. law.

So I reiterate, the pending amendment will shield Americans from this international court, and that is why 28 uniformed services and veterans organizations representing more than 5½ million active and veteran military personnel and their families support the pending amendment.

I have a copy of a letter dated November 19 of this year signed by the directors of the Veterans of Foreign Wars and at the Reserve Officers Association and associations representing every one of the services. They favor this amendment. I will take time right now to read this letter into the RECORD. I started to insert it, but I think it is important for me to read it.

DEAR SENATOR HELMS: The Military Coalition, a consortium of nationally prominent uniformed services and veterans' organizations representing more than 5.5 million current and former members of the seven uniformed services, plus their families and survivors, strongly supports the amended version of the American Servicemembers' Protection Act.

Mr. President, that is the pending Senate amendment.

The Coalition understands that the administration also supports this legislation.

I have already covered that. Then the letter continues:

This bill would seek to protect American servicemembers from criminal prosecution by an International Criminal Court to which the United States is not a party.

TMC [that is the military coalition] believes the United States must ensure military personnel (plus Federal officials and employees) are protected when it orders them to participate in operations or other prescribed duties in foreign countries. Any effort to the contrary by internal or external entities should be thwarted. Our Nation cannot continue to dispatch its uniformed and official personnel, who have sworn to uphold and defend the Constitution of the United States, to international assignments without guaranteeing them their rights under that magnificent document. Sincerely.

It is signed by the officers of the association.

President Bush and his national security team support this amendment. There is a great need to approve this amendment now and not wait until some vague future date next year or even later. Obviously, I support and urge support for this amendment to protect these service and civilian leaders from unaccountable kangaroo courts.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank Senator MILLER for the great work he has done, and I yield the floor to him.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Mr. President, I rise to add my voice of support to this amendment by Senator HELMS.

I would like to thank the distinguished senior Senator from North Carolina for his leadership and dedication in crafting this important legislation. I am proud to cosponsor it with him. He has worked hard with the Bush administration to write a bill that meets the President's approval, and I commend him for doing so. Senator HELMS outlined the details on what this legislation is intended to do, so I will just make some brief comments on why I believe it is so important.

As Senator HELMS stated, this legislation is designed to protect American troops and officials from the potential of illegitimate and politicized prosecutions under the auspices of an International Criminal Court. When just 13 more nations ratify the Rome Treaty, the International Criminal Court will be empowered, and Americans could be subject to its prosecutorial authority. This could happen even though the United States has not ratified the treaty.

We ask a lot of our military. They are at risk right now in Afghanistan. They are stretched to the limit, and are engaged in missions around the globe that include peacekeeping and humanitarian efforts.

In the conduct of these missions, we must provide them the tools to succeed. Exposing our troops to ICC prosecutions is tantamount to not ade-

quately equipping them for the mission. Rules of engagement for many military missions are complex enough—our military doesn't need to be further burdened by the specter of the ICC when making critical deadly force decisions.

I have heard some of the arguments against this legislation. Some think it demonstrates U.S. arrogance and a unilateralist attitude. Others believe it somehow compromises our commitment to the promotion of human rights and the prosecution of war crimes. I appreciate those concerns, but in my opinion, the well-being and protection of our military trumps those arguments every time.

We should be concerned over world perception in terms of our commitment to addressing war crimes, genocide, and other human rights issues. However, I don't believe any reasonable government could accuse us of not being the world's leader in all of these areas. The suggestion that the United States is not supportive of human rights because we refuse to ratify a questionable treaty just doesn't compute.

Some would advocate that we should ratify this treaty and try to fix its deficiencies after the ICC is created. That is laughable to me. How many of us would sign a contract for anything before negotiating the details? It makes more sense to have this proposed legislation as an insurance policy and then negotiate, rather than negotiate without it and potentially place our people at risk.

I remind my distinguished colleagues of the concern we all had when the Chinese held our EP-3 crew for 11 days. And they were only detained—not prosecuted. Now image American service members being subjected an unfair ICC prosecution without U.S. consent. This could happen to some those brave troops that are eating dust and risking their lives in Afghanistan to protect America. I would never want to look a family member in the eye and know that I did not do everything possible to prevent such a prosecution because of concern over world perception, or offending their governments. This legislation seeks to provide that much-deserved protection.

I encourage my colleagues to support this important legislation. As responsible lawmakers, we are obligated to provide them this legislative protection.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. WARNER. I say to my colleague, a matter of some interest has arisen. I received a call from the Secretary of the Army. If I could have 2 minutes, I think colleagues would be interested.

Mr. BIDEN. I have no objection.

Mr. WARNER. Mr. President, the Secretary of the Army just called me. Yesterday, I put in an amendment to the pending matter before the Senate with regard to the desire on behalf of

the Congress of the United States to see that Captain Charles "Chic" Burlingame, the pilot of American Airlines flight 77, be buried in his own grave site at Arlington National Cemetery. In recognition of the growing interest in the Congress, I was assisted on this by so many. My distinguished colleagues, Senator ALLEN, Senator MCCAIN, and Senator INOUE very graciously put this amendment into the managers' package. Senator STEVENS and others, Senator CLELAND, and the Senator from Louisiana are all involved.

This matter has now been reviewed by the White House and by the Secretary of the Army. The Secretary of the Army has indicated to me that he will, under the regulations, exercise his authority to enable this very courageous and distinguished American and Navy veteran to be buried in his own grave, and at such time in the future to further have his wife interred with him.

I thank all who worked on this. There have been many in the Chamber, along with my colleagues in the House, FRANK WOLF, TOM DAVIS, and others, and also the Secretary of the Army has worked very carefully on it. I went over and visited the Secretary of the Army a short time ago, having been in conference with the two brothers of this individual. It is a team effort by the administration and the Congress. The Secretary is hopeful that the Congress will enact the legislation filed yesterday because it would be an important part of the decisionmaking process. I indicated to him I believe the Senate would, in due course, act on it. I am in contact with colleagues in the House to have a companion bill acted on.

I thank all concerned. We wish the widow and his family and his two brothers who worked so hard on this the very best. So the funeral now can go forward and he will have his own grave site. I thank the distinguished Presiding Officer and my colleague for allowing me to make this statement.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I appreciate my colleague from Connecticut allowing me to stand up and speak for a brief moment before he responds. He has an amendment.

I say to my friend from Georgia and my friend from North Carolina, whom I respect immensely, this is an idea whose time has not come. Here we are with a 28-page amendment before the Senate that we have not read, that is occurring at the very moment, as my friend from Georgia says, when American special forces are eating dust in Afghanistan, at a time when we were relying upon the cooperation of an alliance and a NATO and non-NATO forces that have agreed to support us in that effort, at a time when we are holding a coalition together, along with many Members who have supported this International Criminal Court, and we

are going to try to change their minds about how we should amend the language of the Criminal Court to make it a reasonable thing we could in fact theoretically be a part of, to come along and tell them: By the way, if you already have signed onto this Court, but unless you decide—as one piece of the amendment requires—that unless you agree ahead of time that you would never under any circumstances abide by this Court as it relates to the transfer of an American person accused of a crime, we are in effect dissing you: We ain't going to work with you anymore.

It seems to me a pretty bad moment to be making that claim at this time. As my friend from Georgia pointed out, we want some options. We have plenty of time between now and the next several months to do what we are supposed to do. This was referred to the Foreign Relations Committee. It was introduced and referred to the committee by my distinguished colleague, the ranking member, former chairman, Senator HELMS, when he was chairman. He held no hearings on it this year after it was introduced. Since it has been in my committee—some version of this, not the same thing—there has been no request for me to hold hearings on this legislation.

Here we are on a Friday afternoon about to pass—I hope—a significant bill, and a 27-page amendment is dropped on our desk that is the most far-reaching and consequential extension of an argument against this Court that I have ever heard. It may make sense. Theoretically, it can make sense. But if you are ever going to pick a moment not to do this, it would be at this very moment when we have just—I have been a major party to this—literally broken the arms of the Serbs to make sure they send Milosevic to a criminal court. We have broken the legs of everyone we can—figuratively speaking—diplomatically to get Saddam Hussein before a criminal court, an international court. We have asked them to all step up to the plate and try to bring to trial terrorists and people we are after—the bin Ladens—whom we don't want to try in this country.

It seems to me to come along, and say, but, by the way, if you have signed onto any of this stuff that we don't like, we are not only going to see to it that we don't cooperate with you, but we are limiting our relationship with you, as I read this—that is a pretty big deal.

I wonder how Mr. Blair is thinking, that at this moment when we are putting pressure, or Mr. Schroeder, who risked his entire government with a vote of no confidence—he survived by I think two votes, and I will have the RECORD correct me if I am wrong about the number of votes—but barely survived in order to commit German forces to fight next to American special forces on the ground—who strongly supports this, and say, by the way, you are our enemy if you signed onto this Court. Give me a break.

Let us have regular order, as they say around here. We have plenty of time. I promise you I will hold hearings on this. But don't ask us to digest 27 pages of the most far-reaching application of an objection—by the way, in the Commerce, Justice, and State appropriations bill we already passed legislation of the distinguished Senator from Idaho barring cooperation with this Court. It still takes 13 more nations to sign on before the Court comes into effect. We have time. Let us do this in an orderly way.

I commit to you that at the earliest moment—if you want to pick a date, I will give a date—I will come back during recess and hold hearings. Let us get some serious people in here giving serious input. Just possibly, you people have missed something. Just possibly, you have inadvertently made a mistake in how broad this is, which may harm American troops. I do not know that it does. But I have been around here long enough to know that my mother's expression is a correct one: Often the road to hell is paved with good intentions. I have no doubt about the intentions. But I have some concern that you may have paved the road to hell a little bit for the very American personnel we are trying to save.

I really ask you in a more sober moment, even before we get on to the debate—I don't want to discourage my friend from Connecticut either—to sort of stand down here. I promise you I will set hearings. I will hold the hearings. I will not attempt in any way to delay reporting out legislation on this subject. Let us do this in the normal legislative way.

I thank my colleagues. I appreciate their intent. I know there is not a single Senator who doesn't share this concern. The last thing we want is an American tried before a kangaroo court.

I respectfully suggest that we are sending some sort of silly signals right now to the world. We are asking the world to join us. We are asking the world to participate with us. We are asking the world to try bad guys who have committed crimes against humanity, and yet we are setting up military tribunals and blanket, broad, broad pieces of legislation such as this that we really haven't had hearings on, haven't thought through, haven't debated, and haven't refined.

I do not know that I am against this. Russell Long once said to me after I said to him, "But, Mr. Chairman, I am not sure about this piece of legislation," "JOE, let me tell you something. Around this place, when in doubt, vote no."

I am in doubt. I don't know how you cannot be in doubt. This is 27 pages long, and we are going to do this in the next 15 minutes. I think it is a mistake.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I strongly urge the authors of this amendment to

consider the offer just made by the chairman of the Foreign Relations Committee.

The Senator from Delaware pointed out, putting aside for a second whether or not you would disagree with the provisions in this amendment of 28 pages, that this is a proposal that has never really been debated or considered by committee. Something as far reaching as this is something this body, regardless of where one may stand ultimately on the question of an international criminal court, needs to be prudent in considering. None of us in this body ever wants to see our American men and women in uniform be placed in jeopardy anywhere. I do not know that anyone can tell you with any certainty whether or not that would be the case if this amendment were adopted.

Sometimes when we get in the middle of a debate and start arguing these things, emotions get carried away and it gets harder. I would like to pause for a moment. If both sides agreed to wait a bit and consider this issue at a later date, I certainly would withdraw my amendment. I have a simple amendment which just asks the President to report to the Congress any additional legislative action he would deem necessary for us to deal with this issue that the Senator from North Carolina has placed before us. I do not know how my colleagues feel about that. But I urge them to consider debating this later. We can then debate this in a proper fashion rather than do it here this afternoon.

I will note the absence of a quorum and take a minute to see if there is any possibility—does my colleague from Idaho wish to respond?

Mr. CRAIG. Mr. President, if the Senator will yield, I cannot speak for Senator HELMS. I think all of us understand—whether by the lateness of the hour or the length of the amendment—that the ITC, with 13 remaining nations, does not blink nor cause it to react to any extensive hearings that may have been held by the Senator from Delaware.

Action on the part of this Congress and our President to ultimately protect our own citizens and men and women in uniform and the protection of our sovereignty and our constitutional rights is really the question here. None of us should be frightened by a fear that somehow bin Laden or Milosevic would not be appropriately treated.

We have now had the Judiciary Committee hold hearings for the last 2 days on a military tribunal. Our President has already spoken as to how they might deal with terrorists once captured.

Mr. DODD. If I might reclaim my time.

Mr. CRAIG. What I am saying is, hearings should have been held some time ago. It is a critical issue that the last President put before this body, in essence, by signing the treaty. Yet it has not been done. My guess is, this is

a critical debate and the appropriate amendment to deal with it.

Mr. DODD. I reclaim my time. I guess the answer is no. We are going to have to go through this process, which I regret deeply because I do not believe the Senator from Idaho or the Senator from North Carolina or the Senator from Connecticut could say to you, Mr. President, with any certainty, what we are about to adopt here is in the best interest of our country or our individual men and women in uniform.

Let me tell you what this amendment does, as I read it. This amendment would prohibit the United States from aiding in the prosecution of war criminals before the International Criminal Court, even if the criminal may have perpetrated crimes against America. We are prohibited by this amendment to participate in any prosecution.

Second, it would limit U.S. participation in peacekeeping operations unless we get an ironclad commitment from the ICC that under no circumstances would U.S. persons be subjected to the jurisdiction of the Court.

Furthermore, this amendment would prohibit us from assisting any country that is party to the ICC. We provide assistance to countries all across the globe. Are we really, at this juncture, on a Friday afternoon, now going to bar all future assistance to countries that may participate in the formation of a court?

As I said, back in September when this matter was first raised by the Senator from North Carolina, if the Treaty of Rome were put before this body, I would not vote for it. This body is not prepared to ratify that treaty. My concern is that if Senator HELMS' amendment passes, this treaty may go forward and we will have no say in the process. As my colleagues have pointed out, 13 other nations may sign on to it. If they do, then all of the matters we pass here may be for little or any good at all. In fact, the very concerns that my colleague from Georgia, and others, have raised may, in fact, occur as a result of our nonparticipation in the drafting of this treaty.

I think the United States should remain engaged in trying to fashion this Court in a way that would protect our men and women in uniform. That way at least we maximize the possibility that this Court is going to do what we would like it to do.

I find it somewhat ironic that today is December 7, and 60 years ago today Pearl Harbor was attacked, as we all know. We listened to the eloquent remarks of our colleague from Hawaii earlier today. Four years later, the United States, at our urging, established a criminal court in a place called Nuremberg, with the cooperation of our allies, to prosecute those who had prosecuted the war. And we did it not just in Europe but also in the Pacific with a separate set of trials.

In a sense, what this amendment would do is prohibit a future Nuremberg.

I do not think, on this day of all days, considering, if you will, the role that we played in the post-World War II period of trying to build institutions where the rule of law prevailed, that the Senate, the body charged in the legislative branch with dealing with the international relations issues of our country, would adopt an amendment that says we are not going to participate in any kind of an international criminal court.

I find it stunning that we can do that. I have offered a second-degree amendment which very simply would say that the Rome statute establishing the International Criminal Court would not enter into force, and that Congress has confidence in President Bush's ability to protect U.S. interests.

The last thing it calls for is that the President shall report to the Congress on any additional legislative actions necessary to advance and protect U.S. interests as it relates to the establishment of the International Criminal Court.

The Senator from Delaware has already pointed out, that we are trying to build transnational support for dealing with terrorism. The President has told us terrorists and their terrorist cells may exist in 60 countries. We are going to need a remarkable level of cooperation if we are going to successfully prosecute, capture, and try these individuals.

We have already seen some of the difficulties related to the cooperation we are seeking to bring terrorists to justice. What is going to be the reaction of the international community if we adopt this amendment at the very hour we are reaching out our hands saying: Will you join with us as we seek to prosecute those who perpetrated the crimes on September 11? When we are telling those countries we are not going to participate in any peacekeeping operations, we are not going to provide any aid to any countries that participate or sign on to this treaty?

This is what we should be doing: We should maintain a policy of fully supporting the due process rights of all U.S. citizens before foreign tribunals, including the International Criminal Court. We should continue to participate in negotiations of the Preparatory Commission for the International Criminal Court as an observer. At an assembly of states and parties, that is how you are going to effect the change—by being at the table, not by walking away from it.

This is the United States of America. We are not some Third World country. We claim to be a leader in the world to do what we can to ensure the rules of procedure are in evidence and that elements of crime adopted by the International Criminal Court conform to the U.S. standards of due process formally adopted by the assembly.

How is that going to occur if we adopt this amendment? We ought to seek a definition of the crime of aggression under the Rome statute that

is consistent with international law and fully respects the right of self-defense of the United States and its allies.

We ought to be there to ensure that U.S. interests are protected in negotiations over the remaining elements of the International Criminal Court to provide appropriate diplomatic legal assistance to U.S. citizens, especially the U.S. representatives and their dependents who face prosecution without full due process in any forum.

That is what we ought to be doing. That is the role of a great nation. That is the role of the United States. That is what we did in the post-World War II period. We did not back away. We did not take an 18th or 19th century approach to the world. We engaged the world.

In fact, I remember—my colleagues may not know all of the history—but the choice of Nuremberg was not accidental. The choice could have been elsewhere. But Robert Jackson, who led the U.S. delegation prosecutorial team, selected Nuremberg because it was at Nuremberg that the Nazis wrote the laws that gave them the fake justification, if you will, to engage in the butchering that they brought on the world. It was at Nuremberg, Germany, where that happened.

So Robert Jackson said: Why don't we go back to that very place and show the world that in civilized societies the rule of law prevails?

There were people who argued forcefully that there should have been summary executions of the defendants at Nuremberg. Just execute them. That was the argument. Line them up against a wall and shoot them. Believe me, there were a lot of people who could make a strong claim that should have been the process. Millions of people lost their lives at the hands of those butchers.

But wiser voices prevailed. They said: No, no. We are not going to allow the world to see us act, in a sense, little differently than those who committed the crimes. We are going to provide them with a tribunal, an international criminal court. The argument that was raised against it was not illegitimate. It was *ex post facto*. We established it after the fact, but I think most agree today that the Nuremberg tribunal was conducted fairly, that those who were brought before that criminal court were given an opportunity to present their cases, and were tried fairly. Most were convicted, most were executed; some actually were exonerated; some got lesser sentences.

The point I am making is, today could there be another Nuremberg? Could we participate in a Nuremberg? Would we be advocating it? If we adopt this amendment, does that put us on the side of the Robert Jacksons in 1945, or does it put us on the side of retrenching and pulling back and not engaging?

I honestly believe the Rome Treaty is flawed—terribly flawed—but I also be-

lieve my country ought not walk away from its responsibilities. We may be about to adopt an amendment, in my view, that takes us in the opposite direction.

I am terribly disappointed we are even debating this amendment under these circumstances, a 28-page amendment involving all sorts of intricate matters that could complicate the role of our government at this very hour, putting us in a position of walking away from International Criminal Court. That is a dreadful mistake of historic proportions.

What a tragedy, as we begin the 21st century, that this great Senate, given those who preceded us, those who fought for a Marshall plan, those who fought for the establishment of the United Nations, those who fought for the establishment of the Court at The Hague, those who fought to establish rules on human rights, those whose very seats we sit in, we would pass an amendment contrary to their legacies. What a legacy for us. We are involved in the greatest challenge that America has faced since the conflict of World War II, and we may be about to adopt an amendment that would set back all of the efforts that were made in the post-World War II period. I am ashamed, in a sense, that we are about to adopt language which would put our country in that position.

At the appropriate time, I will ask my colleagues at least to consider my second-degree amendment which would allow for the President and others to report back what we might do and how we might address this issue, how we might affect the assembly that meets to establish the International Criminal Court, and how we can have some positive effect on what rules and regulations are going to be established there.

That is what I would hope we would do. For those reasons, I urge the rejection of the amendment offered by my friend and colleague from North Carolina, and support for my amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, before my colleague from Connecticut leaves the floor, let me suggest to him in all sincerity that he has no reason to be ashamed, no reason to be ashamed of engaging in this debate, or in talking, as he has so proudly, about the legacy of Nuremberg and our Nation's leadership there. Nuremberg was a unique and terrible case and we addressed that issue as we should, and we did it in a most appropriate fashion. On other occasions, our Nation has engaged in international tribunals for specific purposes. But there is a very real difference today between that which we debate in the ICC and a Nuremberg example.

Nuremberg was a case in point to address the dramatic crisis coming out of and during World War II and those who perpetuated those horrendous acts. It

was a temporary tribunal. What we debate today is a permanent tribunal, one that stays in constant existence, one that has an international prosecutor, and one that chooses to operate under a set of laws that is constant. Not that we would ever again engage in a tribunal to deal with a Milosevic. We have. We will. And we should. Nor would we ever again engage in tribunals that would deal with terrorists who would bring acts against this country or other nations of the world. We have. We will.

It is not that we are shucking from international leadership to suggest that we will not adhere to an international perpetuated body that takes away the sovereignty of our citizens and our men and women in uniform and our protections under the Constitution; that we should walk away from, that we should be proud to walk away from.

That is exactly what the Senator from North Carolina is proposing with his amendment. We have dealt with this issue at length. There is a great deal more that we should probably talk about, and the time is limited this evening.

The Senator from Connecticut talked about failing to assist countries. That provision was taken out of the bill of the Senator from North Carolina. If it were still in there and if it still qualified under the rules of the Senate, if you go on, it says we could waive that exception, that we could waive that prohibition on a selective basis. Does that sound like a weak Third World nation running from its international responsibility or does that sound like a world leader having the right to pick or choose for its citizens under its Constitution and not the rule of the United Nations? That is what we are talking about. That is fundamentally the issue.

We all know the history of this. Even when President Clinton signed this treaty in the final hours of his administration, his own words were:

Significant flaws exist in this document.

Therefore, he did not send it to the Senate for ratification because he knew that it had great problems and some of those problems are the kinds of problems that the Senator from North Carolina is attempting to address. Rather it is whether or not we are fundamentally committed to the sovereign rule of the domestic law of our country under the U.S. Constitution as opposed to global justice under U.N. auspices. I don't know how to put it much clearer than that, for there can only be one answer, my guess is, for the majority of my colleagues. That means the United States must stand firmly against the concept and the reality of an ICC.

No matter what we debate here today and no matter what action we take, if 13 more nations ratify this under U.N. rule, this is the law of the world, so to speak. Therefore, whether we try to shield our own from it, it is possible still that a rogue international prosecutor, using the ICC, could bring some

of our men and women in uniform or any citizen of the United States over 18 years of age under its jurisdiction.

This also means that trying to fix the treaty's flaws is in itself a great problem. Instead of mistakenly trying to fix the Rome treaty's flaws, the United States must recognize that the ICC is a fundamental threat to American sovereignty and civil liberty and that no deal, nor any deal, nor any compromise in that concept and under that reality is possible.

We will engage internationally. We have and we will constantly do so. We are world leaders and we are proud of that. We also understand the awesome responsibility that goes with it. But to suggest that we hand this authority over to the United Nations and to suggest that they would use it in perpetuum, in a constant and uniform manner, we saw one of those rogue assemblies occur in Africa recently, and we had to walk away from it. We had to denounce it because of its outspoken racist arguments. It was something of which we could not be a part.

Is this to suggest that something similar to this could not happen or would not happen in the future with this kind of a body if we don't have the right to selectively choose to create, for the purpose and the intent at the time, an international tribunal that ought to be assembled for the purpose of dealing with an unjust act to humanity around the world? That is the issue about which we are talking. That is exactly the issue that the Senator from North Carolina is attempting to address.

Have we addressed this before? Yes. Have I been to the floor before to speak about it? Yes. Did we address it? Most clearly, we did. In the Commerce, State, and Justice appropriations bill this year, we prohibited the use of funds for the ICC or for its preparatory commission. That is the law of the land, as we speak. We passed it. We provided that protection this year in this Senate. It is important that we recognize that we have already made those kinds of observations.

It said very clearly: None of these funds appropriated or otherwise made available by this act shall be available for cooperation with or assistance or for other support to the International Criminal Court or preparatory commission.

I don't think we could get much clearer. Use of the State Department's funds for cooperation with the ICC or the preparatory commission is prohibited. That is clear. It was necessary to do. We spoke out as we should have on that issue.

Let me talk about one other very important aspect because the Senator from Connecticut appropriately addressed the circumstances of today and how that all fits.

I do not think by our acting this evening in support of the amendment of the Senator from North Carolina we are, in fact, turning our back on the

bad actors of the world, the bin Ladens or the Milosevics or the Saddam Husseins. Not at all. We are speaking to the direct opposite. We are speaking to the right of an American citizen and the American men and women in uniform and their protection under our law.

When the time comes—and it may well—to address the problems created by the gentlemen I have just mentioned, this country will stand up and ask the world to stand with it for the purpose of dealing with those kinds of international outlaws.

As we develop our relationships around the world and the new coalitions that our Secretary of State is trying to form at this moment with Arab nations in search of terrorist groups, the renunciation of this Court has nothing to do with that. Those are case-by-case, nation-by-nation relationships.

What the rest of the world knows is that we are a nation of law and we protect the right of our citizens under that law within the Constitution. To speak out now for that purpose instead of handing it over to—or to arguably do so, an international body, I think speaks quite the opposite; that somehow we have softened, adjusted, or changed.

No, I do not think that is what we ought to be about. More importantly, I think that a loud, clear statement tonight to protect our men and women in uniform—and I wish we could go further to say all Americans—is a right and appropriate thing. Our men and our women are in the deserts and the sands of Afghanistan as we speak. As the year plays out and as we move into the next year and the next in our pursuit of international terrorism, they may be somewhere else around the world because we are a world leader, and we want and hope the world will follow us in our pursuit of international terrorists.

If that day comes, beyond the military tribunals that our President has already shaped, that we need an international forum in which to address this issue, that is the day we assemble it, that is the day we bring the United Nations and the rest of the world with us. But not now, nor ever, should we arbitrarily give away the right of the citizen, wherever he or she may be around the world, to have the protection under our Constitution and under our law of that constitutional right that a native-born American or a naturalized American citizen has. That is the fundamental debate.

The Senator from Connecticut and I really do not have many differences. We agree fundamentally on all of those things. I do not believe it is a negative statement to the world that we stand tall and demonstrate our leadership for our citizens and our people under our Constitution.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Arizona.

Mr. KYL. Mr. President, I wish to address this issue in the context of today's events. Two things in particular strike me about this debate, and I want to make it clear at the beginning that I support Senator HELMS and what he is trying to do to protect the men and women in our military whom we put in harm's way to fight for peace and security from terrorism in faraway places. Before the war on terrorism is concluded, we are likely to find them fighting in farflung reaches of the globe against the scourge of terrorism.

What we are concerned about is the possibility that they would fall into the hands of an enemy that would put them on trial under trumped-up charges, with very little in the way of rights before an International Criminal Court or under its jurisdiction.

Is this an unreasonable fear? I note some of the countries that have signed up to the ICC, some real bastions of civil rights and civil liberties: Algeria, Cambodia, Haiti, Iran, Nigeria, Sudan, Syria, Yemen. Those would be great places to be tried in if you were in the American military and you had been fighting some tin-horn dictator who got ahold of you and decided to put you on trial.

To me the interesting juxtaposition in the debate that has been going on in this country for the last 2 or 3 weeks—and we witnessed some of it yesterday before the Senate Judiciary Committee in which many liberals in the United States are very concerned about the civil rights of terrorists or people who are accused of terrorism and are raising all manner of questions about the possibility that military commissions established by the United States in furtherance of our war against terrorism will somehow, possibly, maybe, deny some right to a terrorist.

That is a matter of great concern to them. They have taken space in op-ed pages of newspapers, editorial pages of the newspapers, hours of conversation as talking heads on these television programs and, indeed, even some questions raised by Members in the Congress about what the United States proposes to do in establishing military commissions and how that might deprive a terrorist or a person accused of terrorism of some civil rights. Their concern for the rights of these people is touching.

I have found it a little bit out of priority or out of sync with priorities. It seems the first priority of those of us who are sworn to protect our constituents, our American citizens, ought to be to ensure their protection. But it was interesting that almost all of the questions from my colleagues on the other side of the aisle, both in the hearing with Attorney General Ashcroft and the head of the Criminal Division, Michael Chertoff, were not focused on ways in which we could give the Justice Department or Defense Department greater tools in the war on terrorism to protect Americans. Almost all of the questions were focused

on whether maybe we were going a little too far in the creation of military commissions and maybe we ought to be more concerned about the rights of the terrorists who were going to be tried in these military commissions. It is an interesting proposition, to be sure.

We can have that debate. It would be a lot better to have it when we are not at war, but at least some legitimate questions were raised. I certainly take nothing from my colleagues who wanted to get to the bottom of what is being done. But I find it ironic on that day, yesterday, we can be debating with great concern over the rights of terrorists in a military commission, in a trial following some kind of military action, and yet seem to be a lot less concerned about the plight of American military personnel who might find themselves put on trial in a foreign country under an International Criminal Court procedure.

The United States is not a party to this, and given the kind of countries that have set it up, I think it will be a long time before we will be a party because they do not have the same kind of concept of justice we do, they are not willing to abide by the same kind of rules the United States will create for those we put on trial. Rest assured, people we try will very much get a fair and full trial. It will probably be a lot like the courts martial we provide for our own military personnel.

What we are concerned about here is not just sovereignty, the right of the United States to protect its interests. We are also concerned about two other things. We are concerned about protecting our young men and women whom we put in harm's way, in the first instance, to try to protect peace and security for people and do not want to jeopardize this, in the second instance, should they fall into the wrong hands and be put on trial.

Also, paradoxically, I am concerned about the ability of the United States to sustain future operations of the kinds that were engaged in Afghanistan today and hopefully will be engaged in other places around the globe if there is a concern not that we will suffer casualties. We become very casualty averse these days. It is a wonderful thing not to have the same kind of casualties we used to in war, and we are getting used to that.

I hope we would not hesitate to send in troops to fight for security from terrorism, for peace, for freedom in places we think that is important because of the threat that should our military personnel fall into the wrong hands they are going to be tried by people we believe have no right trying them, under procedures that would not sustain muster by the United States. That is why we have not signed on to the ICC.

As has been noted before, President Clinton was very concerned about the inability to protect our service people under the ICC jurisdiction.

Running away from the world? My colleague from Connecticut and I have

the same view of the role of the United States being willing to reach out to the oppressed of the world when that also advances the interests of the United States, and we have never hesitated from spilling our blood and spending our treasure on behalf of others when we have believed that was the right and moral and just thing to do, and we have done it. We have never shirked our duty.

Every one of us in this body supported the resolution to authorize the President to once again send our young men and women into combat, if necessary, to protect the rights of people abroad, as well as, hopefully providing, for a safer world for Americans at home.

We will not shirk from our duties by failing to participate in a flawed treaty signed by the likes of Sudan and Iran and Iraq and Haiti and Cambodia and countries such as that. That is not my idea of statesmanship, of rushing to join with these groups of people and sign on to something that, as President Clinton has said, is fatally flawed.

No. We exercise leadership by saying: We are not going to play that game. It is fraudulent. You all create these international regimes to make yourselves look good, to make it look like you are for right, truth, and justice. We know you are not, and we are not going to play that game. When you get serious about negotiating the rights and protections that we demand of our men and women in the military when we send them abroad, then we will get serious and talk to you about this. Until then, no. The United States will act in its own interest first protecting its sovereignty and its own citizens.

We are not the leader of the world for nothing. We have gotten there because we have been willing to do this: not to be a follower but to be a leader. To be a leader sometimes is to say to other nations such as the ones I have read off, we are not going to follow you. We do not think your motives are clear. We think you have it all wrong, and until you are willing to listen to us about what is necessary to protect the rights of everyone, not just Americans but certainly Americans included, we are not going to play your game.

I resent the notion that failing to join up with the likes of that group of countries is somehow abdicating our responsibility. I think the President of the United States has it right. He campaigned on a theme and he has been working on a theme that we are going to do what we believe is in the best interest of the United States, consistent with the interests of other people around the world.

The first thing we are going to do is we are going to protect ourselves from a weapon of mass destruction delivered by a missile from a rogue nation. Missile defense, if you do not like it, tough. We are going to protect the American citizens from that kind of a threat.

Another thing we are going to do is we are going to reduce the number of

nuclear warheads in our arsenal, and we do not have to sign a treaty with anybody to do it. If it is in our best interest, we are going to do it.

President Vladimir Putin of Russia and President Bush get together and they agree this is a smart thing for both countries to do. I suspect President Putin will end up doing the same thing for the benefit of his country. You do not have to join up in all kinds of multilateral regimes around the world in order to accomplish good things, and sometimes it is not smart to do this. It is better to hold back and provide leadership by demonstrating that you are prepared to do it in a different way, and the way some of these countries have thought about doing it is not the right way.

I support the amendment of the Senator from North Carolina, the purpose of which is to protect our military personnel from an improper, imperfect system that we all recognize we have to try to improve if we are ever going to be a part of it. Until that date comes, to ensure that they are not put in harm's way—and the provisions of this amendment will make it much more likely, it seems to me. Yes, it will get people's attention, and I think it will make it much more likely they will sit down and negotiate responsibly with the United States so that perhaps someday we can have a multilateral regime called an international criminal court.

Until we get to the point where our rights are respected, the country that has provided more rights for more people in the history of the world than any other country, until that date comes, we need to adopt the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, at this point I do not desire to prolong the proceedings, but so many strange statements are being made that have no relationship with accuracy that I have to correct some of them.

Before I do that, let me say I do not have two better friends in this body than Senator BIDEN, who is now chairman of the Foreign Relations Committee—and I cannot remember who was the former chairman—and the father of Grace, that little sweet thing in Connecticut. That is a wonderful picture he sent, and I bear him no ill will, but I wish I was on their side on this because they are so eloquent and, if I may say so, they are so loud.

In any case, the statement they made that we have not had any hearings in the Foreign Relations Committee, that is strange. On Wednesday, June 14 of last year, 2000, 3:30 p.m., Dirksen Building, 419, the Committee on Foreign Relations held a hearing on the International Criminal Court protecting American servicemen and officials from the threat of international prosecution. The witnesses included the Honorable Caspar W. Weinberger,

former Secretary of Defense, and chief executive officer of Forbes, Incorporated. Then there is a distinguished professor, Dr. Jeremy B. Rabkin, from the Department of Government, Cornell University, and Ruth Wedgwood, professor of law at Yale University. That was a good hearing. I was there.

Then on Tuesday, July 20 of 1999, we had an Ambassador-at-large for War Crimes Issues, the Honorable David A. Scheffer, and this was a closed door hearing so that he could speak candidly and not be put on record.

Then on Thursday, July 23, 1998, in the Dirksen Building, the Foreign Relations Committee heard panel 1, the Honorable David Scheffer, Ambassador-at-large for War Crimes Issues, and panel 2, the Honorable John Bolton—most Senators have heard of John—Lee Casey, attorney from Hunton & Williams, Washington, DC, and Michael P. Scharf, professor of law, Boston, MA.

The point is, the President of the United States wants this amendment. He does not want a second-degree amendment to it. He wants this amendment. We have worked it out with the President, and I think he is entitled to have some consideration on this without a whole lot of gobbledegook that is meaningless and, in some cases, not even close to the truth.

I do not mind being opposed, but I hope we can lower our voices. I had to turn my hearing aid down because the sound was ringing in my ears. Can we not address this in a rational sort of way?

Frankly, I have my doubts about some of these judges of other countries with which we do business. I will not identify the country because it is a personal matter, but there is the wife of an ambassador to the United States from one of our finest allies whose husband kidnapped their two little boys and took them to his home in a foreign country. You can't even get the courts of that foreign country to do anything about it—even giving the wife of this Ambassador to the United States a hearing.

This is the kind of thing we run into. I don't want our servicemen subjected to any kind of inhibitions not to their benefit.

If anybody with a second-degree amendment can present credentials that they have the support for their second-degree amendment from veterans organizations, veterans publications, veterans representations, representing 5.5 million servicemen in this country, let the Senators present their credentials and I will be impressed.

But, no, they don't agree with me on this International Criminal Court. They have not done anything to move it along in the Foreign Affairs Committee despite my exhortations. And I understand that. The legislative process works that way, and I don't get my feelings hurt if I don't get my way on things. But I will be here until midnight before I submit to the suggestion

that this amendment ought not be approved by the Senate.

I hope we can move along without so much waste of time, but I would hope that any Senator who wants to attack this amendment will tell why he is disagreeing with the President of the United States. I want him to present his credentials as to the support from servicemen and service organizations representing 5.5 million people. If they can present the credentials, I will back up and not push the amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I rise today in opposition to the amendment. In my view, the International Criminal Court, as established under the Rome statute of 1998, represents a unique opportunity to bring justice to the international community and to help in the fight against future war crimes, genocide, and other crimes against humanity. That is an important mission.

The Rome statute is the result of 5 years of negotiations by more than 100 countries. The United States was an active leader in these negotiations. Frankly, after years of support for the process, leading to the Court's formation, it is unwise to turn our backs on it now. If properly implemented, the ICC would go a long way toward preventing catastrophes such as those we recently witnessed in Bosnia, East Timor, and Rwanda. The ICC is not going to prevent all future human rights violations but it can deter those who would commit genocide, punish those who do, and offer justice instead of revenge and contribute to a process of peace and reconciliation.

Now, there are Senators who have asserted today that the International Criminal Court is part of the United Nations. It is a common mistake. For the record, the Court will be independent from the United Nations and governed and funded by its own assembly of state parties. Jurisdiction, judicial decisionmaking, and legal authority will be given only to this independent Court, not to the United Nations.

What is more, some of my colleagues in the Senate have opposed the Rome statute because they fear that the ICC will expose American service men and women abroad to frivolous prosecution. But American negotiators, led by Ambassador David Scheffer, have achieved remarkable progress during the treaty negotiations to effectively address these concerns. Any prosecution before the ICC would take place only if the domestic judicial system were unwilling or unwilling to make a good-faith inquiry into allegations of war crimes. I cannot emphasize this point strongly enough.

This amendment would restrict the role of the United States in future peacekeeping missions unless the United Nations exempts U.S. troops from the Court. It would also prohibit

U.S. aid and input into the Court and block U.S. aid to allies unless they agree to shield American troops on their soil from ICC prosecution.

The timing of this amendment could not be worse. As the world unites to combat terrorism, we should be active partners in encouraging an end to impunity for human rights violators, not skeptical detractors. We need a place where perpetrators of human rights abuses are held accountable. In passing the Helms amendment, I fear we will be sending a horrible message to the international community. It is as if we cannot even be involved in the negotiations, sitting down at the table and helping to shape what could be such an important institution.

The Court will be established whether we like it or not. The authority of the future Court derives from the 120 votes garnered in Rome, the signatures subsequently of 137 nations and ratifications of 47 states. All members of NATO, the European Union and most in Latin America have signed or ratified. Recently the United Kingdom and Switzerland became the 42nd and 43rd countries to ratify, and Hungary became the 47th nation to do so.

Given these realities, we should oppose this amendment, hastening instead to assure the Court is a good one, inculcating the American values of democracy, rules of law, and an end to impunity. The United States should remain engaged while protecting American citizens and military people from politicized prosecution by the International Criminal Court or by any other foreign tribunal.

If America turns its back on the negotiations, and the Helms amendment would make it impossible for us to be involved in the negotiations, this opportunity to secure international justice will be lost. Only through engagement, which this amendment makes impossible, can the United States live up to the truly inescapable promise of "never again."

Thank you. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the debate this afternoon has covered a good many issues of real importance and concern to the United States and to the world. However, I suggest that the preferable approach would be for the United States to participate, to try to make the rules of the International Criminal Court satisfactory to the national interests of the United States, and to establish a framework for the rule of law in the world.

There is no doubt that the United States is going to act in what is in the United States' national interests. That is a fundamental rule of how nations behave and should behave. There are real problems which could be posed by an international criminal court and which are now present, for example, in the War Crimes Tribunal on Yugoslavia. It is not well-known that Carla

del Ponte, the prosecutor at The Hague, considered a criminal prosecution against General Wesley Clark for targeting civilians and for being careless in the targeting of military installations which threaten civilians. That consideration was undertaken by the prosecutor at The Hague, the War Crimes Tribunal for Yugoslavia, on the initiation of Yugoslavia, backed by Russia.

I had an opportunity last January to talk to prosecutor Carla del Ponte about that and expressed surprise that someone like General Clark, who was acting on behalf of NATO and carrying out air strikes that were authorized by this body, the Senate, could be subject to that kind of a criminal prosecution for what was essentially an action authorized by the United States, authorized by the United Nations, and authorized by NATO. That kind of power in the hands of the prosecutor is really extraordinary.

As is generally known, I have had some experience as prosecuting attorney—having been District Attorney for Philadelphia for some 8 years, and having seen the kind of discretionary actions that a prosecutor can take when it is a matter of interpreting facts.

When we talk about soldiers in the United States who are in harm's way being subject to criminal prosecution, that certainly is a problem, and a real problem. However, what we need to do, in my opinion, is work to structure an international criminal court which makes sense, which does not subject U.S. soldiers, or General Clark, or perhaps Senators who vote on a resolution to authorize air strikes, to criminal prosecution. However, the International Criminal Court, I believe, is coming. If 13 more nations ratify the International Criminal Court treaty, it purports to come into existence.

Frankly, I do not think even if it comes into existence it is going to be able, as a matter of operational practice, to subject General Clark, U.S. soldiers, or U.S. personnel to prosecution unless somebody happens to be in a country and is detained somewhere. I think that would be a most extraordinary and unlikely event. However, we do see quite a trend in the international rule of law with the court for Yugoslavia and the court for Rwanda.

It is my hope that we can find a way to see it structured so that it does not inappropriately subject people to criminal prosecution.

The amendment of the Senator from North Carolina is very detailed. It prohibits extradition. I do not know if you need another law that prohibits extradition. If the United States does not have an extradition treaty with the International Criminal Court, or a body which represents it, there is no extradition. You have to have a treaty for that which talks about letters of interrogatory, which I do not think is highly significant as an evidence-gathering measure. However, there is a provision here to free members of the

Armed Forces of the United States and other persons who are detained, and a provision which says, "The President is authorized to use all means necessary and appropriate to bring about the release of any person"—and it has a description. I do not know that we really want to be in a situation where the United States is going to go to war with the International Criminal Court, which is somewhat reminiscent of the resolution of the use of force, which we passed on the terrorism issue.

The International Criminal Court was considered at some length in a resolution sponsored by the Senator from Connecticut and myself in the early 1980s, at a time when we were dealing with international drug trafficking, and we were finding it impossible to get Colombia to turn over drug traffickers to the United States for prosecution in our courts.

It was a matter of national pride that Colombia and other Latin American countries were not about to turn their citizens over to the United States for trial in our courts. However, had there been an international court, I think that might have been achieved.

We had a similar problem in the mid-1980s with terrorists when we could identify the terrorists. At that time, I urged that the United States take forceful action in international law to go and arrest terrorists, which we had a right to do as a matter of national self-defense. We had a right to arrest Osama bin Laden before September 11th this year based on the indictments which were obtained for murdering Americans in Mogadishu, Somalia in 1993, and for murdering Americans in the embassies in Africa in 1998. We were on notice that Osama bin Laden had threatened America with a worldwide jihad, that he was implicated in the bombing of the U.S.S. *Cole*, and other acts of terrorism and sabotage.

Thomas Friedman wrote an article which appeared in the newspapers about Osama bin Laden on June 28 that was a facetious memorandum from bin Laden to the world about how he had scared the United States out of Jordan and out of the Mideast; and, about his operatives talking on cellular phones. He was well known.

We had a right at that time to bring him to trial in U.S. courts. Perhaps if there had been an international criminal court, there would have been some unity or some coalition with which we could have acted. There are many desirable uses for an international criminal court. It has been talked about for a long time.

The Senator from Connecticut talked at length about the Nuremberg trials, which I will not repeat. When this court arrives with 13 more ratifications—and I remind the one or two people who might be listening on C-SPAN II—that the United States was formed under an arrangement where if nine of the colonies ratified the Constitution, it was binding on all. We should not be surprised if you have an instrument es-

tablishing a court, which is binding under its terms, if it is ratified by a specified number.

Again, it is a different situation. You might say that the colonies had sovereignty. However, under the terms of the Framers of the Constitution, all 13 would be bound upon nine signatures. National sovereignty is a very precious item. I am not about to be one to give it up. I am not about to allow Carla del Ponte to indict Wesley Clark for what he did in carrying out the resolution passed by the U.S. Senate.

However, we have an opportunity to influence what that document will be. I think the Senator from North Carolina serves a very important purpose in posing the threats to American national interests. The Senator from Arizona, and the Senator from Idaho have spoken about these matters. However, I do not think the answer is prohibiting U.S. action, which is what this amendment does.

I think the answer is aggressive participation. If Senator HELMS and Senator KYL go to these conventions and participate—and Senator DODD and I will stay at home—we can influence what these documents will be. I think it will ultimately be in our national interest, and certainly in the world's interest, if we had a criminal court so we can try international drug dealers and international terrorists. It might provide a forum for bringing to justice Osama bin Laden.

My hope is that we will be participants to see that it is done right as opposed to prohibiting U.S. action to see that it is done right.

I yield the floor.

Mr. LEVIN. Mr. President, I cannot support the Helms amendment regarding U.S. policy concerning the establishment of an International Criminal Court in the future. The Helms amendment, in my judgement, goes too far. The amendment offered by Senator HELMS would authorize the use of military force against a friendly country, the Netherlands, where the court might exist, in order to remove a foreign citizen from prison, even if the country of which that person is a citizen might not want that removal.

I supported the alternative amendment offered by Senator DODD which would have required the President to report to the Congress on any additional legislative actions necessary to advance and protect U.S. interests as it relates to the establishment of an International Criminal Court.

Mr. HATCH. Mr. President, I rise in strong support of the amendment introduced by my dear colleague, Senator HELMS. As my friend has noted today, I have been an original cosponsor of this legislation since he first introduced this in 2000. I commend my colleague for his commitment to the policy behind this amendment, for his persistence in promoting it, and on his efforts—successful, I am happy to note—to craft a piece of legislation that has the support of the administration.

I offer a little bit of background: On July 17, 1998, a United Nations conference in Rome approved a treaty establishing the International Criminal Court (ICC). 120 countries voted in favor of the treaty, seven countries—including the United States and Israel—voted against the treaty, and 21 abstained. Pursuant to the Rome Treaty, the court is intended to come into existence when 60 countries ratify the treaty. Forty-seven countries have ratified as of November 30 of this year, leaving 13 nations' ratifications necessary for the treaty to come into force.

If established, the International Criminal Court will have the power to indict, prosecute, and imprison persons who, anywhere in the world, are accused by the Court of "war crimes," "crimes against humanity," and "genocide." The court will have an independent prosecutor, answerable to no state or institution for his or her actions. Pursuant to the Rome statute, the ICC will be able to claim jurisdiction to try and imprison American citizens—including U.S. military personnel and U.S. Government officials—even if the United States has not signed or ratified the Rome Treaty.

Arguing that it was necessary to prevent the exclusion of the U.S. from future negotiations about how the ICC would operate, President Clinton signed the Rome Treaty on December 31, 2000, which was the close of the period for signature. Tellingly, he said on December 31 that he would not send the treaty to the Senate for ratification and would recommend that President Bush not transmit it either, given its remaining flaws. It is reasonable to question exactly what President Clinton intended by such a deliberately ambiguous act with such clearly defined consequences for government officials and members of the U.S. military who would go overseas under future Commanders-in-Chief.

The Senate has gone on record numerous times opposing the ICC. Last June, the American Service Members Protection Act of 2000 was introduced, and I was an original cosponsor. This act, now an amendment to this Defense appropriations bill, addresses our fundamental problem with the ICC: It represents, in legislation vetted and approved by the current commander-in-chief, that U.S. forces, which serve around the world in numerous peacekeeping and other roles, as well as American political leaders, must remain immune from prosecutions that could politically driven, prosecutions that could be directed more against our foreign policy than any possible violations of international law.

This amendment prohibits U.S. cooperation with the court, including use of taxpayer funding or sharing of classified information. It restricts U.S. involvement in peacekeeping missions unless the U.N. specifically exempts U.S. troops from prosecution by the International Criminal Court. It limits

U.S. aid to allies unless they also sign accords to shield U.S. troops on their soil from being turned over to the court, and it authorizes the President to take necessary action to rescue any U.S. soldiers who may be improperly handed over to that Court. The policy promoted in this amendment is not anti-U.N., and it is certainly not against U.S. involvement in the world. But it is impossible to deny that America has a unique role in the world, and a unique form of self-government. Today, it is this country that leads the world in a battle against those who would use terrorism against us and our many allies and friends. While we go forth in this war to defend our national security, there is no denying that our victories—and we will be victorious—will be shared by those who hate terrorism as much as we do.

No country has done more than the United States to prevent and punish war crimes and crimes against humanity. No country is doing more than the United States to support multilateral peacekeeping efforts. And nowhere on earth do people enjoy greater civil liberties and personal freedom than in the United States.

The American people will never accept the direct assault on their country's sovereignty represented by the Rome statute. The statute's notion that Americans may be indicted, seized, tried or imprisoned pursuant to an agreement which their country has not accepted is an unprecedented affront to their national sovereignty and a threat to their individual freedoms. The Rome statute lacks procedural protections to which all Americans are entitled under the Constitution, including the right to trial by jury, protection from self-incrimination, and the right to confront and cross-examine all prosecution witnesses. This amendment, so diligently negotiated with the administration by my friend, Senator HELMS, declares to all Americans that you may all rest assured that the Government will always be obliged to protect—and if necessary, to rescue—American soldiers and civilians from criminal prosecutions staged by United Nations officials under procedures which deny them their basic, hard-won constitutional rights.

My comment to the world leaders and do-gooding groups who promote the ICC is simply this: Do you favor American leadership in international humanitarian crises? If so, beware: entry into force of the Rome statute, and establishment of a permanent International Criminal Court, will jeopardize American leadership because politically-driven prosecutions are a certainty and American soldiers and public officials can expect to become political pawns. Americans will not tolerate this.

As President Clinton's own Rome statute negotiator rightly observed, the notion that Americans are bound by something to which they have not consented is contrary to the most fun-

damental principles of treaty law. Unchallenged, the ICC will inhibit the ability of the United States to use its armed forces to meet alliance obligations and participate in multinational operations, including humanitarian interventions, to save civilian lives. The policy of this amendment has been endorsed by a bipartisan group of former senior U.S. officials, including Henry Kissinger, George Shultz, James Baker, Lawrence Eagleburger, Brent Scowcroft, Jeanne Kirkpatrick, Casper Weinberger, and James Waals.

It has been said that the Rome statute is some kind of "litmus test" for American seriousness about war crimes and genocide. No participant in this debate who is worthy of our attention will make such an accusation, which is as offensive as it is false.

From Pearl Harbor to the Adriatic Sea, American has given its blood and treasure to stop mass murderers in conflicts we didn't start. Today, America's best are fighting halfway around the world, attacking at its core a terrorist infrastructure that reaches to every part of the world. Tomorrow, we don't know yet where our brave service members will be, but we know that the fight for terrorism will not end in Afghanistan, and we know that America's finest will be risking their lives elsewhere. These brave members of our armed services are giving enough for this country, for western civilization. Let us not add to their concerns the possibility that, as they do their noble duty, they need be concerned about legal threats that do not represent the Constitution that they have sworn to protect.

Mr. LEAHY. Mr. President, I strongly oppose the amendment offered by the senior Senator from North Carolina on the International Criminal Court.

In addition to being damaging to the cause of international justice, this amendment could not come at a worse time. The administration is moving heaven and earth to maintain a coalition against terrorism and hold accountable those responsible for some of the most heinous acts ever committed on American soil. As a Congress, we are working to stay united on foreign policy and support the Administration in this effort. Over the past several months, Senators from both sides of the aisle have withheld from offering controversial foreign policy amendments on topics from missile defense to the embargo against Cuba. It is unfortunate that the Senator from North Carolina has chosen to offer an amendment that ignites strong feelings from its supporters and opponents, alike.

The ICC is a divisive issue between the United States and our closest allies. Virtually every member of the European Union and NATO has expressed its strong support for the court. In fact, Great Britain, our closest ally and full partner in the ongoing military effort against the Taliban, ratified the Treaty earlier this fall. Moreover, the EU recently sent a letter to Secretary

Powell opposing ASPA which reads: “. . . States which support the court and value their relations with the United States should not have to make a choice between the two.”

At a time when we should be working to resolve differences with our friends, the Helms amendment does exactly the opposite by inflaming these divisions and forcing the United States to adopt an openly hostile stance against the ICC.

I want to mention just a few of the specific problems with this amendment. First, the amendment authorizes the use of force to free officials from not only the United States but also from foreign countries, if they are indicted and held by the court. Let me repeat that: This amendment authorizes the use of military force by the United States, from now until the end of time, to free foreign not only United States citizens, if they are in the court's custody.

While these nations are important allies, suppose some members of their militaries or intelligence services commit heinous crimes that fall within the jurisdiction of the court and are being rightfully detained? As a Congress do we want to authorize a military invasion of The Hague, risking the lives of United States military personnel, to free indicted war criminals? The Helms amendment would cut off military assistance to a number of nations, including Tajikistan and South Africa.

What if we wanted to upgrade an aircraft control tower in Tajikistan to help land United States planes that are carrying United States troops to Afghanistan? What about providing military assistance to South Africa to help spearhead a peacekeeping mission in Africa to which we did not want to commit United States troops?

What about providing C-130 spare parts to a Nation that has ratified the ICC treaty, but wants to help airlift humanitarian aid to a region effected by famine? In addition, the amendment makes America a potential safe haven for war criminals by prohibiting the United States from turning over indicted war criminals residing on our soil. It would also place restrictions on United States participation in peacekeeping missions.

We all want to pass legislation that will enhance the safety and security of our military personnel. But, this bill increases tensions with our allies and works against our efforts to maintain a coalition against terrorism. If anything, this will make our military personnel less safe.

If the goal of this amendment is to prevent the International Criminal Court from getting the necessary ratifications to come into existence, it is almost certain to fail. It would require a head-to-head confrontation with our European allies and over 80 countries outside of Europe that have signed, but not yet ratified the treaty, and require us to be almost 100 percent successful. More importantly, the United States,

to which the whole world looks for leadership on human rights, should not be engaged in a fruitless effort to undermine a court that will bring to justice those responsible for committing war crimes, genocide, and crimes against humanity.

Instead, we should be actively engaged with the court to ensure that it operates in a way that protects the rights of American servicemembers and promotes our values and interests.

The Senator from North Carolina is the ranking member of the Foreign Relations Committee, and that is where this amendment belongs.

This is the wrong amendment at the wrong time. I urge my colleagues to vote no.

THE PRESIDING OFFICER. The Senator from Nevada.

MR. REID. Mr. President, it is my understanding that the Senator from Texas would want to speak—for what period of time?

MR. GRAMM. I am not sure. I would like to be recognized. I don't think I am going to speak very long. If you want to set a time limit on it, I would say 10 minutes.

MR. REID. Mr. President, I ask unanimous consent that there be a time limitation of 60 minutes equally divided between Senators DODD and HELMS, or their designees, and that part of the Helms 30 minutes—10 minutes—go to the Senator from Texas; that Senator DODD also have a complement of time which he would designate; that the two amendments be considered first-degree amendments, at the conclusion or yielding back of the time the Senate vote on or in relation to Senator DODD's amendment; that upon the disposition of that amendment, the Senate vote on or in relation to Senator HELMS' amendment, and that no other amendments be in order to either amendment.

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

MR. DODD. Might I just say to my colleague as well, the majority whip said 60 minutes. We may not need 60 minutes. I do not know how much time the Senator from North Carolina would like, but I do not imagine 30 minutes will be necessary on our side. So maybe because of the hour, we may terminate debate a little earlier and yield back time and actually vote earlier.

MR. REID. I would say to my friend, originally we got 40 minutes, but I wanted to make sure you had enough time to respond.

MR. DODD. I thank the Senator. I know the Senator from Texas wants to be heard.

MR. GRAMM. The Senator may want to speak first.

THE PRESIDING OFFICER (Mrs. LINCOLN). The Senator from Connecticut.

MR. DODD. Madam President, I will take a couple minutes to respond to just a couple things, if I could.

I thank my colleague from Minnesota for his eloquent comments, and my col-

league from Pennsylvania, who is far more knowledgeable than the Senator from Connecticut on these matters generally, and has offered some very wise counsel on how we ought to proceed.

I think having this debate helps. I am not suggesting it does not. But I am deeply concerned about proceeding with an amendment of some 28 pages now. I do not know if anyone can tell you with any certainty what it does. I am concerned about what I think it does. It may do more than I think it does, which would worry me.

I have offered, and will describe shortly, a substitute or alternative amendment which we will vote on which lays out a framework by which we might approach this issue of the Rome Treaty in a constructive way.

I guess it is a matter of choice. If you take the view that under no circumstances should there be an International Criminal Court, you should vote for Senator HELMS' amendment. I am not arguing there are those who do not have a point of view that there should be no International Criminal Court. That is a legitimate point of view.

If your view is there probably should be, but it ought to be set up in a framework that makes sense, that guarantees the kind of protections that my colleagues have talked about today, that would allow for the civilized world to prosecute international thugs, then, it seems to me, we bear responsibility to help that along and not retard it here by taking the position of adopting language which makes it impossible for us to participate in the creation of such an institution.

That is my point. There are details of it where I see us taking a giant step backwards today. At the very moment, we are trying to get people around the globe to understand that our value system, our idea of justice, is a good system and that we would like to see those values incorporated in an international court. But it is awfully difficult to advance the cause of your own values if you are not in the room to make the case. I do not want to rely on some of the countries that I see on this list that have ratified this treaty to advance that cause.

Now some I have great faith in. As I pointed out, 139 countries have signed this. Now I am told some 42 countries have ratified it, every member of the European Union, 18 of the 19 members of NATO.

My friend from Arizona cited a couple of countries that I know none of us bear much allegiance to in any sense at all. But it is also worthwhile to point out to our colleagues that our NATO allies have signed this. They have troops that go into these conflict areas. Are they all wrong? Are they all wrong? I do not think so.

Is it all right, this treaty? No. I will repeat again, if that treaty arrived through that door this afternoon, and we had an up-or-down vote on it, I

would vote against it because I think it is flawed. But I do not think it is so flawed that we cannot improve it and make it work for our interests.

You cannot play on the international field and walk away from this issue. I guess that is the line of distinction I would make.

My colleagues know that I have a great sense of pride about my father. My father served as the Executive Trial Counsel at Nuremberg. I cannot tell you the times I heard him say: Had there been an international court in the 1920s and 1930s, just maybe, he said, just maybe—he never directly predicted with absolute certainty—but just maybe Adolf Hitler might have been stopped before he caused the destruction he did in Europe because there was no place to really bring the issue. And so his advance—this crushing of neighboring countries and the destruction of human life—went on unabated until the United States and our allies successfully prosecuted the end of World War II.

But had there been a place, had there been someplace in the world that we could have brought an Adolf Hitler when he first started, my father always thought, just maybe—just maybe—we might have saved millions of lives.

So when my friends today say this court is flawed, and therefore we are going to enact legislation now that penalizes those who are trying to make it work, I do not understand the logic of that. I really do not.

It seems to me, if we are worried about our men and women in uniform, the idea somehow that this institution, this international court, flawed as it is, is not going to exist, is terribly naive. And the very concerns that are being expressed about our men and women in uniform become more real if this court ends up looking like its opponents claim it will. There is nothing here that will prohibit that servicemen and women from being caught in that snare.

At home in the United States, existing law prohibits the extradition or transfer of U.S. citizens to the International Criminal Court. That is already the law of the land. So if you are in the United States, you cannot be extradited under existing law.

But the idea that somehow because we adopt this amendment—which causes us to step away from all this, walk away from our involvement—that it is going to somehow give greater protection to that private or corporal or sergeant out there in some God-forsaken land defending our interests is naive. In fact, we put that individual at greater risk because we are not in the room trying to shape what this court looks like.

If, in fact, someone does get apprehended, and they end up in a kangaroo court, we will be responsible, in a way, because we walked away from the responsibility of trying to shape that institution. You cannot complain about the makeup of the institution if you do not participate in the creation of it.

We have been offered a chair at that table, and we are walking away. And when you do, then, it seems to me, you bear some responsibility for what that institution ultimately adopts, and whether or not it affects the citizens of your country.

Stay at the table. Try to change it. At the end, you may not be able to. Then it is their fault. But you cannot walk away from the table, and then have your people caught, and then say: That is not my responsibility. That is not a legitimate answer to this question.

So the Senator from Pennsylvania has offered what appears to be sound advice. That is what our amendment will offer, in a sense.

Very briefly, I will read the amendment to my colleagues. There are certain findings in the first section. It is very brief. It says:

(1) The Rome Statute establishing an International Criminal Court will not enter into force for several years:

(2) The Congress has great confidence in President Bush's ability to effectively protect US interests and the interests of American citizens and service members as it relates to the International Criminal Court; and

(3) The Congress believes that Slobodan Milosovic, Saddam Hussein or any other individual who commits crimes against humanity should be brought to justice and that the President should have sufficient flexibility to accomplish that goal, including the ability to cooperate with foreign tribunals and other international legal entities that may be established for that purpose on a case by case basis.

And lastly, it calls for a report:

The President shall report to the Congress on any additional legislative actions necessary to advance and protect US interests as it relates to the establishment of the International Criminal Court or the prosecution of crimes against humanity.

That, seems to me, to be a more logical way to proceed than some 28-page amendment that has us cutting off aid, not participating in peacekeeping, not allowing us to even participate in proceedings when U.S. citizens or other people have committed crimes against our own country. Those are things that at least appear to be the case on the face of the amendment as it is offered by my colleague from North Carolina.

Lastly—and then I will yield the floor for a moment—I want to read a letter from Elie Wiesel. I think all of our colleagues know of Elie Wiesel, the Nobel laureate, distinguished writer, humanitarian, who was himself a survivor of the Holocaust.

When a similar piece of legislation was being considered by the other body, Elie Wiesel wrote the following letter:

Dear Ben and Sam—

Chairman and ranking member of the committee in the other body— I too am concerned with the safety of United States servicemen abroad. But I am confident that we will be able to protect them. And so, bringing a war criminal to justice remains urgent.

Fifty years ago, the United States led the world in the prosecution of Nazi leaders for

the atrocities of World War II. The triumph of Nuremberg was not only that individuals were held accountable for their crimes, but that they were tried in a court of law supported by the community of nations. Before you today in committee is a bill that would erase this legacy of US leadership by ensuring that the US will never again join the community of nations to hold accountable those who commit war crimes and genocide.

A vote for this legislation would signal US acceptance of impunity for the world's worst atrocities. For the memory of the victims of the past genocide and war crimes, I urge you to use your positions . . . on the International Relations Committee to see that this legislation is not passed.

It is signed "Elie Wiesel."

I will yield the floor at this point and listen to the remainder of the arguments. I urge my colleagues, when the time comes, to consider the proposal we will lay before them which allows us to go on record expressing a concern and a desire to have this Court work better.

If you think there ought to be no court whatsoever, that there is no legitimate purpose for an international criminal court, I urge you to vote for the Helms amendment. If you think there is an importance in the 21st century for a court to exist and that the United States ought to participate in the shaping of that court, I urge Members to support the amendment we will offer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, if there has been a debate this year that is about what our values are, this debate is about what our values are. I have to say, I am kind of taken aback that for the last 3 weeks every time I have turned on the radio or television, we have had people talking about how concerned they are about the process whereby the President would use a system of military justice against brutal terrorists and murderers who supported those who seized airplanes and attacked the United States of America, killing our women and children in our own country.

Somehow there is this great wave of supposed constitutional concern about trying brutal murderers who are terrorists in military courts. And yet when Senator HELMS and Senator MILLER offer an amendment which guarantees that American soldiers abroad, who are defending our interests, defending our freedom, risking and giving their lives, serving our country abroad, that they could be subject to being brought before an international court where no judge is an American, no procedure was established by an American Congress, no constitutional guarantees apply, it seems to me this debate is about as clear cut as it can be clear cut.

We ought to have an international court to try people like Adolf Hitler. But when I send my son or you send your son or your daughter into the military to serve our country, they should not be subject to being brought

before an international tribunal. That is the issue, pure and simple. It can't be more basic than that.

I would have to say that I would find it absolutely impossible to justify to a mother or father in my State who had sent their child to Afghanistan to fight and perhaps die for our freedom, if they ended up before some international court where no judge was an American, applying procedures that no American Congress ever applied, and denying their constitutional rights.

There are a lot of debates we can have. One of the things we are going to have to come to grips with is to what extent these international tribunals apply to Americans, because we have rights as Americans under our Constitution, and those rights cannot be delegated to somebody else, to some other jurisdiction. There is no jurisdiction on this Earth in a temporal sense that stands above the Constitution of the United States. No international court, no international body, no temporal authority stands above the Constitution of the United States.

That is a bigger issue than the issue we are debating here. Senator HELMS and Senator MILLER are not today debating whether Americans in general should fall under the jurisdiction of international courts. They are talking about a very select group of people who put on the uniform, who raise their right hand and swear to uphold, protect, and defend the Constitution against all enemies, foreign and domestic, and yet we are debating whether the Constitution defends them. We ask them to swear allegiance to the Constitution, put on the uniform, go to Afghanistan, and then potentially they could stand naked, in terms of their rights, before an international tribunal and not have constitutional protections. That is an absurdity.

This amendment is very simple. It says in the clearest possible terms, so no one could misunderstand: No American serving abroad in the uniform of this country can be tried before an international tribunal. If they violate the law, they will be tried under the law and under the Constitution, either in an American military court or in an American civil or criminal court. This is not a complicated issue. This is a very clear issue.

I thank Senator HELMS. I thank Senator MILLER. This is a decision we should have made a long time ago.

The idea that somehow we are going to try to work out these rules, somehow we are going to try to negotiate this—I am not interested in negotiating the constitutional rights of people who are at this moment fighting and dying in a foreign country to defend the Constitution. Their constitutional rights are nonnegotiable. There is no tribunal on Earth, other than one constituted under the Constitution of the United States, that would have jurisdiction over my son fighting in a foreign country defending our freedom. That is just simple and straightforward.

I think Americans would be astounded that there could be any question about that. The problem is not, is the Court good? Is the Court bad? Is the Court reasonable? Is the Court unreasonable? Are these good men who are judges or good women? Are the prosecutors fair? Are the jurors objective? Those are completely irrelevant. No study of how to improve the Court is at all relevant in this debate. The question is jurisdiction, and they have no jurisdiction over anyone who puts on the uniform of this country and swears to uphold, protect, and defend the Constitution.

If they are defending the Constitution, I want the Constitution to defend them. I don't want them tried under any jurisdiction that is not bound by the Constitution.

Mr. DODD. Will my colleague yield for a second on that point?

Mr. GRAMM. I am happy to yield. Could I yield on the Senator's time because mine is limited?

Mr. DODD. Whatever time, we will work it out later.

I say to my colleague, we have status of force agreements around the world. I am sure my colleague is aware, who served on the Armed Services Committee, that we have status of force agreements. There are U.S. servicemen all the time who are tried in local courts in other countries. We are not breaking ground here. We have known about those cases. We read about them, tragically, when they occur. We have those agreements whenever we place troops in various places—Japan being the most recent example.

I don't mind your argument. But to suggest somehow that men and women in uniform are never subjected to any jurisdiction of a foreign land where the courts and the laws may be substantially different than what we have is not the law of the land is absurd.

I am not interested in seeing laws adopted here that subject our men and women in uniform to foreign laws, but we do that already, it seems to me.

Mr. GRAMM. Madam President, if I could regain control of my time, I thank the Senator for raising this point. Let me make the following point:

These circumstances occur when first of all, we have negotiated agreements with these countries whereby service personnel stationed on a friendly basis in these countries will be subject to local law, they are defended by American defense attorneys, and they ultimately have their rights protected through these guarantees.

We are not talking about people in Somalia, and we are not talking about Americans in Afghanistan.

Mr. MCCAIN. Will the Senator yield for a brief question?

Mr. GRAMM. Yes.

Mr. MCCAIN. Has the Senator read a book, which is being made into a movie, "Black Hawk Down?"

Mr. GRAMM. I have.

Mr. MCCAIN. I recommend it highly. Because of the situation the American

special forces were in, they had to kill thousands. They killed thousands as they fought their way out. I would not like to see those Americans before a tribunal composed of Somali Government people.

Mr. GRAMM. If I may conclude—other people want to debate—here is my point. When we sent American troops to serve in Japan and to serve in Korea, we negotiated agreements whereby they could be tried for local offenses by local authorities. But that is a world apart from when we send marines into Somalia and when we send marines and special forces into Afghanistan.

That is the issue about which we are talking. We are talking about the jurisdiction of International Criminal Court set up by a treaty that we have not ratified, and we are talking about American military personnel wearing the uniform of this country. All the amendment by Senator HELMS and Senator MILLER does is say that American service personnel cannot be tried before this Court. No judge is an American, no procedure is set by Americans or negotiated by them. We have not ratified the treaty. It is imperative we adopt this amendment, and I have every confidence we will.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Madam President, the point I was trying to make is we negotiated status agreements with these countries to guarantee and protect the rights of men and women in uniform. But in an international criminal court there will be negotiations—and we are walking away—to protect the very issues my colleague from Texas raises.

By not participating, of course, without being at the table, we are not there to protect our people.

We are making the assumption that with the adoption of this amendment, this is going to go away. It does not go away. That is the point I was making.

Just as we negotiated status arrangements with individual countries on how our men and women in uniform will be treated so they will not lose their rights under local civilian courts, what I am suggesting this afternoon is that we ought to do the very same thing in negotiating at the table over this International Criminal Court.

In not being there there is a far greater likelihood our men and women in uniform are going to be subjected to terrible rules. We have to be there, just as we had to negotiate the status agreements of how men and women in uniform are treated in Japan. We have seen cases there, and had we not negotiated agreements, Lord knows what would have happened to them. We did not say to Japan: You are going to take it or leave it or we are going to rip the people out of your courts. No. We sat down and said: This is how it will work.

This is not a debate about who worries about men and women in uniform.

It is whether or not we are going to have any kind of an international court institution in the 21st century. We are asking the world to join us in apprehending the Osama bin Ladens. We are building a coalition to work with us and then bring these people to trial.

I have not raised this issue today, but my colleagues keep raising the issue that military tribunals is somehow part of this debate. I do not think there is any legal issue at all over whether we can have a military tribunal. That is beyond question. There ought to be and can be military tribunals. I can question the wisdom of establishing them in every case because I think there ought to be a selective use of it. I happen to believe having public trials demonstrating how we operate under the rule of law makes more sense, but I do not question the President's authority at all to establish a military tribunal, if that is what he decides to do. That is not the issue.

We are going to be asking countries to extradite people, to bring them here and try them in these tribunals. At this very hour our State Department is reaching out to get the world to cooperate with us, we are walking away from the International Criminal Court. Every member of NATO has signed and ratified this agreement; every member of the European Union has ratified it, not to mention all of our allies all over the globe.

For the life of me, I do not understand why we are going to adopt a 28-page amendment which, as I pointed out earlier, makes it so we are not involved in peacekeeping forces, we cut off aid to countries, we cannot participate in these courts where even U.S. citizens have been attacked.

I do not understand why at 5:15 on a Friday night my colleagues want to adopt a 28-page amendment when we do not understand, in my view, the full implications of this amendment.

Again, I give my colleagues a chance to vote on an alternative which asks the President to send a full report to Congress on additional legislative matters we can take to responsibly protect our service men and women.

By the way, it is not just service men and women who we should be protecting. I have great affection for those who wear the uniform, but citizens who do not work for the Federal Government, do not work for the State Department, who may be traveling, ought to be protected as well. My colleagues today are talking about service men and women, and they deserve a special status, but today U.S. citizens can also be caught up in this. We travel a lot. How many people travel all over the globe every day to expand markets so we can employ people in this country? It seems to me we are not including them at all. The only people who are included are Government employees. Do not U.S. citizens also deserve some protection in these courts?

I had hoped this amendment would be withdrawn. I really hoped it would be,

and then we would come back and try to fashion something we all can embrace. Instead, there seems to be a desire to divide us on this question.

Again I make the point, if my colleagues really believe there ought to be no international criminal court, then they ought to support the amendment of my friend from North Carolina. If my colleagues believe there is a value in this court, they should reject Senator HELMS' amendment and support mine.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, forgive me for not being able to stand. I do not know where I put an end to mistaken statements in this debate. I have corrected several of them this afternoon. It is a good thing everybody involved in this debate are friends. We will be friends when we walk out of here. But such statements have been made that there have not been any hearings in the Foreign Relations Committee. There have been 3 days of hearings.

The statement was made that the Bush administration will be prohibited from further negotiations of the criminal court and that it will be deleted from the statute books should the Senate ever verify the Rome statute. That is simply not so.

I hope for the remainder of this debate we can come pretty close to factual statements and not resort to a situation—I do wish the opponents of this amendment will tell how many of our service men and women support their motion to table the amendment of Senator MILLER and me.

We do not have 5.5 million service people represented by the organizations that have contacted us on their behalf, who support us and who, therefore, support the other side. If they have 5.5 million people, I wish they would trot them out.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Madam President, if I could be recognized one more time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Senator HATCH is on his way, and he wishes to speak. So I want to spend some of our time waiting for him to let him speak.

Mr. DODD. Would the Senator from North Carolina mind if our colleague from Louisiana spoke on a subject related to a matter before us?

Mr. HELMS. I always like to hear the lady.

Mr. DODD. How long does the Senator from Louisiana wish to speak?

Ms. LANDRIEU. Ten minutes.

Mr. DODD. How much time do we have on both sides?

The PRESIDING OFFICER. The Senator from Connecticut has 12 minutes, and the Senator from North Carolina has 18½ minutes.

Mr. DODD. I am prepared to yield my time back anyway, so I yield 10 min-

utes to the distinguished Senator from Louisiana. I ask unanimous consent that she be allowed to speak on a matter unrelated to the pending matter before this body.

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

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I thank my colleague from Connecticut and my colleague from North Carolina because this truly is a very important debate, one of the important aspects of the underlying bill. But because I had not been able to speak earlier on the underlying bill, and as a member of the Armed Services Committee, I wanted to take a few moments to talk about some of the important components of the Defense appropriations bill we are considering, particularly on this very special day which is commemorating the 60th anniversary of Pearl Harbor, and particularly because of the tremendously challenging circumstances we face as a nation.

I am aware that in a few minutes we will vote on this particular amendment. It is really a very important matter we will decide concerning this International Court, but I want to take a moment to share with my colleagues, to remind them, of another historical event, and that was in the month of August of 1814.

One hundred eighty-six years ago, this Senate and most of the public buildings in Washington were burned to the ground. It was the grimmest moment for our young Nation. We had won our freedom from England and now, during the second war of independence, we experienced in some ways complete humiliation. Adding to this humiliation, it occurred under the Presidency of James Madison, the father of the Constitution and one of the greatest minds the United States had ever produced. An observer of the attack described the scene. He said:

It was a sight so repugnant to my feelings, so dishonorable, so degrading to the American character and at the same time so awful it almost palsied my faculties.

That means caused them to tremble.

I think everyone knows exactly today, in hindsight of September 11, how President Madison felt. When we watched the World Trade Center, the center of our economic vitality, destroyed, when we could see from some rooftops in Washington and actually from some of the vistas from this exact building the fires burning over the Pentagon, I think we can all know exactly how President Madison and this man who gave us this quote felt on that day.

Yet we also know, for the second time in our history, this building again was the target of attack. Although it was not hit, it was a target, and we might have piled horror upon horror to see this exact building burn to the ground again.

The War of 1812 was divisive. It divided North and South as well as the emerging constituency of the West. Yet when our Capitol was burned, the

American people knew we could no longer delay and divide. We had to unite and prevail. We could spare no resource, ignore no strategy, reject no talent in that effort to preserve the American experiment in democracy.

We are engaged in a similar struggle today. We must unite and prevail, and we should spare no resource in doing so. That is why I have been a strong advocate for the Byrd amendment, and that is why I am a strong proponent of this underlying Defense bill.

I know at this exact moment the leaders are engaged in a negotiation that will hopefully help us support a strong Defense bill, one that funds the men and women in uniform and gives them the supplies, equipment, technology, research, housing, schools, health care, weapons, and ammunition they need to fight a war in Afghanistan and to protect us at home.

There are a number of provisions I support in the underlying bill, and I also support Senator BYRD's gallant, valiant, courageous, and visionary efforts to add to that underlying bill some resources for our homeland defense and homeland security.

In the underlying bill, there are a number of provisions which I support. First and foremost is the support for the cooperative threat reduction program. That phrase did not really mean much to anybody before September 11, "cooperative threat." It was hard for people to grasp what it was exactly, but now that we know and we can see we have still enemies willing to use powerful weapons against us to destroy Americans and our way of life, we understand the cooperative threat reduction program, which is a partnership with Russia to contain weapons of mass destruction, most certainly should be funded and most certainly supported.

Our Capitol, our White House, and our Federal buildings burned in 1814, and we saw them again targets earlier in September. We know our enemies want to gain access to weapons of mass destruction. We know they want them. We know they have tried to get them, and we know that they will try to use them if they gain access to them.

So in the underlying bill that has been carefully crafted by Mr. INOUE, the Senator from Hawaii, and the Senator from Alaska, with the support of many on the Democrat and Republican side, we provided \$357 million to complement the \$300 million in the Department of Energy funding this year. It represents a \$49 million increase over last year. That is the good news.

The bad news is if we had allowed the Byrd amendment to go forward, we would have had an additional \$256 million investments in the cooperative threat reduction program, spending more money in an urgent fashion, in a transparent and accountable fashion, to make sure we get to those weapons of mass destruction before our enemies do.

We know it is not just nuclear materials. We know there are chemical

weapons, there are biological agents and, again, they have said they want them. They have said if they get them, they will use them. We know this building we stand in today is a target of their negative feelings toward our country and all for which it stands.

So I am very hopeful that in the negotiations we are not leaving on the table some extra money, so important to the cooperative threat reduction and as a testimony to the great work done by Senator LUGAR from Indiana and Senator Nunn, the former Senator from Georgia who did a magnificent job helping this Senate and this Congress come to grips with the fact that these weapons were out there and that it was not a foreign aid program for Russia, it was a protection program for the citizens of the United States of America. I hope that does not fall on the floor in the scraps of the amendments and the debate.

A second area I endorse is our continued funding of the national missile defense program. I know this program has its critics, and I know some of its champions claim it can do more than it can, but I will say with continued persistence and with dedication and with careful, deliberate testing, I am convinced that this Nation can develop a limited missile defense system, perhaps land-based or Navy-based, that can protect this Nation in the future against threats from Iran and North Korea or other such nations that have advanced missile technology.

Again, there is going to be one city in their target, and that target is going to be Washington, DC. So as a supporter of national missile defense, I support the \$7 billion of investments that we make in this bill.

I also support the compromise that was deftly crafted and I think smartly crafted to say that the President, in addition to the \$7 billion, can have \$1.3 billion to add to missile defense if he sees fit, but if not, he can also use this money for counterterrorism efforts. I urge the President to be careful in his deliberations, to be delicate, to be thoughtful in his deliberations about how to divide that \$1.3 billion. It is a lot of money. It can do a lot of good.

Also, a great deal of the effort could be wasted. We have to make sure we know not only what the possible threats are but what the probable threats are, what the likely threats are, and take our precious treasures and resources that the American people pay in taxes—as wealthy people, middle-class people, and poor people—that contribute to the Treasury of this United States and make sure that money is spent investing in what will help keep them safe from these weapons of mass destruction and these asymmetrical threats that terrorists are now using effectively today in the world.

This is a good compromise on the underlying bill. I urge the President to think about the transformation necessary and spend that money for

counterterrorism efforts. There are any number of good ways to do that.

Finally, we cannot forget our most effective weapon, whether in 1814 or 2001 or whether it was as Senator INOUE so beautifully said this morning, 60 years ago when Pearl Harbor was bombed, the American men and women who serve this country in uniform. It is not just the generals; it is not just the sophistication of the weapons; it is not just that our technology is so advanced that our private sector can respond more quickly. The real genius of our Nation lies in the spirit, in the humanness of the American men and women in uniform, the 18-year-olds in the foxholes, the 22-year-old young men and women who serve this country.

This bill helps to honor that great American truth by funding an increase in their pay, by providing the health care that we promise, by making sure that when they are sick there is a veterans hospital for those who have served admirably. We have also started to focus on housing.

In conclusion, in the underlying bill we also honor our service men and women by supporting them in their housing, their schools, and their hospitals. I cannot think of anything I would want my country to do more for me if I had to ship off than to know my country was doing what it could to care for my spouse and my children, knowing if my child got sick, there was a clinic for them to go to; if my husband was stressed, there was a phone he could pick up with a friendly voice on the other end. So if I were in Afghanistan or if I were in India or Somalia, I could fight with all the courage and strength because I knew my Government was doing its part for my family back home.

That is what men and women in uniform want. They don't need essential food. They don't even need a comfortable place to sleep. They want to know their families are secure.

That is what this bill does. It was done in a bipartisan way, and I am proud to be part of that effort and hope we can do more in the future.

Finally, our country has come a very long way since the dark days of August 1814. Almost 200 years later we face a similar danger. I am proud we are reacting as we did then, with unity and purpose of determination. I thank the Senators for their strong work on this bill, and I look forward to the passage of this legislation.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, I have the list of military organizations that have endorsed the amendment of Senator MILLER and myself. I will read into the RECORD the list of those names: the National Guard Association of the United States, the Air Force Sergeants Association, the Army Aviation Association of America, the Association of Military Surgeons of the United States, the Association of U.S.

Army, the National Military Family Association, the CWO & WO Association of the U.S. Coast Guard, the Enlisted Association of the National Guard of the United States, the Fleet Reserve Association, the Gold Star Wives of America Incorporated, the Jewish War Veterans of the USA, the Marines Corps League, the Marine Corps Reserve Officers Association, the Military Order of the Purple Heart, the National Order of Battlefield Commissions, Naval and Enlisted Reserve Association, Naval Research Association, the Navy League of the United States, the Non Commissioned Officers Association of the United States of America, Reserve Officers Association, the Veterans' Widows International Network Incorporated, the Military Chaplain Association of the United States of America, the Retired Enlisted Association, the Retired Officers Association, the United Armed Forces Association, the U.S. Coast Guard Chief Petty Officers Association, the U.S. Army Warrant Officers Association, the Veterans of Foreign Wars of the United States, and I feel obliged to mention one more time that the President of the United States favors the Helms-Miller amendment.

I yield the floor, and I yield back my time if my colleague will yield back his.

Mr. DODD. I am happy to do it but will take 30 seconds and I will ask for the yeas and nays on my amendment. I will not move to table the amendment of my friend from North Carolina but give it an up-or-down vote. There will be two separate votes. We may want to abbreviate the second vote. It could move matters along.

Have the yeas and nays been ordered on the Dodd amendment?

The PRESIDING OFFICER. No.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. I am prepared to yield back my time.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the Dodd amendment No. 2337. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

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

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—48

Akaka	Breaux	Clinton
Baucus	Byrd	Conrad
Bayh	Cantwell	Corzine
Biden	Carnahan	Daschle
Bingaman	Carper	Dayton
Boxer	Chafee	Dodd

Dorgan	Kerry
Durbin	Kohl
Edwards	Landrieu
Feingold	Leahy
Feinstein	Levin
Graham	Lieberman
Harkin	Mikulski
Inouye	Murray
Johnson	Nelson (FL)
Kennedy	Reed

NAYS—51

Allard	Fitzgerald	McConnell
Allen	Frist	Miller
Bennett	Gramm	Murkowski
Bond	Grassley	Nelson (NE)
Brownback	Gregg	Nickles
Bunning	Hagel	Roberts
Burns	Hatch	Santorum
Campbell	Helms	Sessions
Cleland	Hollings	Shelby
Cochran	Hutchinson	Smith (NH)
Collins	Hutchison	Smith (OR)
Craig	Inhofe	Snowe
Crapo	Kyl	Stevens
DeWine	Lincoln	Thomas
Domenici	Lott	Thompson
Ensign	Lugar	Thurmond
Enzi	McCain	Warner

NOT VOTING—1

Jeffords

The amendment (No. 2337) was rejected.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2336

Mr. PRESIDING OFFICER. The question now is on agreeing to the Helms amendment No. 2336. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

The result was announced—yeas 78, nays 21, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—78

Allard	Ensign	McCain
Allen	Enzi	McConnell
Baucus	Feinstein	Mikulski
Bayh	Fitzgerald	Miller
Bennett	Frist	Murkowski
Bond	Graham	Nelson (FL)
Breaux	Gramm	Nelson (NE)
Brownback	Grassley	Nickles
Bunning	Gregg	Reid
Burns	Hagel	Roberts
Campbell	Harkin	Rockefeller
Carnahan	Hatch	Santorum
Carper	Helms	Schumer
Cleland	Hollings	Sessions
Clinton	Hutchinson	Shelby
Cochran	Hutchison	Smith (NH)
Collins	Inhofe	Smith (OR)
Conrad	Johnson	Snowe
Corzine	Kerry	Stabenow
Craig	Kohl	Stevens
Crapo	Kyl	Thomas
DeWine	Landrieu	Thompson
Domenici	Lieberman	Thurmond
Dorgan	Lincoln	Torricelli
Durbin	Lott	Warner
Edwards	Lugar	Wyden

NAYS—21

Akaka	Daschle	Levin
Biden	Dayton	Murray
Bingaman	Dodd	Reed
Boxer	Feingold	Sarbanes
Byrd	Inouye	Specter
Cantwell	Kennedy	Voinovich
Chafee	Leahy	Wellstone

NOT VOTING—1

Jeffords

The amendment (No. 2336) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2343

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DURBIN), for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. DORGAN, Mr. INHOFE, Mr. BURNS, Mr. BREAUX, Mr. REID, Mr. ROCKEFELLER, Mr. TORRICELLI, and Mr. JOHNSON, proposes an amendment numbered 2343.

Mr. DURBIN. 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 expand aviation capacity in the Chicago area)

At the appropriate place, insert the following: "Provided further, That before the release of funds under this account for O'Hare International Airport security improvements, the Secretary of Transportation shall, in cooperation with the Federal Aviation Administrator, encourage a locally developed and executed plan between the State of Illinois, the City of Chicago, and affected communities for the purpose of modernizing O'Hare International Airport, including parallel runways oriented in an east-west direction; constructing a south suburban airport near Peotone, Illinois; addressing traffic congestion along the Northwest Corridor, including western airport access; continuing the operation of Merrill C. Meigs Field in Chicago; and increasing commercial air service at Gary-Chicago Airport and Greater Rockford Airport. If such a plan cannot be developed and executed by said parties, the Secretary and the FAA Administrator shall work with Congress to enact a federal solution to address the aviation capacity crisis in the Chicago area while addressing quality of life issues around the affected airports."

Mr. REID. Mr. President, I know the Senator from Illinois has the floor. Will the Senator from Illinois yield to me?

Mr. DURBIN. I am happy to yield.

Mr. REID. I ask unanimous consent that the two Senators from Illinois—the other Senator was in the Chamber—will agree to a time limit prior to a vote.

Mr. MCCAIN. I object.

Mr. DURBIN. Mr. President, this amendment is cosponsored by Senator GRASSLEY, myself, Senator HARKIN, Senator DORGAN, Senator INHOFE, Senator BURNS, Senator BREAUX, Senator REID, Senator ROCKEFELLER, Senator TORRICELLI, and Senator JOHNSON. It is an amendment relative to an airport in Illinois which is known by every Member of the Senate and known across the Nation: O'Hare International Airport. There is not a Member of the Senate gathered this evening who has not had an experience with a delay and a problem at O'Hare. Many of them have

shared those experiences with me as I have discussed this amendment. Many of the Members of the Senate and the people following this debate know that the current situation at the airport at O'Hare literally has a stranglehold on aviation across America.

When there are delays and problems at O'Hare Airport, those problems affect cities and airports across America. The reason, of course, is that O'Hare was built in an era when air travel was much different and airplanes were much different. Airplanes were smaller, there were fewer flights, and the runways at O'Hare were designed to accommodate that day in aviation.

That day has changed. It has changed dramatically. For 25 years or more, there has been an effort underway in Illinois to change O'Hare and modernize it, to finally put in a runway configuration that is safer and more efficient, not just for the benefit of my State and region but for the Nation. Every major airline understands O'Hare's impact on the rest of the Nation.

Despite this intention of changing O'Hare and making it more efficient, it never happened. Why? Because in Illinois, as in some 14 other States, the Governor has a voice in the decision about the future of airports. The Governor of Illinois has to give approval or disapproval for these airports. We have been unable, for more than two decades, to get the Governor and the mayor of the city of Chicago, which has responsibility for O'Hare, to see eye to eye on the future of the airport. So it has come to a grinding halt time after time after time.

I am happy to report that has changed. It has changed within the last several days. The Republican Governor of our State, George Ryan, and the Democratic mayor of the city of Chicago, Richard Daley, reached a historic agreement 48 hours ago. Finally, for the first time in more than two decades they have come together and agreed, not just on the future of O'Hare to make it safer, to make it more efficient, but also on aviation in general for our State.

What will happen to Meigs Field, a small but important commuter field that is on the lakeshore of Chicago, the future of an airport for the southern suburbs of Chicagoland, a growing area, an area with an expanding economy? People said those two men would never be able to come to this agreement but they did, and they did despite a lot of opposition.

This agreement was not reached in secret or reached in a hurry. It started with the mayor announcing a comprehensive plan for aviation on June 29. The Governor of the State of Illinois announced his plan on October 18, after a series of field hearings around the Chicago area, and now today they have come together with a mutual agreement. This is a historic opportunity, not just for Chicago and Illinois but for the Nation.

The obvious question is, Why do we come today on this bill at this time to

talk about O'Hare International Airport and aviation in Illinois? The fact is that both the Governor and the mayor agree, and I concur, that we need to make certain Federal law reflects the fact this agreement has been reached, an agreement which we believe will have benefit all across the Nation for many years to come.

Who supports this agreement? Major airlines using O'Hare support it, and it is important they do because a major part of the expense of modernizing O'Hare will fall on the shoulders of major airlines that will have to float the bonds that fund the terminals that serve the gates that serve the people who will use O'Hare in the future.

The major airlines have come together. So there is no misunderstanding—and I understand there may be among some Members—American Airlines, United Airlines, and Midwest Express have publicly stated their support for this agreement, but they are not the only ones. In addition, we have the support of the air traffic controllers. This is support that is important because these men and women know the issue of safety. They believe this will make for a safer airport and safer aviation across America. The Airline Pilots Association, they support this agreement as well, and AOPA which represents private aircraft owners and operators have endorsed it publicly as well. We have all the major aviation organizations in support of this plan, and few in opposition.

I know it will not be easy for us to see this plan become law. We need to bring together tonight a bipartisan coalition of Members of the Senate who agree with Senator GRASSLEY and myself that this modernization of O'Hare is not just important for that airport but for aviation across America. There are some local issues which I will not dwell on because they are of importance to those of us from Illinois but may not be to the rest of the Nation, but thankfully this approach, this plan, is going to address traffic congestion.

Traffic congestion around O'Hare is called "ground zero" in terms of traffic congestion in our State, and when we come to grips with that and make a proposal for changes in the traffic around O'Hare, it will have a positive impact on the thousands of people who use that airport and who travel near it each and every day.

The mayor and the Governor made certain that as part of this plan they would also invest the funds for noise mitigation and noise control in the area surrounding the airport. They have made an unprecedented and historic commitment to noise mitigation around this airport. That, in my mind, is essential. That, in my mind, is essential, so the families and businesses and schools that may be affected by this change will have some relief.

This decision on O'Hare will have a more positive impact on aviation than virtually anything else we can do. I

don't overstate the case. Several months ago Newsweek magazine had a cover story about aviation problems, aviation air traffic problems across America.

I commend Senator JOHN MCCAIN of Arizona because he came with the Senate Commerce Committee to the city of Chicago for a hearing on this issue so we could understand in the Senate exactly what this meant. My colleague, Senator FITZGERALD, has a different view on the airport, and he was at the hearing. We heard from people in the area, not only leaders of business, leaders in labor, but people who understood the impact of this airport congestion at O'Hare on our region and on the Nation.

Now we have a chance to do something that can make a significant difference. Common sense dictates we will need to pass in the near future and this plan envisions a new airport south of Chicago in the vicinity of Peotone. There has been an agreement to keep the commuter airport open, Meigs Field—that is important, particularly to private owners of aircraft—and make the changes at O'Hare that will make it modern and safer.

I am glad my colleagues from Iowa are here because I give both of them credit. Senator HARKIN and Senator GRASSLEY understand as well as I do, and many should, that O'Hare's future is linked directly with the future of smaller airports, and all around the Midwest, as well. The airports of Iowa and downstate Illinois, Wisconsin, Michigan, Indiana, and Minnesota, all of these airports, depend on a viable airport at O'Hare that can receive these flights and transfer passengers to other destinations. They started this process, and I commend them for being with me tonight as we debate this historic agreement. Senator HARKIN and Senator GRASSLEY brought to the attention of the Nation the need to modernize O'Hare. It is their action as a catalyst in this discussion which brings the Senate to this agreement, which brings us to this amendment this evening.

I ask my colleagues to join with me this evening in passing this important amendment which sets the stage for the embodiment and recognition of the overall agreement in this bill. This is important for America's economy. It is certainly important for aviation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is a bipartisan piece of legislation. Members might wonder, if the Governor of Illinois and mayor of Chicago have reached an agreement on expanding O'Hare Airport, why have the legislation? The legislation is very important because this issue has been hanging around for a long time. We want to make sure that somebody coming down the road doesn't change it.

O'Hare is a very key national and international hub airport. I am not

from Illinois, but for the people in my State of Iowa, particularly the major airports of Des Moines and Cedar Rapids, from the standpoint of the cost of service and the fact that service is not always certain, plus the fact that several smaller airports in Iowa do not have access to O'Hare and are very interested in what happens at O'Hare; Iowans are very concerned about O'Hare. It has to do with the traveling public, both tourists as well as business, and it also has something to do, in turn, with the economic development of a State such as mine because air transportation is so important to economic development.

O'Hare is a key national and international hub airport, especially for Iowa. When O'Hare sneezes, the rest of the country gets the flu. Modernization of O'Hare is very important to Iowa's economy. It will help prevent future congestion problems and delays that plague air travelers.

It will make air travel more efficient and less frustrating. And it will be easier and more pleasant for air travelers to come to Iowa. Without a doubt, more on-time flights will be a big help for business travel, where time is money.

The plan to modernize O'Hare will also make it a safer airport. We're all more focused on air safety after September 11. Air travel security means more than screening passengers and baggage. It means safe take-offs and landings. Today, the runway configuration at O'Hare is not as safe as it could be. The new plan will eliminate dangerous cross-runways. There will be more parallel runways. It will also include more modern electronic instrumentation.

I appreciate the way the governor and the mayor got together and worked out a plan. When I first started pressing for a solution to the O'Hare problem last spring, I knew it wouldn't be an easy process for anyone. But it's been a very successful process. It won the support of the airline pilots and air traffic controllers. It produced a compromise that everyone can be proud of.

Now Congress needs to do its part to ensure the success of this hard work. That means immediate passage of the Durbin-Grassley legislation. I look forward to working with my colleagues to make this happen—even in the short time left—prior to adjournment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I make a general comment. I am not aware of the details of the amendment offered by our friend from Illinois. However, I am not aware this is a transportation bill. I thought we were on the Department of Defense appropriations bill. I don't see why this amendment is on the Department of Defense appropriations bill. It may be a good amendment. My colleague and friend from Iowa spoke on behalf of it. I see my other colleague from Iowa is getting ready to speak. My colleague from Illi-

nois has some reservations about it and is opposed to it.

I don't know any of the details, to say it should pass or not pass, except I believe it does not belong on this bill.

It is 6:30 on a Friday night. Some Members have responsibilities and want to finish this bill. We want to finish all the appropriation bills. Now, if this was relevant, it should have been in the Transportation appropriations bill. It should have come out of the authorizing committee, from the Commerce Committee. This is not a transportation bill. This is not an air transportation bill. This is not a bill that came out of the Commerce Committee. This is the Defense appropriations bill.

I know there are very strong opinions. I was contacted by my colleague and friend from the House, Congressman HYDE. He strongly opposes this particular amendment and opposes it being added to the Department of Defense appropriations bill.

I do not know enough about the legislation. I know it can cost billions and billions of dollars. So I would like it to have not just a signoff on behalf of the Governor and mayor but maybe go through the authorizing committees and the Appropriations Transportation Subcommittee rather than having it thrown out late at night on a Friday, thinking maybe we can run this through and authorize billions of dollars or begin the process to authorize billions on a Department of Defense bill.

I have the greatest respect in the world for Senator INOUE and Senator STEVENS who will be chairman and ranking member on the Department of Defense bill, but I doubt they know very much about Chicago O'Hare Airport. Yet to entrust them and make them deal with this issue in conference is a mistake.

I urge my colleague and friend from Illinois to withdraw this amendment, bring it back either as an independent item, as reported out of the Commerce Committee, using regular order, or to bring it up in an appropriations bill, through the appropriations process, in committee, on the Transportation bill, not on the Department of Defense bill.

I am happy to yield.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I yield for a question.

Mr. DURBIN. Is the Senator familiar with the bill before us, H.R. 3238, page 180, and pages following related to the Department of Transportation?

Mr. NICKLES. I am not familiar with the exact paragraph the Senator is talking about. I have already heard somebody say this might be a germaneness paragraph. But I am not trying to raise a technical point of order. My point is this is not a commerce bill. This is not a Transportation appropriations bill.

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

Mr. NICKLES. Yes.

Mr. McCAIN. Is the Senator aware that we even had a hearing in the Com-

merce Committee in Chicago where representatives of the airport, the mayor, the Governor and a number of Members of Congress testified that this is a very big issue in the State of Illinois and in Chicago? But it is also a very big issue for those of us who have to go through Chicago O'Hare Airport on many occasions when we are going west to our homes.

I wonder if the Senator knows that there seems to be an agreement now between the mayor and the Governor. I have no idea what that agreement is all about. I don't know the ramifications. I don't have any idea of the cost to the Federal Government. Here we are on a Defense appropriations bill. I must say, is the Senator a bit amused that the Senator from Illinois refers to the transportation pork that has been put in this bill that has nothing to do with defense and there is a rationale for putting this on? That is really entertaining. But the fact is, I think it may be a good agreement. I really don't know. But the Commerce Committee has the oversight. The committee is called Commerce, Science and Transportation. That is the name of the authorizing committee. I wonder if the Senator knows that he could probably argue that they are disregarding every other committee in this bill, including the Commerce Committee, on a variety of issues. But this is a big issue.

You have the other Senator from the State of Illinois who does not agree at this time to consider it. If it were a piece of legislation that affected my State, and I didn't want it to go forth at this particular time, particularly when no one has had a chance to look at it, I would certainly try to honor the wishes of my colleague.

I am surprised that the Senator from Illinois on the other side of the aisle is trying to shove this thing through without the agreement of his colleague from the same State.

I know Senator KYL would never do that to me. He would never do that to me.

We have never had a hearing on this—we have certainly addressed the issue in the Commerce Committee—in fact, even a field hearing. I think the wishes of the other Senator from your own State ought to be seriously considered at a time such as this. I know I respect that same courtesy of my colleague from Arizona.

I wonder if Senator NICKLES is aware that this issue is certainly one which is not deserving consideration at this time on the Department of Defense appropriations bill.

Mr. NICKLES. Mr. President, a couple of comments:

I appreciate Senator McCAIN's comments, the former chairman of the Commerce Committee, which deals with transportation. This also will potentially cost billions of dollars. We have bills where we wrestle every year or so on how we are going to allocate airport improvement funds. That is not

on the Department of Defense bill. We have bills where we wrestle with how airport construction money is going to be allocated. Some airports get a lot, and maybe other airports will get a lot less. Those are decisions we make. That is fine. I am not an expert on that. That is not my committee. But it is also not the committee for the Department of Defense.

I urge my colleagues, I don't think we have to get in a trance, and say I am for this and not for that. I don't think now is the time to make that decision. Let us make that decision when we are considering all airports and when O'Hare is debated and we are wrestling with other competing airports. We will have airport needs, demands, security, and a lot of challenges for all airports that we will be considering.

To make one decision now say: Well, we favor basically greatly expanding Chicago against the will of one of the Senators from Illinois, and against the will of many of the Congressmen from Illinois, to do that on a Department of Defense bill is a mistake.

I may well join my colleague from Illinois in support of this project when I know more about it. But I don't want to know more about it tonight. I want to finish the Department of Defense appropriations bill. I don't think we should ask Senator INOUE and Senator STEVENS to be totally knowledgeable about a multibillion-dollar, multiyear project and try to resolve this issue in conference when they really need to be working on the Department of Defense bill.

If this is germane, I guess we could probably offer it on the energy bill that Senator MURKOWSKI has been working on for a long time. Maybe we should be considering that.

When are we going to show some discipline around here so we can finish our work?

I urge my colleague to maybe discuss the amendment a little bit further, and withdraw it, or possibly get a commitment from the chairman of the authorizing committee to have a hearing and to report a bill out so the Senate can consider it. I may well cosponsor the bill.

I just do not think it belongs on this bill tonight. We have done this too many times where we get in the business of: Well, the year is running late, and I have something that I haven't completed on my agenda. I want to put it on even if it doesn't belong on the bill.

This does not belong on the Department of Defense appropriations bill. I urge my colleagues to withdraw the amendment and save all of us a lot of time. Hopefully, we can consider it when we are better prepared to consider aviation issues, do it through the appropriate committees, give it a fair hearing, give everybody a chance to find out what the impact would be on all the other airports in the country, and make the appropriate decisions.

Maybe it would be a strongly supported position with which we could all be very comfortable.

I am not comfortable with making multibillion-dollar decisions on airports tonight on a Department of Defense bill.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I wonder if the Senator from Oklahoma actually has looked at the amendment at the desk by the Senator from Illinois. I think he has confused it with a bill that was introduced earlier. This is an appropriations measure. It has been checked with the Parliamentarian. It is an appropriate limitation on the release of funds. This is not a legislative matter; this is an appropriations matter under our rules.

Since the bill contains appropriations matters for the Department of Transportation and the FAA, it is entirely germane to this bill that are impacted by the text.

Furthermore, if my friend from Oklahoma is worried about chewing up a lot of time, I am certain that my friend from Illinois would agree to a time limitation on the amendment. I ask unanimous consent that we have a 1-hour time limit right now evenly divided on the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

Mr. HARKIN. How about a half hour of time evenly divided?

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

Mr. HARKIN. Again, it is not that the proponents of this side to use up a lot of time. I think it is a clear-cut case.

My friend from Arizona said we haven't had hearings on it. My friend from Arizona chaired the hearing in Illinois in Chicago on this very subject in Illinois. There has been a hearing on it.

We cannot afford to wait any longer. I first started speaking about the congestion at O'Hare and the need for new runways and changing that airport in 1991, 10 years ago. A lot of others were talking about it at that time. Senator DURBIN has been on this ever since he was in the House of Representatives. This is not something new. It has been around a long time.

If it is true, as has been said, that transportation is the veins and arteries of our free enterprise system in America, surely O'Hare is the heart pump. When O'Hare backs up, everything backs up. Airports back up all over the country. Delivery systems back up all over the country. What happens at O'Hare affects every community in America.

Quite frankly, the situation at O'Hare is getting to be to the point where if you have one bad weather pattern in Chicago, and you have sunshine in the rest of the United States, you might as well have a hurricane in every

city if it is bad in Chicago. It will back up everything all over America.

I bet that almost every Senator who flies anywhere has had the experience of sitting on the runway and the weather looks good. The pilot comes on and says: We can't take off because there is a weather delay in Chicago. And you are waiting to fly to Minneapolis. That is what happens at O'Hare today and what is happening in our country.

At O'Hare, there are plenty of runways. But because they are crisscrossing each other, and because they are too close together, you cannot have simultaneous takeoffs and landings at a number of different places. And, in bad weather, you cannot use both parallel runways if you have adverse weather conditions because they are too close together. So O'Hare airport needs to be redesigned. They need to have parallel runways that are wide enough apart to be operated in poor weather; they need to get rid of the crisscross runways that are there right now.

There has been some contention in the past between the city of Chicago and the State about how to proceed on this. Some of us, led by Senator DURBIN, have been pushing them to reach an agreement, to get together. This is a State and a local matter, but even though it is a State and local matter, O'Hare affects the entire United States. So we have been asking them to get together and work it out.

They did. I commend Mayor Daley of the city of Chicago and Governor Ryan of the State of Illinois for working together to come up with this agreement. Now that we have this agreement, it is time to move ahead aggressively to make sure it is implemented and that we move ahead without any further delay.

That is what the amendment offered by the Senator from Illinois does. It makes sure we move ahead now that we have this agreement between the State of Illinois and the city of Chicago.

With this agreement, and with the changes that have been agreed to in this agreement at O'Hare, with new parallel runways, weather delays will be reduced, it has been reported, by over 90 percent. The economic impact of less delays at O'Hare on this country will be tremendous. The economic impact if we do not do it will also be tremendous in the negative.

At a time when we are looking at getting out of a recession, and further looking over the horizon for the next 10 years, any delays that we make at O'Hare means we are going to affect the entire economy of this country.

That is not an overstatement. That is not just this Senator from Iowa saying it. You can look at report after report after report on the transportation system in America and how it affects our economy; and it all comes right back to O'Hare Airport. That is how important it is.

This agreement that was reached has been in the making for a long time. It

was not something that just happened in one day. This has been ongoing literally for years, and more recently over the last year. But now that this agreement has been reached, why dawdle, why delay it any longer?

This amendment is not just a win for Chicago, this is not just a Chicago thing, and it is not just for Illinois. This is good for South Dakota, Minnesota, Colorado, Iowa, Nebraska—all the Midwest and the nation. I can tell you, we have cities in Iowa that need access to O'Hare: Sioux city, Mason City, Fort Dodge and Burlington. Our airports with access, Des Moines, Cedar Rapids, Waterloo, Dubuque need more reliable service.

The people who live in my State, in order to transit to someplace else, far to often have a very difficult time getting there because they have to go through Chicago.

If this change can take place, and we can modify O'Hare as under the agreement, this opens up O'Hare for our smaller airports in the Midwest to feed into, so people can travel more freely. It opens up these small cities for commercial and business travelers so businesses in those communities can have better access to their markets and their suppliers in other parts of the country.

This is not just an issue for Chicago and for Illinois and our nation. I have not mentioned the international aspects of this. There is a huge international transit that comes in and out of Chicago at O'Hare. That is also backed up when Chicago has adverse weather, for example. And certainly, a lot of our people in the Midwest travel overseas on business, and there are people in other countries coming to the Midwest for business purposes. They get backed up.

How does that affect us? Well, they may say: Maybe we want to make a contract with a business. Why do it in the Midwest? We cannot get afford the possibility of delays because O'Hare is always plugged up.

This is an economic necessity. It is vital to the economy of the upper Midwest.

So when the Senator from Oklahoma says that somehow we can put it off and put it off, maybe a lot of his people in Oklahoma do not use O'Hare.

Mr. NICKLES. Will the Senator yield?

Mr. HARKIN. I yield for a question without losing my right to the floor.

Mr. NICKLES. You said I wanted to put it off and put it off. That is not what I said. I said I would urge my colleague to withdraw the amendment, have it go through the Commerce Committee, bring it up in the Appropriations Subcommittee on Transportation; go through the regular process.

I may well support it. I go through Chicago all the time. I am just concerned about us reallocating the airport improvement funds on a Department of Defense bill. I think that is a mistake.

I am not wanting to get into the details of whether or not my colleague from Illinois is right. I may want to support the project at some time, but it just does not belong on this bill.

Mr. HARKIN. I say to my friend from Oklahoma, everybody makes that argument when there is something they do not like. But the fact is, this is germane to this bill. There are provisions in this bill that deal with the FAA and the DOT. And this is vital, I say to my friend from Oklahoma. So there is no point of order that lies against this. My friend from Oklahoma knows full well that if we wait and try to do this through Commerce, or through other committees, it is next year and beyond. We cannot wait any longer.

When the heart stops beating, the body dies. When O'Hare gets plugged up, we all die a little bit in this country—every city, especially in the upper Midwest.

So we have this great agreement. I do not know what the problem is. This is something that the city of Chicago and the State of Illinois basically are going to be doing. All we are saying is, we want them to continue to develop this plan and execute it. That is all we are saying. We want it to move ahead.

So I say to my friend from Oklahoma, I did not even want to talk this long. I would be glad to move it along right now. But we do not want to delay it. We want to get it done.

The amendment before us simply provides that the Secretary of Transportation work with the FAA to make sure this locally developed and executed plan in Illinois moves ahead expeditiously.

It is in the interest of Chicago, it is in the interest of Illinois, it is in the interest of my State of Iowa, the upper Midwest, and this Nation. We cannot afford to wait any longer. I urge us to move rapidly on this, adopt it, and move ahead.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me explain why we are here and what this is all about. We have a bill before us that provides emergency money for security at O'Hare Airport, emergency money for security to try to protect people's lives and their safety. That is what is in this bill.

What is being done here is that funding to preserve life and safety for people who go through the airport in Chicago is being delayed to try to force the Secretary of Transportation to ratify a deal on the Chicago airport. That basically is what this amendment is about.

This is an amendment that refuses to release money for safety to protect the lives of people who pass through the Chicago airport, to try to inject the Congress into a decision that ought to be made in Illinois.

Quite frankly, this amendment potentially could delay safety improvements and jeopardize lives at the Chicago airport.

This amendment has absolutely nothing to do with this appropriations bill. It pirates it. It is true that we have a provision in the bill providing money for safety, but what this amendment does is pirate that provision by saying you can't spend the safety money until the Secretary injects himself into this debate going on in Illinois.

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

Mr. GRAMM. I will in a minute. Let me finish my point. This amendment basically tries to use safety and the life and safety of people who live in Illinois, who live in Iowa, who live in Texas as a bargaining chit to play politics with the improvement of an airport plan in Chicago that has not been approved by people who are making these decisions in Illinois.

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

Mr. GRAMM. I will in a moment. Let me just complete my point.

My point is this. This is piracy. This is piracy against safety in not allowing safety improvements to go forward until the Secretary injects himself into a decision that ought to be made in Illinois. This has nothing to do with the Defense bill. At 7 o'clock on Friday evening, when we are trying to finish an appropriations bill, we have before us a provision that has nothing to do with national defense. It is a provision that basically would have us sit at the airport board in Chicago. And it is opposed by one of the two Senators from Illinois.

It also strikes me, understanding rule 28, that this is basically an effort to put in place in conference something that would be totally against the rules of the Senate and that is a totally extraneous provision. By putting this seemingly harmless limitation on spending safety money—if anybody believes limiting people's ability to improve safety at Chicago O'Hare is harmless—what we do is create a vehicle whereby, on the Defense appropriations bill, we could see an approval of an airport plan in Chicago. I don't think that is our business. I didn't run to be on the airport board in Chicago; no one else here ran; certainly no one was elected.

The Senator wanted me to yield. I am happy to yield. But let me pose a question. Is it your objective in conference to change this language to approve this deal in Chicago? Is that what you are trying to do?

Mr. DURBIN. I say to the Senator from Texas that my objective here is to have recognition of the fact that there is an agreement. It is not to circumvent any Federal law relative to safety or the environment.

Mr. GRAMM. What does that have to do with us?

Mr. DURBIN. It has to do with us in this respect: Illinois is one of a few States, 15 out of 50, where the Governor has the final word on an airport. Our Governor has given consent to this

plan to move forward on the airport, and we are memorializing that consent in this agreement.

I would like to ask the Senator from Texas, who said that the language of this amendment somehow—at one point he said—threatens safety and lives and at another point calls it a harmless limitation, could I just refer the Senator from Texas to the part that says: The Secretary of Transportation shall “encourage a locally developed plan.” That is the operative language. That is the only condition.

Mr. GRAMM. Mr. President, if I could reclaim my time, as I read the language in the first sentence, it says: “Provided further: That before the release of funds under this account. . . .” What is the money under this account? The money under this account is money for safety at Chicago O’Hare Airport. Is that not what it is for? It seems to be, it is clear in the bill itself, that is what it is for.

What we are doing is we are setting up a hurdle that the Secretary of Transportation has to meet before the money can be released.

The Senator is going to say it is not much of a hurdle. All he has to do is jump into this dispute in Chicago about this airport.

I go back to the point, whether people in Illinois have agreed or not, what business is it of ours at 7:03 on a Friday night? I don’t see that it is any business of ours.

I think when we do these things, when the two Senators from the same State don’t agree, that we are simply injecting ourselves into a decision-making process that violates the separation of powers.

I would like to re-pose my question. Does the Senator intend for this language, if adopted, to be in the conference report, or does he intend to try to get the conference report changed or ratified or to somehow give a Federal commitment to this agreement?

Mr. DURBIN. I would be happy to respond to the Senator from Texas.

Mr. GRAMM. Please do.

Mr. DURBIN. This airport, O’Hare, and all the other airports in this agreement, will be treated no differently than any other airport in America.

Mr. GRAMM. That is not my question. I will be happy to yield if the Senator wants to answer my question. Does the Senator intend to change this language in conference if it is adopted, or can he assure us that if it were adopted, this language would be the language he would prefer in the conference report? There is a foul rumor afloat that this simply makes it possible to get around rule 28 and to have the Federal Government ratify this agreement in this Defense bill.

Mr. DURBIN. May I respond?

Mr. GRAMM. If you would answer my question, yes.

Mr. DURBIN. I am happy to respond by saying to the Senator that I will attempt in conference to put in place of this language a bill which was intro-

duced today which memorializes the agreement, provides no new obligations or authority, but merely memorializes the agreement between the Governor and the mayor. It does not compromise safety or the environment. This bill has been introduced.

Mr. GRAMM. Why don’t you offer the bill?

Mr. DURBIN. The bill will be offered.

Mr. GRAMM. Why wasn’t it offered tonight, if you intend to put in the conference report?

Mr. DURBIN. As the Senator knows, because he is not only a learned professor from Texas but because he served in the House, the parliamentary procedure necessary is a two-step procedure. The first step is placeholder language. The second step is to offer the amendment. That is exactly what we are doing.

Mr. GRAMM. Mr. President, I will yield the floor, but let me finish my point. What we have here is an effort to pirate on airport safety and an effort to use a limit on the ability to spend money for airport safety to create a vehicle in conference to adopt a bill which has never been considered and certainly has not been adopted by the committee of jurisdiction, a bill that would not have been adopted in either House of Congress, and a bill that is not being offered on the floor of the Senate tonight. Why is the bill not being offered? The bill is not being offered because it is subject to an objection under rule 16 because it is legislation on an appropriations bill.

It seems to me that not only is this pirating safety, not only is this an issue that has nothing to do with defense, not only is this not the forum for us to be considering this issue, this is basically a ruse to pass a bill which is not germane to this bill, which has never been reported by the Commerce Committee, which has never been voted on in either House of Congress, and basically do it by getting the camel’s nose under the tent.

We should support our colleague from Illinois who opposes this amendment. It would be one thing if the two Senators came to the floor and said: We want the Congress to help us and we want to be the airport board in Chicago. I think that would be pretty unusual, but if they were both together and wanted to do this, it would be one thing. But I think to bring this kind of legislation pirating safety to the floor of the Senate when the Senators from the same State don’t agree and as a vehicle to make law something never reported by committee, never considered in either House of Congress, I think is fundamentally wrong. It ought to be objected to.

I urge my colleagues to let us get on with the Defense bill. It is one thing to be debating defense issues. It is one thing to be trying to decide should we rent Boeing aircraft to turn them into tankers. That is a legitimate issue. It is one thing to offer a substitute, which I understand our two leaders of the

committee want to offer. But to get into this kind of business at 7:09 on a Friday night I think is an abuse of our colleagues, and I urge that we not let this happen.

Mr. ALLEN. Will the Senator from Texas yield?

Mr. GRAMM. I will be happy to yield. The PRESIDING OFFICER (Mr. SCHUMER). The Senator from Virginia.

Mr. ALLEN. Mr. President, I say to my friend, the Senator from Texas—

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

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. ALLEN. Thank you, Mr. President.

I have been listening, wondering why this issue came up. I first listened to Senator NICKLES talking about the procedural matters and Senator MCCAIN talking about committee jurisdiction. Then I heard my friend, the Senator from Texas, talk about why is this involved at all on a Defense appropriations matter.

While the process and committee jurisdiction is very interesting, I am just wondering why in the heck, regardless of what bill it is on, the Senate is involved in this issue at all.

There are concerns, and Senator MCCAIN told me: This is going to affect airport funds in Virginia, this, that, and the other.

I said: Maybe so, but why are we bringing this up?

I remember when I was Governor of the Commonwealth of Virginia taking great exception to the Federal Government coming in and telling us how to run Reagan National Airport, telling us how many flights we can have out, how many gates, the perimeter rule, and how we should operate in our authority that runs Reagan National, as well as Dulles, and how they ought to operate. I know there are some folks who may be on the same side as me who had the Federal Government sticking their nose in the business of the people of Virginia and the Metropolitan Washington Airport Authority.

I have been reading about arguments over whether O’Hare Airport ought to be expanded or not or whether it is desirable to have a third airport. I do not know. I am not taking a side one way or the other. If the folks in Chicago and Illinois want three airports, two airports, five airports, or seven airports, to me that is the business of the people of Illinois and those jurisdictions in which those airports might be expanded or located.

The Illinois delegation is split on the proposal, which is interesting in itself, but that is not dispositive to me. We might have both Senators from Illinois thinking it is great to usurp the rights and prerogatives of the people of Illinois. To me that would be something politically foolish to do, but nevertheless, maybe some folks may not pay attention to it.

This effort is one of expansion and safety of O’Hare, and maybe that is a

good idea, but the basic issue to me is whether we are going to allow Federal preemption of State law that requires apparently State approval of airport building or expansion.

This is a State law in the State of Illinois. Let them decide it. If that is a foolish law, if it is too harmful for the expansion of airports, it is not as if the people in Illinois do not have the right to vote to change those laws or those representatives to change those laws if they decided to do so.

Every civilian commercial airport in our country, it seems to me, is owned and operated by a political subdivision of a State or multijurisdictional authority. Those are powers that are properly the prerogatives and in the purview of the people in the States.

The way I see it, should Senator DURBIN's maybe well-intentioned amendment—maybe it is a good idea to build a third airport. Regardless, if this amendment should be adopted, it would actually allow the Federal Aviation Administration to usurp the State government's authority to decide this airport issue at the State level.

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

Mr. ALLEN. This is a bad precedent for us to be meddling in these affairs.

Mr. DURBIN. Will the Senator yield for a question? Is the Senator aware of the fact the language involved was prepared by the State of Illinois, by the Governor of Illinois, with the mayor of Chicago? It is not a preemption of State authority. Is the Senator aware this is language prepared by the State of Illinois?

Mr. ALLEN. The point of all this is the people from Illinois can figure this out themselves. Do they really need us to ratify their agreements?

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

Mr. ALLEN. Sure.

Mr. DURBIN. Or comment. I say it is not a question of ratification. The agreement has been reached. The question is acknowledging the consent has been given by the State. This language comes from the State of Illinois. As former Governor of Virginia, the Senator can understand when he sent language in, it was clearly with his approval. That is the case here. It is not preemptive.

Mr. ALLEN. Having once lived in Deerfield, IL—I was a youngster at the time. We did not have Illinois State Government. But I did hear from the other Senator, Senator FITZGERALD, that the legislature has not agreed to this language.

The point is, in my view, this is not the jurisdiction or the place for us to decide the issues that are rightly in the purview and are the prerogative of the people of Illinois and political subdivisions therein. I may agree with the Senator that maybe the best idea is expansion of O'Hare Airport, as opposed to the third airport. Again, that is something that needs to be worked out with the localities and, for that mat-

ter, all branches of the State government in Illinois.

Mr. President, I will support the efforts to defeat this amendment. I do think the issue of air transportation is important to our Nation, obviously, but these decisions are best made by the people in the States, those closest to it. If those laws need amending, let them work it out with due process at the State level, and do not bring these fights and decisions to the Senate. We are remote people who do not know the details and are trying to make a decision.

I think it is best we defer this decision and refer it back to the jurisdiction and court where it ought to be, and that is in Illinois.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. I thank the Chair.

Mr. President, I appreciate this opportunity to talk on this issue. I compliment my colleagues from other States—Texas, Oklahoma, Virginia—and also the distinguished Senator from Arizona for speaking in favor of my position on this issue.

The fact is, this is an issue on which there is a sharp difference of opinion between Senator DURBIN and me. That rarely happens on a State project issue. In fact, more often than not, Senator DURBIN and I work together when it involves a State project. We were just working earlier today to help save a VA Hospital in the city of Chicago. More often than not, we are certainly united on civil or project-type issues.

On this issue, we do have a difference of opinion. I oppose what Senator DURBIN is hoping to do. His argument pointed out that the Illinois delegation is divided. In general, I think Congressman LIPINSKI in the House supports Senator DURBIN's efforts. Congressman HYDE and Congressman JESSE JACKSON, JR., happen to support my side. Other Members of the Illinois delegation have not necessarily taken a position. They are not statewide officers and have not had to form an opinion necessarily or weigh in on this matter.

It is true that the mayor of the city of Chicago, Mayor Daley, as well as the Governor of the State of Illinois, did reach agreement two nights ago on an O'Hare expansion plan. I do not support that expansion plan, however.

Our Governor had long opposed Mayor Daley's efforts to expand O'Hare Airport. After getting some other provisions, including the continuance of Meigs Field in Chicago, which incidentally, I support, the Governor did decide to support Mayor Daley's efforts to expand O'Hare Airport.

The crux of this issue, as I see it—and Senator DURBIN has been very upfront with me—is the language that we will actually be called to vote on in the Senate. It is this language, and it is, as Senator DURBIN stated, placeholder language. It is innocuous language. It does not do much. The idea is Senator

DURBIN, who is going to be on the conference committee on Defense appropriations, would like to go into the conference committee and then introduce much lengthier language that would, in fact, force the reconstruction of O'Hare Airport, the tearing up and rebuilding of O'Hare Airport. The nub, the crux, of Senator DURBIN's language in that regard is to, indeed, preempt State law.

At the outset I will introduce into the RECORD the legislative language that Senator DURBIN shared with me. We spoke on the phone yesterday. He fully disclosed his plans. He would have placeholder language tonight. If he made it to conference, he would like to introduce this language. The Senator cannot tell me if he believes that language will be any different but he said this is the language he would like to get in the conference committee report on Defense appropriations. With a ruling from the Chair, I ask unanimous consent to enter this language and have it printed in the RECORD, because I will later want to walk through this language section by section.

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

SECTION 1. NECESSITY OF O'HARE RUNWAY REDESIGN AND DEVELOPMENT OF SOUTH SUBURBAN AIRPORT.

(a) The Congress hereby declares that redesign and reconstruction of Chicago-O'Hare International Airport in Cook and DuPage Counties, Illinois in accordance with the runway redesign plan, and the development of a south suburban airport in the Chicago metropolitan region, are each required to improve the efficiency of, and relieve congestion in, the national air transportation system.

(b) The Federal Aviation Administrator shall implement this Federal policy by facilitating approval, funding, construction and implementation of—

(1) the runway redesign plan upon receipt of an application from Chicago for approval of an airport layout plan that includes the runway redesign plan, and

(2) the south suburban airport upon receipt of an application from the State or a political subdivision thereof for approval of an airport layout plan for a south suburban airport, subject in each case only to application in due course of Federal laws respecting environmental protection and environmental analysis including, without limitation, the National Environmental Policy Act; and the Administrator's determinations with respect to practicability, safety and, efficiency, and consistency with Federal Aviation Administration design criteria.

(c) The State shall not enact or enforce any law respecting aeronautics that interferes with, or has the effect of interfering with, implementation of Federal policy with respect to the runway redesign plan including, without limitation, sections 38.01, 47 and 48 of the Illinois Aeronautics Act.

(d) All environmental reviews, analyses, and opinions related to issuance of permits, licenses, or approvals by operation of Federal law relating to the runway redesign plan or the south suburban airport shall be conducted on an expedited basis. Every Federal agency shall complete environmental-related reviews on an expedited and coordinated basis.

(e) If the Administrator determines that construction or operation of the runway redesign plan would not conform, within the

meaning of section 176(c) of the Clean Air Act, to an applicable implementation plan approved or promulgated under section 110 of the Clean Air Act, the Environmental Protection Agency shall forthwith cause or promulgate a revision of such implementation plan sufficient for the runway redesign plan to satisfy the requirements of section 176(c) of the Clean Air Act.

(f) The term "runway redesign plan" means (i) six parallel runways at O'Hare oriented in the east-west direction with the capability, to the extent determined by the Administrator to be practicable, safe and efficient, for four simultaneous independent instrument aircraft arrivals, and all associated taxiways, navigational facilities, passenger handling facilities and other related facilities, and (ii) the closure of existing runways 14L-32R, 14R-32L and 18-36.

(g) The term "south suburban airport" means a supplemental air carrier airport in the vicinity of Peotone, Illinois.

SEC. 2. PHASING OF CONSTRUCTION.

Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall provide that any runway located more than 2500 feet south of existing runway 9R-27L shall not begin construction before January 1, 2011.

SEC. 3. WESTERN PUBLIC ROADWAY ACCESS.

The Administrator shall not consider, and shall reject as incomplete, an airport layout plan submitted by Chicago that includes the runway redesign plan, unless it includes public roadway access through the western boundary of O'Hare to passenger terminal and parking facilities. Approval of western public road access shall be subject to the condition that its cost of construction will be paid from airport revenues.

SEC. 4. NOISE MITIGATION.

(a) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall require Chicago to offer acoustical treatment of all single-family houses and schools located within the 65 DNL noise contour for each construction phase of the runway redesign plan, subject to Federal Aviation Administration guidelines and specifications of general applicability. The Administrator shall determine that Chicago's plan for acoustical treatment is financially feasible.

(b) (1) Approval by the Administrator of an airport layout plan that includes the runway redesign plan shall be subject to the condition that noise impact of aircraft operations at O'Hare in the calendar year immediately following the year in which the first new runway is first used, and in each calendar year thereafter, will be less than the noise impact in calendar year 2000. The Administrator shall make the determination required by this Section.

(2) The Administrator shall—

(i) make the determination using, to the extent practicable, the procedures specified in part 150 of title 14 of the Code of Federal Regulations;

(ii) use the same method for 2000 as for each forecast year;

(iii) determine noise impact solely in terms of the aggregate number of square miles and the aggregate number of single-family houses and schools exposed to 65 or greater decibels using the DNL metric, including for this purpose only single-family houses and schools in existence on the last day of calendar year 2000.

(3) The condition described in subsection (a) shall be enforceable exclusively by the Administrator, using noise mitigation measures approved or approvable under Part 150 of title 14 of the Code of Federal Regulations.

SEC. 5. SOUTH SUBURBAN AIRPORT FEDERAL FUNDING.

The Administrator shall give priority consideration to a letter of intent application

submitted by the State of Illinois or a political subdivision thereof for the construction of the south suburban airport. This consideration shall be given not later than 90 days after a final record of decision approving the airport layout plan for the south suburban airport has been issued by the Administrator.

SEC. 6. FEDERAL CONSTRUCTION.

(a) On July 1, 2004, or as soon thereafter as may be possible, the Administrator shall construct the runway redesign plan as a Federal project, provided—

(1) the Administrator finds, after notice and opportunity for public comment, that a continuous course of construction of the runway redesign plan has not commenced and is not reasonably expected to commence by December 1, 2004.

(2) Chicago agrees in writing to construction of the runway redesign plan as a Federal project by the Administrator,

(3) Chicago enters into an agreement, acceptable to the Administrator, to protect the interests of the United States Government with respect to the construction, operation and maintenance of the runway redesign plan, and,

(4) Chicago provides, without cost to the United States Government, land easements, rights-of-way, rights of entry and other interests in land poverty deemed necessary and sufficient by the Administrator to permit construction of the runway redesign plan as a Federal project and to protect the interests of the United States Government in its construction, operation, maintenance and use.

(b) The Administrator may make an agreement with Chicago under which Chicago will provide the work described in subsection (a), for the benefit of the Administrator.

(c) The Administrator is authorized and directed to acquire in the name of the United States all land, easements, rights-of-way, rights of entry, or other interests in land or property necessary for the runway redesign plan under this Section, subject to such terms and conditions as the Administrator deems necessary to protect the interests of the United States.

SEC. 7. MERRILL C. MEIGS FIELD.

(a) Until January 1, 2026, the Administrator shall withhold all airport grant funds respecting O'Hare Airport, other than grants respecting national security and safety, unless the Administrator is reasonably satisfied that the following conditions have been met—

(1) Merrill C. Meigs Field in Chicago either is being operated by Chicago as an airport or has been closed for reasons beyond Chicago's control. If Meigs Field is closed for reasons beyond Chicago's control, none of the following conditions in subparagraphs 2 through 5 shall apply,

(2) Chicago is providing at its expense all off-airport roads and other access, services, equipment and other personal property that it provided in connection with the operation of Meigs on and prior to December 1, 2001,

(3) Chicago is operating Meigs Field, at its expense, at all times as a public airport in good condition and repair open to all users capable of utilizing the airport, and is maintaining the airport for such public operations at least from 6:00 a.m. to 10:00 p.m. seven days per week whenever weather conditions permit,

(4) Chicago is providing or causing its agents or independent contractors to provide all services (including police and fire protection services) provided or offered at Meigs on or immediately prior to December 1, 2001, including such tie-down, terminal, refueling and repair services as were then provided as rates that reflect actual costs of providing such goods and services at Meigs Field, pro-

vided that after January 1, 2006 the Administrator shall not withhold grant funds under this Section to the extent he determines that withholding of grant funds would create an unreasonable burden on interstate commerce.

(b) The Administrator shall not enforce the conditions specified in subsection (a) if the State of Illinois enacts a law on or after January 1, 2006 authorizing the closure of Meigs Field.

(c) Net operating losses resulting from operation of Meigs, to the extent consistent with law, are expected to be paid by the two air carriers at O'Hare that paid the highest amount of airport fees and charges at O'Hare for the immediately preceding calendar year. Notwithstanding any other provision of law, Chicago may use airport revenues generated at O'Hare to fund the operation of Meigs Field.

SEC. 8. JUDICIAL REVIEW.

An order issued by the Administrator in whole or in part under this Section shall be deemed to be an order issued under Title 49, United States Code, Subtitle VII, Part A, and shall be reviewed exclusively in accordance with the procedures in Section 46110 of Title 49, United States Code.

Mr. INHOFE. Will the Senator yield?

Mr. FITZGERALD. Yes.

Mr. INHOFE. I heard the other Senator from Illinois talking about all of the people and the officials in Illinois who wanted this. I wanted to give another perspective on this issue.

I was elected in 1986, the same time DENNY HASTERT, now Speaker of the House, was elected. All I have heard from DENNY HASTERT and from my colleagues on the House side all these years was they wanted to have a third airport.

I have to admit I prefer the provisions of Senator DURBIN's bill. On a freestanding bill, I am a cosponsor. I think it is a good idea. This also affects something no one has talked about, and that is Meigs Field. So I have some selfish reasons I would like to see that, but not on a Defense appropriations bill. I think it is the wrong place for it, and I will oppose it, even though I agree with the provisions of the bill.

I have talked to House Members since 1986, and as near as I can tell they are split down the middle, so there is no unanimity in the delegation that I can see.

Mr. FITZGERALD. The Senator from Oklahoma makes a very good point. I appreciate that point, and I appreciate his efforts to keep Meigs Field open because I think that is an important asset for the city of Chicago. I have worked with the Senator on that issue before and would like to continue working with him in that regard.

I do not believe it is appropriate to have this language on a Defense appropriations bill. This language has nothing to do with our national defense. It has nothing to do with protecting our troops in Afghanistan, and I regret the Senate has to be in session tonight debating this and, in fact, substituting itself for the Illinois State Legislature.

I served for 6 years in the Illinois State Senate. Whether we would amend the Illinois Aeronautics Act is the sort of issue we used to debate and vote on

in the Illinois State Senate. It is not by my choosing, I assure my colleagues, that the Senate is tonight substituting itself for the Illinois Legislature, which would probably not approve this plan. We are being asked to preempt the laws of the State of Illinois and specifically the Illinois Aeronautics Act.

I am going to give some summary remarks at the outset, and then I will want to walk through a section-by-section analysis of Senator DURBIN's language.

There is no reason for us to be in the Chamber tonight debating this. There is no reason to ask the Federal Government to step in. The mayor of the city of Chicago has never requested the State of Illinois for a permit to do his expansion plan at O'Hare. If he wants to do it, he should formally request that the State grant him a permit. If the FAA also grants him a permit, presumably he could go forward and do his expansion plan.

What we are being asked to do tonight is to gut the State permitting program, to rip out and make of no effect the Illinois Aeronautics Act. Of course, we are also being asked to gut State environmental laws that might protect the environment and the health and safety of the people around O'Hare Airport.

Nor did the mayor of the city of Chicago ever bring this issue up to the State legislature. If it were a problem he could not get a permit from the State of Illinois, clearly he could ask the State legislature to amend State law. No attempt has been made to go to the State legislature and ask them to amend State law. Instead, as a first step they came to the Senate and asked the Senate to come in and rewrite and preempt State law.

In my judgment, a project such as this should be a bottoms-up project, not a top down; not people in Washington making these decisions; I do not think I would be qualified to act on a runway project in Hawaii or New York or at LaGuardia or JFK or Newark; I would not know the situation. This is not an appropriate issue for the Senate to be debating. As Senator GRAMM said, we are not an aviation panel.

In addition to gutting the State permit process, the other thing this language would do is it would gut the analytical framework that we in Congress, in the Senate and the House, have mandated for approving airport plans. We have no studies, no reports, no FAA modeling available. We do not have any idea, other than news reports, of the cost of tearing up the seven runways at O'Hare and repositioning them. We have no FAA models of how much new capacity we would get. We do not have any studies that suggest it would improve or cut down on delays. We do not know what the future capacity would be. We do not know whether it is a safe plan.

I have two charts. The first chart is a diagram of the existing layout at

O'Hare Airport where we have seven runways, six of which are active. O'Hare is the world's busiest airport and, in fact, this year we have had more operations and enplanements than Atlanta's Hartsfield Airport. Mayor Daley's plan is to tear up those existing runways and to reorient them so he would have six parallel runways, six of them parallel east/west and two running from the northeast to the southwest, for a total of eight runways.

We are not safety experts in this body. We do not know if that is a good design. We do not know if that is a cost-effective design. I had an air traffic controller in my office on Monday of this week saying he was concerned there could be safety problems. The reason he said he thought there could be safety problems is because FAA regulations normally require a 4,300-foot separation between runways. In fact, I have a brochure from the Federal Aviation Administration that suggests proper separation between runways is an extremely important issue with respect to the safety of an airport.

This is the brochure. This is called "Improving Runway Safety Through Airfield Configuration." It is a little pamphlet put out by the Federal Aviation Administration. One of the points it makes for building safe airports is that layouts should be avoided that result in closely spaced parallel runways.

It says, provide adequate distance between parallel runways so a landing aircraft can exit the runway, decelerate, and hold short of the parallel runway without interfering with subsequent operations on either runway.

The FAA says the standard separation requires 4,300 feet, but it is my understanding this city of Chicago plan which has not been subjected to any vetting by any engineering firms or engineering designers, airport designers, airport layout experts, any Federal or State panel that those two runways would be 1,300 feet apart.

Mr. DURBIN. Will the Senator yield?

Mr. FITZGERALD. I would like to speak for a while.

Mr. DURBIN. Very quickly, I would close and give the Senator as much time as he wants to speak if the Senator and I can agree to a unanimous consent request to limit the debate on this amendment. I want to give him whatever time he wants, a few minutes to close, and let the Members go to consideration of the bill. Will the Senator give me an indication?

Mr. FITZGERALD. I would object to a unanimous consent agreement on the time.

Mr. President, we are not in a position to approve a runway design plan. This is probably the first time Congress has ever been asked to codify a runway design plan. I am not sure whether it is safe to have two sets of parallel runways only 1,300 feet apart. That seems pretty close to me. Maybe it is a good design and maybe it works. The point is, we don't have the expertise in this body, and we should not get

the framework that we in Congress have set up for approving and subjecting such proposals to a rigorous analysis.

Another point I make at the outset is that as you read the language that Senator DURBIN would like to get in the conference committee report, you see that the Federal Government takes a role in this whole process of building the O'Hare redevelopment plan. The language in the bill could arguably drain airport improvement funds from every Senator's airport around the country and put it in at O'Hare, when some members of the Illinois delegation, including myself, don't even favor that plan.

I favor the construction of a third airport in the south suburbs. That is something that the FAA and the city of Chicago and the States of Illinois, Wisconsin, and Indiana concluded was the right thing to do back in 1986-1988 when they did the Chicago Airport Capacity Study. That study concluded that it was not practicable to expand the capacity of O'Hare Airport and that the appropriate solution for the future was to build a third airport. It was suggested that the south suburbs of Chicago would be a good place to start a third airport.

My message to my colleagues from around the country is, if you are willing to risk airport improvement funds in your own States for your airports, then you should support Senator DURBIN. But if you want to keep your share of airport improvement funds for your airports and not send them for an expansion plan that I don't even support in Illinois, then you should vote with me.

It should also be pointed out at this point that this is a project that involves blockbuster amounts. In August, the State of Illinois transportation director suggested that the cost of the total project would be as much as \$13 billion. And the reason it is so costly is because you are tearing up existing runways that are very deep—one is one of the longest in the country—and you are repositioning them. Of course, the mayor of Chicago already has a \$4 billion terminal expansion plan that is on the table, and then included in this language that Senator DURBIN has is a western access road that could cost as much as \$3 billion, depending on where it goes.

Mr. DURBIN. Will the Senator yield?

Mr. FITZGERALD. Yes.

Mr. DURBIN. Will the Senator indicate who will pay for the western access?

Mr. FITZGERALD. That is unclear. I think under certain circumstances the western access would have to be paid for out of airport improvement funds because in section 6 of your bill you provide for Federal construction of the project.

Mr. DURBIN. Is the Senator aware the western access would be paid for by the city of Chicago?

Mr. FITZGERALD. No, and that is certainly not clear from the language.

I cite section 1(f) of your language where you define the runway design plan to include related facilities, which I take to include related roadway improvements. So I don't know how many Senators want airport improvement funds drained from their States to go for a road in the Chicago area which would be part of this overall O'Hare expansion plan. That road happens to be a good idea if they do it in the right way. If they do it in the wrong way, it will take up 20 percent of the business and an industrial park in the city of Elk Grove, the largest industrial park in the country. Twenty percent of that would be taken out.

Mr. DURBIN. Will the Senator yield?

Mr. FITZGERALD. I will yield for one more question.

Mr. DURBIN. I refer the Senator to specific language which says, approval of western public road access shall be subject to conditioning that the cost of construction be paid for from airport revenues.

It does not come from airport improvement by the Federal Government.

Mr. FITZGERALD. Where do you have that language?

Mr. DURBIN. Airport improvement funds come from Washington; airport revenues—

Mr. FITZGERALD. But they would be revenues of O'Hare Airport.

Mr. DURBIN. From the ticket charges.

Mr. FITZGERALD. O'Hare revenues would include whatever revenues they took in, from any source. You don't say that.

Mr. DURBIN. I say to my colleague, airport improvement funds are from Washington, from the General Treasury; and the passenger facility charge is generated by the airport itself. And it specifically says the western access will be paid for from airport revenues, not from the Federal Treasury.

I say to the Senator, we can disagree and do disagree, but I want him to represent this as it is written.

Mr. FITZGERALD. To my colleague from Illinois I say I am sure if I got an annual report of O'Hare and looked at the income statements, they would include as airport revenues the funds they receive from whatever source—from airport improvement funds, from PFCs, from concessions, or any source that is part of total revenue. I differ on how this language reads.

As I said earlier, there are safety issues raised by this project, this proposal. We currently have 25 taxi runway crossings at O'Hare. That brochure that I held up earlier that the FAA puts out on airport safety, one point it makes is layouts of airports that require aircraft and vehicles to cross runways need to be avoided. This goes on to say that every crossing represents a potential runway incursion. Vehicle crossings can be eliminated by constructing all-weather perimeter and service roads. At busy airports with a large volume of vehicles traveling from one side of the airport to the other, it

may be cost beneficial to construct vehicle roadway tunnels under the runways.

It goes on and emphasizes that the number of crossings, taxiway and runway crossings affect safety. My understanding is the current layout at O'Hare Airport has 25 taxiways and runway crossings, but this new plan would have 43. It is a much more complicated design. Under the standard set up by the FAA, in their own brochure, there could be an increased threat of a runway incursion.

The point has been previously made by my colleagues from Arizona and elsewhere that the language Senator DURBIN is offering tonight bypasses the authorizing committees in the House and the Senate. It is, in my judgment, a circumvention of the process. The appropriations, the Defense appropriations bill is not the appropriate vehicle to have a transportation or an aviation measure. In the Senate, we have the Commerce Committee that governs transportation and aviation. If there is any expertise in the Senate staff and among the Senators who have a lot of experience in aviation, it is in the Senate Commerce Committee, and in the House it is the House Transportation Committee. The House has, in fact, told our Commerce Committee staff that they will oppose this language in conference because they believe this is not going through the proper channels. There were no hearings in the appropriate committee.

As I said, why aren't we doing this in the State legislature? If for some reason they couldn't do it in the State legislature—say they weren't meeting for the next year and they had to come to the Senate—you would think the way to do this would be to bring a bill and go through the appropriate channels, go through the authorizing committee, and have hearings in the Senate Commerce Committee.

Of course, I was in Chicago with Senator DURBIN and Senator MCCAIN earlier. We had an informational hearing on aviation in Chicago. At that time, Mayor Daley had decided he was going to come out with a plan. But the plan that was just agreed to that we are now being asked to vote on is 48 hours old. It was a backroom deal between two people. It didn't involve the State legislature. It is not available to the public. No details are available to the public. We are being asked right now to enact it into Federal law.

The other thing this language that the city of Chicago is offering does is take the unprecedented step of saying if this new airport violates the Clean Air Act, if we are going to violate the EPA laws, then the EPA must revise their own regulations so that the plan can fly. Isn't that nice? We are just going to give them in Federal law a cart blanche to violate the permissible levels of toxic pollutants put out, and we are going to do that in the Senate. Isn't that a good idea?

My understanding is there are airports around the country that have had

problems because they haven't been able to comply with the Clean Air Act. But they have to make modifications so they comply with the Clean Air Act.

I would like O'Hare Airport—whether the current airport or a redesigned O'Hare—to comply with the Clean Air Act. I wouldn't want the Clean Air Act modified or weakened or the burden put on some other industry to make up for the added pollution given out by O'Hare Airport.

Of course, one of the problems we have in airports such as O'Hare in a congested urban and suburban surrounding is that you pose a risk of toxic pollutants to hundreds of thousands of people.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. FITZGERALD. I would prefer to continue and give the Senator plenty of time to respond at the end of my speech.

Mr. DURBIN. Thank you.

Mr. FITZGERALD. Mr. President, another issue I have been concerned about and Congressman JACKSON and Congressman HYDE have been concerned about for a very long period of time is that we have two airlines that have 87 percent of the aviation market at O'Hare. Those airlines are United and American. I applaud the hard-working employees of those airlines. I have a great deal of respect for them. They have been through a very difficult fall.

But one of the issues I am concerned about is that there is not adequate competition on long-haul flights to Chicago. We have some competition coming out of Midway Airport, and very good competition from great airlines, ATA and Southwest. It is difficult to do long-haul flights because the runways are so short.

I thought it would be preferable to build a third airport because that would provide new entrants in the Chicago aviation area and an opportunity to compete with United and American.

A GAO study commissioned by Congress a couple of years ago said monopoly overcharges at Chicago's O'Hare Airport—additional fees that consumers of air travel in the Chicago area pay that result from monopoly conditions at O'Hare—amount to \$623 million a year. In fact, Governor Ryan, when he was campaigning for Governor, put out a policy paper that cited that GAO report in support of his then position favoring the third airport.

While I think Senator DURBIN's ultimate objective and certainly Mayor Daley's objective would be to expand capacity at O'Hare, my question is how construction would proceed. When they are tearing up and rebuilding O'Hare, my worry would be we would, in fact, have less capacity than we do right now due to construction.

Anybody in the Chicago area who drives the expressways from the suburbs to the city or from the city to the suburbs knows what happens when there is a construction project during

the summer on the expressways. It causes huge bottlenecks. People's commutes to work are doubled.

My fear is that, while we are doing this massive tearing up and rebuilding of O'Hare, the delays we have been enduring for the last few years at O'Hare and around the country would, in fact, be exacerbated.

In addition, one of the things that the language Senator DURBIN will be offering in the conference committee, if he succeeds in getting this language adopted tonight, in my judgment—and I think Senator DURBIN will probably dispute it, but I will let him speak for himself—this language is a backdoor means of killing the third airport at the south suburban site.

There is a section in the bill that mentions Peotone, but it really is just lipservice. It says the FAA must consider Peotone. But I think I will be able to demonstrate as we go on tonight that the specific terms of the language, because they mandate a reconstruction project at O'Hare, would have the effect of drying up the justification for going forward with a third airport.

The State's premise for building the third airport has always been that there was not going to be an expansion of O'Hare. The Chicago Airport Capacity Study of 1986 to 1988, in fact, concluded that it wasn't feasible—I agree with them—to expand the capacity at O'Hare, which leads me to my discussion of the wisdom of expanding O'Hare as opposed to going forward with a third airport in the south suburbs.

The bottom line, in my argument, is that we would get more capacity more quickly at less cost by building a third airport in the south suburbs than we would by going forward with Mayor Daley's expansion plan at O'Hare. Of course, going forward with the third airport would still leave money for everybody else's airports in the country. I don't think Mayor Daley's plan would.

If I could point to a couple of the advantages, first with respect to cost. There have been many estimates of the cost. I think we can count on the O'Hare expansion being at least \$13 billion. That was the figure cited by Kirk Brown, director of the department of transportation of the State of Illinois in August with respect to Mayor Daley's expansion plan. That is because there is \$6 billion in runway reconstruction that is being proposed and talked about right now. There is \$4 billion for the World Gateway Terminal Program that is already underway. Then there is \$3 billion in related roadway improvements.

In contrast, the third airport would be on a greenfield site on 24,000 acres in a rural area and would only cost \$5 billion to \$6 billion, roughly the same amount at Denver International Airport. It is laid out similarly on a lot of land with a lot of space. It is easier to build in an open space than it is to go into a congested urban area. It is easier

than going into an existing airport such as O'Hare, tearing up and moving the runways, and in some cases tearing them up and moving them over 500 feet. You don't have that waste if you just go ahead and build the third airport.

Capacity: Mayor Daley's plan would add 700,000 additional flight operations at O'Hare. It is now at 900,000 operations. An additional 700,000 a year would bring it to 1.6 million operations in a year.

But, in fact, for a third of the cost, the capacity could be 1.6 million operations, much greater for the long-term future of our country.

Construction of the third airport: By the terms of the legislation, which Senator DURBIN will provide to the conference committee, you can see they aren't even anticipating getting to the final runway at O'Hare until 2011. That project is going to go on for more than a decade. It will go on and on and on, and people will probably, in my judgment, be delayed during the construction.

In contrast, it is estimated that phase I of the third airport could be up in 3 to 5 years after we got approval. And a request for approval has already been started at the FAA. The State has already submitted that plan. The city of Chicago has not submitted its plan yet to the FAA.

Community: With respect to O'Hare, you have significant opposition from communities surrounding O'Hare. The quality of life of hundreds of thousands of people would be adversely affected by that proposal. Yet in the south suburbs, you generally have significant community support, although there is, of course, some local opposition from homeowners; there is no question about that.

Going back to the competition point, the O'Hare expansion, in one of the designs of this whole O'Hare expansion, is to goldplate United's and American's position at O'Hare. At United and American, they do a good job. I fly them back and forth every week between Washington and Illinois. But they do enjoy a monopoly position. They have an 87-percent market share at Chicago O'Hare Airport. The fact is, they have been opposing O'Hare expansion for years, probably as much as 30 years.

O'Hare first reached capacity in 1969. That is when the FAA had to cap the number of flights there because the demand for flights started to exceed capacity. The former Mayor Daley tried to build a third airport. He tried to build an airport at Lake Michigan, a third airport. He recognized back in the early 1970s the need for a new airport.

What this O'Hare expansion would do is, it would lock in American's and United's dominance of the aviation market in Chicago. That is good for the shareholders of United and American. But I would say that is not good for consumers. We benefit by having more

choices, by having competition, by having new entrants come into the airport.

If we had a new airport, we would have new entrants coming into the Chicago market almost certainly. We have had testimony before the Senate Commerce Committee that new entrants have a hard time or cannot get into O'Hare. In fact, a representative of JetBlue testified earlier this year that they wanted to run flights to Chicago out of New York, but they could not get into Midway or O'Hare.

We have to confront this issue because passenger travel has gone up 400 percent in this country since deregulation. But the major hub carriers have blocked every single new airport in the last 20 years with the exception of Denver. And in Denver's case, they insisted that Stapleton Airport be shut down so they could not get a maverick carrier like Southwest in there competing.

So you look around the country now. What Congress has allowed to happen is we have monopolies by region in aviation. If you go to Atlanta, Delta has a dominant position. If you go to Minneapolis-St. Paul, you have Northwest, which has a dominant position. They have also a dominant position in Memphis and Detroit. If you look at Dallas, in Senator GRAMM's State, you have a dominant position by American Airlines.

In Chicago, United and American share their dominance. We are blessed in Chicago because we have a duopoly as opposed to a monopoly; and that is somewhat better. But the fact of the matter is, consumers around the country are suffering because they do not have aviation choices in their communities. And the airlines kind of like this situation. You do not see Delta making much of an attempt to go into United's and American's turf in Chicago, and you do not see much of an attempt by United and American to go and intrude on Delta's dominant position at Atlanta's Hartsfield Airport. They have kind of carved up the Nation's aviation market like slices of apple pie.

I would like to focus and turn our attention now to a section-by-section analysis of the language that Senator DURBIN would like to introduce into the conference committee on the Defense appropriations bill.

If we start right at the beginning of section (1), it is entitled: "Necessity Of O'Hare Runway Redesign And Development of South Suburban Airport."

Section (1) (a) reads:

The Congress hereby declares that redesign and reconstruction of Chicago-O'Hare International Airport in Cook and DuPage Counties, Illinois in accordance with the runway redesign plan—

And that is later defined—

and the development of a south suburban airport in the Chicago metropolitan region, are each required to improve the efficiency of, and relieve congestion in, the national air transportation system.

I submit that the very first paragraph of Senator DURBIN's language

that he hopes to put into the conference committee report—that there is no basis for this language. There is not a single report, no finding, no study, no cost analysis, no cost-benefit analysis to support the idea that we should both build a massive O'Hare and go forward with the south suburban airport that I discussed.

As we discussed, the State's premise for the third airport is that O'Hare would not and could not be expanded. There are studies—there are reams of studies—going back many years that say we need a third airport. Those studies are premised on the belief that there is no way that O'Hare could be feasibly expanded. And so there is justification for Peotone.

There is no study—nothing—that supports the notion that we need both a massive new O'Hare and a Peotone.

Now 49 U.S.C., section 47115, subsection (c), says that as a condition of any discretionary grants a cost-benefit analysis of the project should be done.

We are mandating a project right now. And apparently we are not going to do a cost-benefit analysis. Why is Congress, why is the Senate being asked to gut our mechanism for applying an analytical review process to improvements and changes at runways and airports around the country? What are the costs and benefits here? We do not know. This is a backroom deal that happened about 48 hours ago. In fact, it was less than 48 hours ago that they reached that backroom deal. And we do not have any of the details. We do not have any of the internal documents. We do not have any of the background information that we need. And, moreover, we are not the ones who should be passing on this backroom deal.

If there is a runway plan that the city of Chicago has, they should submit it through the appropriate channels. The other thing that the FAA's cost-benefit analysis, that Congress has mandated, requires is that it requires a consideration of alternatives. If an airport is proposing an expansion plan, the FAA would make them go through a rigorous analysis of what would be the alternative. What are the costs and the benefits of an alternative?

Isn't that the sort of analytical approach we should take on these things? Why are we mandating, codifying in Federal law, and preordaining the outcome? No one is going to look at whether this plan makes sense. We are just going to make it a Federal statute. And it does not matter whether it makes sense.

No one has introduced details of costs. There are no benefits that have been suggested and no alternatives. There is no such analysis available for O'Hare. And they have not offered any new analysis on Peotone.

So, in short, this language that Senator DURBIN hopes to put in the conference committee report guts the analytical framework mandated by Congress and makes this the only mandated runway construction plan in the country.

Mr. President, we talked earlier about how the costs would probably be borne by the airport improvement fund to some extent around the country. If you go to section 1(b), it says that "The Federal Aviation Administrator shall implement this Federal policy by facilitating approval, funding, construction, and implementation of" the runway design plan. So the FAA, its hands are tied. It must facilitate, it shall—the word is "shall"—shall facilitate the approval, the funding, construction, and implementation.

What if the FAA were to decide they didn't want to give this any discretionary grants? I would think anybody who had bought a bond that was issued in reliance on this language that the FAA would be compelled to facilitate the funding might have a claim there. They would be in a position, the city would be in a position to force the FAA to cough up money, and it would be forced to cough up perhaps at the expense of other airports around the country.

We have said this involves blockbuster amounts. This is not a \$1 billion project, this is a \$2 or a \$3 billion project. This is \$6 billion for the construction of runways, and then it is \$2 to \$3 billion for a ring road and even more costs if it goes through a lot of businesses.

With respect to Peotone in that first paragraph, it says that there is a necessity for O'Hare runway redesign and development of a south suburban airport. But it doesn't say what kind of a south suburban airport. Is this a one-runway south suburban airport or a six-runway south suburban airport? There have been different proposals in that regard. The State of Illinois has already submitted a proposal to the FAA for a starter south suburban airport that would have one runway initially but could be expanded to six. This language does not say.

With respect to airport financing, it is pretty well gone, certainly on the Senate Commerce Committee. And I am sure, as most of the Senators, that these projects are typically paid for with a combination of general airport revenue bonds that the airlines agree to help retire over time, and also another element is passenger facility charges, so-called PFC fees. Of course, one major component is the one I was discussing before that I would suggest would be depleted for other airports around the country. That is the airport improvement funds. Huge amounts of airport improvements funds would be sucked up for O'Hare, for a controversial plan that the residents, the legislature, the congressional delegation of Illinois are split on, and many don't even want it.

Congress should not obligate itself to these huge expenditures in Senator DURBIN's language. It is clear to me that Congress, if it enacted into law Senator DURBIN's language, would be obligating itself to huge expenditures. But we don't even know what those ex-

penditures would be because those haven't been introduced or shown to anybody. We don't know what it would cost. But we would be obligating ourselves.

(Mr. CORZINE assumed the chair.)

Mr. FITZGERALD. I suppose it would not be the first time we have picked up some unspecified liability, but I know the Presiding Officer has been a fiscal watchdog for the taxpayers, and he and I worked together to make sure that the taxpayers were not abused with respect to the airline bailout bill. We were concerned about the amounts there, and others in this Chamber were. I would suggest to the Presiding Officer and all Members of this body that we should be very cautious in obligating ourselves to unknown costs. We are assuming liabilities that are not specified in this language.

The airport improvement funds have two components. Two-thirds of AIP funding is based on a formula which is in turn based on the size of the airport and the number of enplanements at the airport. If O'Hare is the busiest airport in the Nation this year, that means that based on the formula, it is probably getting the most airport improvement money of any airport in the country.

If its size is doubled, then indeed its share of the airport improvement funds, formula funds, would in fact be close to double. That would come out of other airports around the country.

The other third of the airport improvement funds comes from discretionary grants. I suggest to my colleagues in the Senate that this language would obligate the FAA to take huge chunks of their discretionary money and put it into this project at O'Hare that I don't support, that Congressman HYDE does not support, that JESSE JACKSON, Jr., doesn't support, that the State Senate of Illinois does not support. All that money would be obligated to come from all of your projects.

So, again, why not just go forward and build the third airport? The State committed the proposal for the third airport. We would get more capacity by building Peotone alone, and we would have money left over for airport improvements elsewhere in the country.

I would also be concerned for the airports I have in downstate Illinois. Some of their AIP funds could be sucked up and given to O'Hare. This project could in fact be done at the expense of some of the downstate airports in Illinois. We would be doing this all at a time when we have a complete absence of models, a complete absence of FAA models, a complete absence of specifics, a complete absence of studies, a complete absence of detailed financial cost disclosures, and a complete absence of alternatives.

With respect to the costs, the costs are written. And in fact the runway design plan that would be mandated here is written and defined in such a way as to include undefined elements. In fact,

in section 1(f), it says that the term "runway design plan" means six parallel runways at O'Hare oriented in the east-west direction with the capability for four simultaneous, independent instrument aircraft arrivals and all associated taxiways, navigational facilities—what does that mean?—passenger handling facilities—is that terminals?—and other related facilities, and on top, the FAA would be mandated to facilitate this, presumably with funds, and the closure of existing runways 14L-32R, 14R-32L, and 18-36.

I said earlier that the State was preempted and that really is the crux of why we are here. You have a plan that cannot get approved by the State legislature, and therefore we are being asked to substitute ourselves for the State legislature of Illinois.

I am proud to have served in the Illinois State Senate. Many distinguished people, including Abraham Lincoln, served in the Illinois General Assembly. I would suggest to my colleagues that it is not appropriate for us to be substituting ourselves for the Illinois General Assembly. If the mayor needs their help in getting this plan approved, he ought to go submit his plans to the Illinois General Assembly. But instead, if you look at section 1(c) of Senator DURBIN's language, what the bill attempts to do is preempt State laws. I will read the language here that is the crux of Senator DURBIN's bill:

The State shall not enact or enforce any law respecting aeronautics that interferes with or has the effect of interfering with implementation of Federal policy with respect to the runway redesign plan including, without limitation, sections 38.01, 47 and 48 of the Illinois Aeronautics Act.

This clearly preempts the Illinois Aeronautics Act. It preempts specifically and gives specific mention to the sections of that act that require a hearing process, a vetting process, a permitting process. It wipes out the State's permitting process.

I believe this language is broad enough. It does not just say it wipes out the Illinois Aeronautics Act, although it does mention it specifically. It says any law respecting aeronautics that interferes with or has the effect of interfering with the implementation of this law. So that would wipe out, in my judgment, environmental laws if they were a roadblock. If Mayor Daley could not comply with State environmental laws, he would have a Federal mandate to blow those away. He would not have to comply with the environmental laws of the State of Illinois.

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

Mr. FITZGERALD. I would rather yield at the end, I say to my colleague, my good friend from Illinois.

State securities laws could come into play if there are airport bonds that are issued. If they had the effect of interfering with this, could they be overridden?

There are other States that are in this position, in fact, that have some

State laws in this area. I have a chart. This chart was actually prepared for a different bill, H.R. 2107. That was an attempt by Congressman LIPINSKI in the House to preempt local and State laws regarding airport approval processes.

I believe there are a total of 26 States that have some control to give approval to local airport projects. Of course, Illinois is one of them, and all these other States—in fact, Mr. President, some of your neighboring States—Pennsylvania, Maryland, Delaware, New Hampshire, Vermont, Massachusetts, Missouri, Indiana, Michigan, Wisconsin, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, Oklahoma, Texas, New Mexico, Alaska, Utah, Wyoming, Idaho, Tennessee, Alabama, Mississippi—they all have some State laws in this regard to regulate airports. In my judgment, it is a bad precedent for the Federal Government to begin overriding those laws. Perhaps some of those people in those State legislatures and some of the local permitting authorities know something about their local projects and we in Washington should not be substituting our judgment for their judgment.

I do not think it is a good idea we come in and blow out the laws of the State of Illinois that have been enacted by people duly elected to serve and represent their interests. We would be obliterating the say of the people in the Illinois General Assembly by enacting this measure.

Again, the mayor could have gone to the legislature to pass this plan, but he did not want to or he could not, so he came to Congress to wipe out the State's legislature law. At the heart of this legislation, more than anything else, is really an attack on the Illinois General Assembly, if you want my opinion.

If we turn to section 1(e) of the bill, this section indicates there is a fear on the part of the proponents that the mayor's expansion proposal will violate national air quality standards. Therefore, what this language does in section 1(e) of the bill is it will force the U.S. EPA to rewrite and weaken environmental regulations to keep them at the same strength by having some other industry in Illinois pay for it. Either that or it would just cause them to weaken their regulations altogether.

Section 1(e) reads as follows:

If the Administrator determines that construction or operation of the runway redesign plan would not conform, within the meaning of section 176(c) of the Clean Air Act, to an applicable implementation plan approved or promulgated under section 110 of the Clean Air Act, the Environmental Protection Agency shall forthwith cause or promulgate a revision of such implementation plan sufficient for the runway redesign plan to satisfy the requirements of section 176(c) of the Clean Air Act.

What does that mean? It means if Mayor Daley's runway redesign plan violates the Clean Air Act, then the

EPA must weaken the Clean Air Act so the plan no longer violates the Clean Air Act, or they must, through their crediting process, put the burden on some other industry. Not many industries in Illinois are aware of that.

Right after that, we have section 1(g) that, again, refers to the "south suburban airport." It says:

The term "south suburban airport" means a supplemental air carrier airport in the vicinity of Peotone, Illinois.

Again, there is no definition. Is that a 6-runway or a 10-runway airport? We do not know. There have been different proposals, so I do not think this language is necessarily well done.

Section 2 of the bill is on phasing of construction. This bill suggests that, in fact, the city would be forbidden from beginning construction of the sixth runway until 2011. What that means is that prior to 2011, there will not be six parallel runways at O'Hare.

We have seven runways at O'Hare today. Prior to 2011, there will only be five parallel runways? Will we have less capacity at O'Hare until the sixth runway is finally built in 2011? It raises interesting questions. Western roadway access, again—and I had this colloquy with my colleague from Illinois. He disputes this, but I believe the language would require that the airport revenues be made available to pay for western public roadway access and revenues of the airport.

As the Presiding Officer would know, having been the chairman of Goldman Sachs, one of our country's leading investment banking firms, the revenues of the airport would include all their revenues, whatever source derived, whether passenger facility charges or airport improvement funds. They could apparently use airport improvement funds to help with the roadway project.

The Administrators shall not consider, and shall reject as incomplete, an airport layout plan submitted by Chicago that includes the runway redesign plan, unless it includes public roadway access through the western boundary of O'Hare to passenger terminal and parking facilities.

I do believe that roadway access would help with O'Hare. The problem is right now we have to build another terminal out there on the western side for it to be truly as valuable as it should be. There is a question as to where this roadway would go. It would be a massive roadway. Would it take out several villages, such as Elk Grove and other villages, in the area?

In fact, Mr. President, we have some maps that show some of the surrounding communities. We see the problems we get into when we start a massive plan such as this in a congested urban and suburban area.

That western ring road would be on the western boundary of O'Hare. It would go from I-90 presumably on the north down somewhere to Irving Park Road on the south.

I will point out that Elk Grove Village is there. The largest industrial park in the entire Nation is right about

here. If this road goes through, it would take out perhaps 20 percent or more of the largest industrial park in the country. I do not favor that.

If they wanted to do the western access on airport property, I think I would favor that, but I would not favor this. Will we give Federal impetus to something that nobody in this body was intending, perhaps not even sponsored the language, and that is the destruction of a large portion of Elk Grove Village, IL?

I know Elk Grove Village, IL, very well. I represented that area when I was in the State senate. I represented the northwest suburbs. I know the mayor of Elk Grove is very concerned about losing the tax base in his village and hundreds of wonderful, strong businesses that use the industrial park.

There is a large section on noise mitigation, and I will address that section as well. There seems to be an attempt to address the noise concerns that would be created by this expansion program, but I think there is a trick. If we look at section (4)(b)(1), it says:

Approval by the administrator of an airport layout plan that includes the runway redesign plan shall be subject to the condition that noise impact of aircraft operations at O'Hare in the calendar year immediately following the year in which the first new runway is first used, and in each calendar year thereafter, will be less than the noise impact in calendar year 2000. The administrator shall make the determination required by this section.

The trick is they are comparing today's fleet with a much quieter fleet in the future. It is not an apples to apples comparison. The apples to apples comparison would be to take the future fleet at the current level of operations and to compare that future fleet at the future level with the current level with the future fleet. So it gets complicated. What they are doing is clever but misleading.

I say to my constituents who are worried about that issue, there is not a lot to help them with their concern of the disruption in their life caused by this massive expansion plan. Of course, this expansion is in a very congested urban and suburban area with hundreds of thousands of people living in and around there, most of whom—our phones have been ringing off the hook—are opposed to this plan, but the Senate is being asked to approve this plan tonight.

I apologize for that because I do not think this is an appropriate bill, the Defense appropriations bill, and I regret that we have to be debating this specific issue tonight.

Section 5 of the bill pays lip service to the south suburban airport issue. It says:

The administrator shall give priority consideration to a letter of intent application submitted by the State of Illinois or a political subdivision thereof for the construction of the south suburban airport. This consideration shall be given not later than 90 days after final record of decision approving the

airport layout plan for the south suburban airport has been issued by the administrator.

This has been billed and portrayed in Illinois as legislation that would actually move the ball forward with respect to the third airport. I suggest to my colleagues this language, in fact, kills the third airport in the south suburbs. The reason I say that is any airport funding for the south suburban airport would be, one, soaked up by the massive expansion at O'Hare and, two, all this language requires is the administrator give consideration to a letter of intent submitted by the State of Illinois.

The FAA is already going to consider the letter of intent submitted by the FAA. We do not need this language. They are already going to consider it. Maybe it would speed it up a little bit, but that is about all. There is no guarantee the third airport would be approved. In fact, I believe the justification for the third airport would vanish in light of the massive expansion of O'Hare. Again, the whole premise for the third airport was it is not feasible to expand O'Hare.

Make no mistake about it, everyone in Illinois should know this language is a Peotone killer. It is a backdoor way of ensuring the third south suburban airport will never be built in the State of Illinois.

There is no justification—no cost-benefit analysis would suggest the FAA should approve that plan once the massive expansion of O'Hare has been approved.

The next section, section 6, is a section I think should be of special concern to every Member in this body from every State in this country. This is the section that would require the Federal Government to construct this massive plan at O'Hare, which I have said I do not want, many Members of Congress in my State do not want, and the State legislature will not approve. The Senate will be asked to pay for it as a Federal project. That would be nice if the Chair would, for instance, give me his airport funds from Newark Airport to pay for this project, except I do not want this project.

I think every Member in this body should think long and hard whether they want their airport improvement funds to be sucked up by a massive O'Hare expansion plan, a \$13 billion plan at least, in my judgment, something that I do not even want in my State, that is very controversial in my State.

What this language says is:

On July 1, 2004, or as soon thereafter as may be possible, the administrator shall construct the runway redesign plan as a Federal project, provided (1) the administrator finds, after notice and opportunity for public comment, that a continuous course of construction of the runway redesign plan has not commenced and is not reasonably expected to commence by December 1, 2004.

I am not sure whether those are the exact dates they are going to want, but that is the language Senator DURBIN shared with me, and I appreciate that.

He did not spring this language on me. He shared this with me. I called him yesterday and I asked him to fax the language he wanted to introduce in the conference committee. I compliment him for not taking me by surprise and for disclosing his intentions as to the conference report.

What that means is if there has not been a continuous course of construction on the runway redesign plan, then the Federal Government, the FAA, the Administrator, the Federal Aviation Administrator, shall take this project over and shall construct a runway redesign plan as a Federal project. So all the taxpayers and all the other States would pay for it.

I love it when the Senate gives money to my State. Our State has not gotten its fair share of Federal funds over the years. I think we are doing a lot better. Thanks to the leadership of the Speaker of the House, who is from Illinois, we are doing better in that regard in recent years. I enjoy it when my colleagues are generous with money for my State, but this is a project I do not support. So I ask, please, do not take money out of your airports and deprive them of revenue to put into a project in my State that I do not support.

One of the interesting parts of this whole thing is if we go back to section (1)(c) of Senator DURBIN's language, the first thing this bill really does is it preempts the Illinois Aeronautics Act.

The interesting thing about the bill, it goes on to say the city of Chicago shall not build the runway redesign plan, and if for some reason they did not, the Federal Government will step into its place and do it. But it can delegate those responsibilities, then, back to the city of Chicago.

Interestingly, under our State law, municipalities such as city of Chicago don't have any authority except from State law to operate its airports. That is where the city of Chicago gets its authority to operate O'Hare. They have it from the Illinois Aeronautics Act. But this Federal bill would obliterate the Illinois Aeronautics Act. How would Illinois or Chicago have the authority to even have the airport? Would O'Hare airport or the city of Chicago become a Federal reservation? It is not clear. Very unusual language, in my judgment.

I am sure the proponents, especially United and American, have a lot of employees, a lot of contractors and subcontractors, a lot of people who do work for them.

They have influential directorships, they are very active and involved in the community in Chicago. This is a bonanza for them because it blocks a third airport for generations to come and they would be assured, in my judgment, of not having any effective competition in the Chicago market from any other long-haul carriers for as long as the eye can see, as far as we can see into the future. In my judgment, this is not in the interests of the general public.

Once the legislature's granted authority is obliterated by this Federal legislation, then interestingly the city has no authority to build. The city would lose its legal authority to contract for an airport, so this is very curious language. That would point out that is exactly why we shouldn't be acting in the Senate as though we were the Illinois State Legislature. You get these problems, unintended consequences, when you start rewriting the Illinois Aeronautics Act or preempting it at the Federal level. You get all sorts of unintended consequences. It is not a good idea, in my judgment, to come in and rewrite a State act, especially on a Defense appropriations bill at 8:30 in the evening on Friday night when we should be debating defense amendments.

We have our troops on the ground in Afghanistan. This, clearly, isn't the appropriate forum to debate the propriety of the Illinois Aeronautics Act. Let the State legislature take up the Illinois Aeronautics Act when they get back into session next January.

Then if you go on—and the language is many pages long—if you go to the end, they do have the provision I support and that is keeping Meigs Field open in Chicago. I don't know if the President has ever flown in or out of Meigs Field, but it is a beautiful airport on the Chicago lakefront. The business community loves that airport. People are able to fly right into the heart of downtown Chicago. They are right in the city and can easily get to a meeting. It is a great general aviation airport. There is a provision that would do something to assist keeping Meigs Field open. I support that. It was regrettable the city of Chicago wanted to close Meigs Field.

I always thought that was a mistake. Meigs Field has handled as many as 50,000 flight operations a year. If it shuts down, you will put those flights into Midway and O'Hare—a large number of them, anyway—which will add to congestion at Midway and O'Hare.

I have always felt closing Meigs Field was inconsistent with alleviating air traffic congestion in the Chicago area. I was disappointed the city wanted to close it.

This backroom deal we are being asked to codify, which is under 48 hours old, and no specifics or financing or details or studies have been released to the general public back in Illinois, has been portrayed in the press as keeping Meigs Field open until January 1 of the year 2026. It appears to give it another 25 years. But they have a provision in here that would allow the Illinois General Assembly to close Meigs Field in 6 years.

Now, is this not odd? On the one hand, they take away, obliterate the State statute passed by the Illinois General Assembly, passed by all the State representatives and State senators in Illinois and enacted into law by the Governor, we are asked to obliterate one act, but on the other hand,

we are writing a law that the State legislature in Illinois would have to comply with, and that is they can't shut Meigs Field down prior to January 1, 2006. But after January 1, 2006, Meigs Field could be shut down by the Illinois Legislature. In fact, it says in section (7)(4)(b):

The administrator shall not enforce the conditions specified in subsection (a) if the State of Illinois enacts a law on or after January 1, 2006, authorizing the closure of Meigs Field.

So we are at the Federal level granting the State of Illinois the authority in Federal statute to close Meigs Field. However, we are taking away the Illinois General Assembly's authority to have anything to do with O'Hare. It is wildly inconsistent. There is no principle behind what they are doing. That is what you get with a backroom deal that is the product of people saying: I will scratch your back if you scratch mine.

We are being asked to put a secret backroom deal into Federal law.

Now, I get to the final section on judicial review. That is section 8. It says that what this is designed to do, as I read it—and I have to say I have not yet looked up title 49, United States Code, subtitle VII, part A, but I have a feeling what this is meant to do is basically to cut off the right of trial and to deprive anyone who would question this backroom deal; they would never get their day in court. So this section 8 curtails the judicial review and says you never get your day in court. If you want to challenge this deal, that is tough luck. What happens is you won't get a right of trial in the district court. You will have to go right to a court of appeals and the FAA will control all the facts below and you will get 20 minutes in a court of appeals and that is it.

This is a way of cutting off anybody who may object to this, cutting off their right to use their legal rights they might have. Those rights would be curtailed.

Going back to the safety issue, I have great concerns. I am concerned that two sets of parallel runways in the proposal of the new design at O'Hare would be too close together. My understanding is—and we only have what we know from news accounts because no details are released—there has not ever been a formal plan submitted to the FAA or to the State, so we don't have all the details. We have maps that have appeared in newspapers and the like. It is everybody's best guess as to what is in the backroom deal we are being asked to codify into Federal law tonight. But it looks, from what I understand of the information available to me, that these two sets of parallel runways on which they would like to have simultaneous takeoffs and landings would be only 1,300 feet apart. The FAA regulations require ordinarily, without a waiver, a 4,300 foot separation between runways.

Now, the problem with that is if a plane is landing in one direction and

another taking off in another direction and a plane turns here, it could hit a plane coming into another runway. We are not cutting down the margin of error.

I can understand why they can't make a 4,300 foot separation between runways on this airport land in Chicago. They don't have enough room. O'Hare's footprint is only about 7,000 acres. They would try to take 500 homes in the city of Bensenville and displace those people and bulldoze their homes. They would be moving some roadways. Mr. President, you and other Senators might be paying for that out of your airport improvement funds under this language.

But the problem is they are trying to jam too much in here. There are only 7,000 acres. A newer airport—the third, south suburban airport in a location known as Peotone in Will County south of Cook County where Chicago is located—would be on 24,000 acres. There would be plenty of room to have parallel runways. They would be appropriately spaced.

We also talked about in addition to the runways being too close together, several of these—I don't know how far the distance is between 927-L, the arriving runway, and the south 927 runway. I don't know what that would be. I haven't even seen press accounts of what that would be. Again, there is no formal plan. All of these seem awfully close together.

In my judgment, we could be working against ourselves by going forward with a plan such as that. God forbid. If there ever were a problem that resulted by packing too many runways in too close, we would have made a horrible mistake.

Some Members of this body may believe they are capable of passing on the safety of a runway design plan. But I certainly can tell you that I don't have that expertise, and I suspect none of us really has the kind of engineering background and experience that would require. Maybe somebody here has that expertise, but I don't think so. That is why I don't think it is appropriate for us to enact into law a runway design plan. Never before has Congress, to my knowledge, enacted into Federal law a runway design plan. We allow this to go through a vetting process. We allow people to study and vet and test, and we get input from air traffic controllers, from pilots, from experts, and from engineers. They are the ones who need to come and give us their views on the propriety of such a layout.

You shouldn't be called upon, Mr. President, as the Senator from New Jersey, at a quarter to 9 on a Friday night, to decide whether this is a good runway design plan. Maybe it is, but maybe it isn't. Do you believe we can guarantee to the people of this country that in fact this is a safe design plan? I had an air traffic controller in my office this week who told me he had grave concerns that he thought this was an unsafe plan.

In fact, I have a letter, which I ask unanimous consent to have printed in the RECORD, dated November 30, 2001, from the facility representative of the National Air Traffic Controllers Association.

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

NATIONAL AIR TRAFFIC
CONTROLLERS ASSOCIATION,
CHICAGO O'HARE TOWER,
Chicago, Illinois, November 30, 2001.

Hon. PETER FITZGERALD,
U.S. Senate, Washington, DC.

SENATOR FITZGERALD, as requested from your staff, I have summarized the most obvious concerns that air traffic controllers at O'Hare have with the new runway plans being considered by Mayor Daley and Governor Ryan. They are listed below along with some other comments.

1. The Daley and Ryan plans both have a set of east/west parallel runways directly north of the terminal and in close proximity to one another. Because of their proximity to each other (1200') they cannot be used simultaneously for arrivals. They can only be used simultaneously if one is used for departures and the other is used for arrivals, but only during VFR (visual flight rules), or good weather conditions. During IFR (instrument flight rules, ceiling below 1000' and visibility less than 3 miles) these runways cannot be used simultaneously at all. They basically must be operated as one runway for safety reasons. The same is true for the set of parallels directly south of the terminal; they too are only 1200' apart.

2. Both sets of parallel runways closest to the terminals (the ones referred to above) are all a minimum of 10,000' long. This creates a runway incursion problem, which is a very serious safety issue. Because of their length and position, all aircraft that land or depart O'Hare would be required to taxi across either one, or in some cases two runways to get to and from the terminal. This design flaw exists in both the Daley and the Ryan plan. A runway incursion is when an aircraft accidentally crosses a runway when another aircraft is landing or departing. They are caused by either a mistake or misunderstanding by the pilot or controller. Runway incursions have skyrocketed over the past few years and are on the NTSB's most wanted list of safety issues that need to be addressed. Parallel runway layouts create the potential for runway incursions; in fact the FAA publishes a pamphlet for airport designers and planners that urge them to avoid parallel runway layouts that force taxiing aircraft to cross active runways. Los Angeles International Airport has led the nation in runway incursions for several years. A large part of their incursion problem is the parallel runway layout; aircraft must taxi across runways to get to and from the terminals.

3. The major difference in Governor Ryan's counter proposal is the elimination of the southern most runway. If this runway were eliminated the capacity of the new airport would be less than we have now during certain conditions (estimated at about 40 percent of the time). If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways. The northeast-southwest parallels are left over from the current O'Hare layout. These two runways simply won't be usable in day-to-day operations because of the location of them (they are wedged in between, or pointed at the other parallels). We would not use these runways except when the wind was very strong (35

knots or above) which we estimate would be less than 1 percent of the time. That leaves the six east/west parallels for use in normal day-to-day operations. This is the same number of runways available and used at O'Hare today. If you remove the southern runway (Governor Ryan's counter proposal), you are leaving us five runways which is one less than we have now. That means less capacity than today's O'Hare during certain weather conditions. With good weather, you may get about the same capacity we have now. If this is the case, then why build it?

4. The Daley-Ryan plans call for the removal of the NW/SE parallels (Runways 32L and 32R). This is a concern because during the winter it is common to have strong winds out of the northwest with snow, cold temperatures and icy conditions. During these times, it is critical to have runways that point as close as possible into the wind. Headwinds mean slower landing speeds for aircraft, and they allow for the airplane to decelerate quicker after landing which is important when landing on an icy runway. Landing into headwinds makes it much easier for the pilot to control the aircraft as well. Without these runways, pilots would have to land on icy conditions during strong cross-wind conditions. This is a possible safety issue.

These are the four major concerns we have with the Daley-Ryan runway plans. There are many more minor issues that must be addressed. Amongst them are taxiway layouts, clear zones (areas off the ends of each runway required to be clear of obstructions, ILS critical areas (similar to clear zones, but for navigation purposes), airspace issues (how arrivals and departures will be funneled into these runways) and all sorts of other procedural type issues. These kinds of things all have to go through various parts of the FAA (flight standards, airport certification etc.) eventually. These groups should have been involved with the planning portion from day one. Air traffic controllers at the tower are well versed on what works well with the current airport and what does not. We can provide the best advice on what needs to be accomplished to increase capacity while maintaining safety. It is truly amazing that these groups were not consulted in the planning of a new O'Hare. The current Daley-Ryan runway plans, if built as publicized, will do little for capacity and/or will create serious safety issues. This simply cannot happen. The fear is that the airport will be built, without our input, and then handed to us with expectations that we find a way to make it work. When it doesn't, the federal government (the FAA and the controllers) will be blamed for safety and delay problems.

Sincerely,

CRAIG BURZYCH,
Facility Representative, NATCA—O'Hare
Tower.

Mr. FITZGERALD. Mr. President, this letter raises several concerns. I have to say that Mr. Burzych and the local chapter of air traffic controllers support expanding O'Hare. They have made that very clear. I certainly know they want an expanded, modernized O'Hare. There may be some need to modernize O'Hare. I am not disputing that. I am just saying we shouldn't be enacting a runway design plan into law.

In his letter, Mr. Burzych told me he had some concerns about what he knew of Chicago's O'Hare expansion plan. He said:

The Daley and Ryan plans both have a set of east/west parallel runways directly north

of the terminal and in close proximity to one another.

That is the set of east/west runways in close proximity to one another that are just north of the terminal.

Because of their proximity to each other (1200')—

According to Mr. Burzych; I thought it was 1,300 feet—

they cannot be used simultaneously for arrivals.

The idea that we would have parallel runways—I know the intent of the mayor of Chicago is to expand the capacity at O'Hare, but this raises the question. The idea of the city was they could have simultaneous takeoff and landing and they would get more capacity out of these six active runways than they get out of their current configuration, which has six active runways as well, but they converge. There are three sets of parallel runways running east-west, northwest-southeast, and northeast-southwest. There are six active and one unused runway now at O'Hare.

The idea has been that by tearing up and rebuilding these runways at O'Hare, we get with this configuration about the same number of runways—actually eight, one runway more than we have now—but there would be greater capacity.

It appears to me that the whole premise of this expansion program is in question because as this air traffic controller, certainly an expert in the field, said, because of their proximity to each other, they cannot be used simultaneously for arrivals. They can only be used simultaneously as one is used for departures and the other is used for arrivals, but only during VFR, visual flight rules, or good weather conditions. During IFR, instrument flight rules—ceilings below 1,000 feet and visibility less than 3 miles—these runways cannot be used simultaneously; they basically must be operated as one parallel runway for safety reasons. The same is true for the set of parallels directly south of the terminal. They, too, are only 1,200 feet apart.

This shows why enacting into law a \$13 billion plan at 9 o'clock on a Friday night as part of the Defense appropriations bill, which has nothing to do with the subject of aviation—enacting this plan into Federal law with the intention of increasing capacity at O'Hare, that whole premise may be wrong. Maybe it is not wrong, but we don't know. There is no study. There is no basis in the record. There is no record whatsoever, no FAA model, and not a shred of any evidence that this backroom deal will in fact accomplish what they are hoping to accomplish.

Then, if you go on to point No. 2 of this letter, both sets of parallel runways closest to the terminals—the ones referred to above—are all a minimum of 10,000 feet long. This creates a runway incursion problem, which is a very serious safety issue. Because of their length and position, all aircraft that land or depart O'Hare would be required to taxi across either one or, in

some cases, two runways to get to and from a terminal. Design flaw exists in both the Daley and the Ryan plan. A runway incursion is when an aircraft accidentally crosses the runway when another aircraft is landing or departing. They are caused by either a mistake or misunderstanding by the pilot or controller. Runway incursions have skyrocketed over the past few years and are on the National Transportation Safety Board's most-wanted list of safety issues that need to be addressed.

Parallel runway layouts create the potential for runway incursions; in fact the FAA publishes a pamphlet for airport designers.

That is the pamphlet I referred to earlier. The pamphlet is entitled: "Improving Runway Safety Through Airfield Configuration." It mentions the problems that you can have with closely spaced parallel runways, which I suggest these are. There are serious safety issues here.

Los Angeles International Airport has led the nation in runway incursions for several years. A large part of their incursion problem is the parallel runway layout; aircraft must taxi across runways to get to and from the terminals.

That is the problem. If a plane is landing or taking off here, it has to first come out of the gate over here. And to get from the gate over here, down to this runway to take off, it has to go through at least two other runways, perhaps three. Each time it goes through one of those other runways, there is the potential for an incursion.

I noted earlier that the current O'Hare Airport has, I think, according to the State of Illinois, 25 so-called taxiway runway crossings. This new plan would greatly increase that number, making it much harder for air traffic controllers. I believe, on the basis of the information available to me, that would go from 25 taxiway runway crossings that they have currently at O'Hare up to 43 under the Daley plan. We would be nearly doubling the potential for runway incursions just on the basis of how many new crossings we would have.

I want to be clear, Mr. Burzych and air traffic controllers at O'Hare do favor expanding at O'Hare. Maybe they are right and I am wrong. But I do believe they were not consulted in this backroom deal. This backroom deal that we are being asked to codify in Federal law involved two people, and that was it. They did not have air traffic controllers and pilots involved in that deal. We do not even know the details of that deal that we are being asked to codify in Federal law. But there were other issues that he raised in his letter to me dated November 30:

The major difference in Governor Ryan's counter proposal is the elimination of the southern most runway.

The Governor had originally proposed eliminating that runway because it involves the condemnation of 500 homes and businesses in the city of Bensenville. He later gave in to the

mayor and granted him that sixth runway. The letter reads:

If this runway were eliminated, the capacity of the new airport would be less than we now have during certain conditions (estimated at about 40 percent of the time).

So what he is saying is that this plan, until that runway is in place, under certain conditions, would have less capacity about 40 percent of the time at O'Hare. We would spend \$13 billion for less capacity at O'Hare—at least until 2011—at least 40 percent of the time.

That is another reason this is not good government, to try to stick placeholder language in the Defense appropriations bill while our country is at war in Afghanistan and we need the Defense appropriations bill. That is why we should not be acting as an aviation commission for the State of Illinois.

The letter goes on:

If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways. The northeast-southwest parallels are left over from the current O'Hare layout.

Let me read that again.

If you look at Mayor Daley's plan, it calls for six parallel east-west runways and two parallel northeast-southwest runways.

So we have six parallel east-west runways; these are the northeast-southwest parallels, these two runways.

The northeast-southwest parallels are left over from the current O'Hare layout.

This, again, is the current O'Hare layout. These two runways would be preserved in this new plan of the city of Chicago.

These two runways simply won't be usable in day-to-day operations because of the location of them (they are wedged in between, or pointed at the other parallels). We would not use these runways except when the wind was very strong (35 knots or above) which we estimate would be less than 1 percent of the time.

So they leave these runways. Fortunately, I guess, there is not much expense in leaving these runways. All these other runways would be torn up from the existing O'Hare Airport. Other runways would be torn up and moved. In some cases you would be paying nearly \$1 billion to dig up a runway and move it a few hundred feet north or south.

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

Mr. FITZGERALD. Yes.

Mr. MCCAIN. How long has the Senator from Illinois been involved in this particular issue?

Mr. FITZGERALD. At least dating back to 1992.

Mr. MCCAIN. In 1992. Was that when the Senator was a member of the State legislature?

Mr. FITZGERALD. When I first got elected as an Illinois State senator.

Mr. MCCAIN. May I ask, just since the Senator is well versed on this issue, was there a debate on this during the course of his campaign for the Senate?

Mr. FITZGERALD. Absolutely. This was an issue when I was in the State

senate in every election. Right prior to my going into the State senate, the city of Chicago at that time did not propose expanding O'Hare. They proposed a third airport in the south part of Chicago in the Lake Calumet area. Mayor Daley supported building a third airport at that time, but the Illinois General Assembly did not approve that plan because they favored the site in Peotone.

Since that time, because this third airport would not be within his political jurisdiction, Mayor Daley has fought the south suburban airport and worked toward just expanding O'Hare. That way, in my judgment, it would keep all aviation within the city limits of the city of Chicago.

Mr. MCCAIN. Well, is it true that there was a list of proposed airports and airport expansion that had been formulated by the Department of Transportation, and then this proposed Peotone Airport disappeared from that list? Is that correct? Can you illuminate us on what happened there?

Mr. FITZGERALD. Yes. What happened there was that Governor Edgar, who was Governor in the late 1980s and early 1990s, was moving forward with this south suburban airport. When President Clinton took office, at the request of the mayor, the FAA removed the south suburban airport from the so-called NPIAS list, the National Plan for Integrated Airport Systems, for airport improvements. Otherwise, we might have that airport now.

The Chicago airport capacity study of 1986 to 1988 had said we needed the south suburban airport by the year 2000. The city of Chicago blocked that by calling President Clinton and asking him to remove the Peotone project because it was not within the political jurisdiction of the city of Chicago from that planning list.

Aviation capacity around the country and in Chicago would be far greater today if we had that airport up and running. We would not be having this discussion. So this has, indeed, been going on a very long time. I believe, as Governor Edgar did believe, and as did Governor Thompson before him, that we ought to go forward and build that south suburban airport. It is a major issue for Congressman JACKSON.

It is interesting, as a Senator for our whole State, I do not think it is in our interest to concentrate all our economic development within one 7,000-acre spot at O'Hare. I have 2.5 million people who live in the south suburbs of Illinois who have to drive 3, 3½ hours to get up to O'Hare to wait in line because it is too congested.

I would like to, in addition to bringing more aviation capacity, have some economic development in other parts of the State of Illinois besides 7,000 acres at O'Hare. I understand the city would like to retain jurisdiction over

all economic activity in the State of Illinois, but I don't think it is in the interest of my State. I have been working very hard with Congressman JACKSON to, in fact, bring some economic development to areas outside there.

Incidentally, in the northwest suburbs where this is located, they have what they would term too much development. There is so much traffic and congestion that it is difficult to get into O'Hare. If you were to double the number of people going into O'Hare Airport, in my judgment—right now it takes so long to get into O'Hare Airport because these traffic arteries, the northwest tollway, I-90, the Kennedy Expressway, are jammed at all hours of the day practically every day of the week with people going into O'Hare—if we expand O'Hare Airport, already the busiest airport in the country for a long time, by far the busiest airport in the world, we are going to make it almost twice as big.

I don't know where the State of Illinois will get the money to double the size of the roadways going in there because you can't get in there now. There is no possible way that it will be feasible to funnel all the people who would be going into O'Hare under this plan put forward by the city of Chicago.

Mr. MCCAIN. If the Senator will yield for a couple more questions, perhaps you can explain the importance of this NPIAS list. Many of our colleagues who are not on the committee would like to know the significance of that list and whether you have ever heard of an airport project being taken off a list of that importance. And my additional question is, since it seems that one of the arguments against the Durbin amendment that the Senator from Illinois has is that this is being done in a fairly precipitous fashion, has the Illinois State legislature had any input into this? Have they made an agreement? Is there opposition? Is there support?

Also, what is the situation with our friends on the other side of the Capitol in the other body? I think all of our colleagues should know, as the Senator from Texas earlier described—and you did—that this is really the so-called placeholder that will allow in conference, basically, a mandate to start funding a multibillion-dollar project. Although it is wonderful that the mayor and the Governor have been in agreement—and I think that is a remarkable step forward; all of us applaud it—aren't there other significant players here, not only in the State legislature but our colleagues from the other side of the Capitol as well?

My other question is, why would there be a reason for such haste to put something such as this on a Defense appropriations bill?

Mr. FITZGERALD. The Senator brings up many good points. One, you don't have the benefit of the language that they are going to try and put into a conference committee report. I do have a copy. And I have to say, Senator

DURBIN was very straightforward in sharing it with me. But for all the other Members of this body, it is phantom language, so-called placeholder language that would be used later to create an opening in parliamentary rules to slip in the real deal, the real backroom deal between George Ryan and Mayor Daley.

The point you made is, that deal has not been shared with you. You have gotten no specifics from Mayor Daley or Governor Ryan.

Interestingly, it is not the Governor who actually has the authority by himself to just decree that a runway plan be done in Illinois under State law. There is, in fact, a permitting process. There are hearings, and these plans are subjected to an adversary proceeding. There is opportunity for controllers and pilots and other interested parties to come and testify. There is a whole permitting process.

We are being asked, in codifying the backroom deal made by two people, just 48 hours ago, to preempt the Illinois Aeronautics Act. We are being asked to do what the Illinois State Senate should be doing. They can take a look at the Illinois Aeronautics Act. I had 6 years in the State Senate. I didn't think when I got to Washington I would be put in the position of debating the sorts of issues they debate in the Illinois State Senate.

The NPIAS list is the national plan for integrated airport improvements around the country. Many airports, most of your small local airports, are on the NPIAS list, and that makes them eligible for grants from the airport improvement fund, the AIP fund. It was a very momentous step when the FAA put the south suburban airport on the NPIAS list about 10 years ago. That plan was moving forward. The State of Illinois Department of Transportation, with the strong backing of local officials and the State, was going forward with the south suburban airport.

The State legislature had rejected plans for an airport in a different location that Mayor Daley had favored. So Peotone was on the NPIAS list. It was eligible for Federal funding, and after it had gone through the planning process, I believe that it would have gotten Federal funding.

But when President Clinton took office, that created an opportunity. The mayor of Chicago obviously was good friends with the President, and they were able to prevail upon the FAA at that time to simply remove Peotone from the NPIAS list and take it off. I think it was probably the only airport, of the 3,000 airports around the country, that has ever been taken off. At that time the FAA said: Well, there wasn't local consensus. So they did not know whether they wanted to go forward. There was local consensus among some, but Mayor Daley, the mayor of the city of Chicago, opposed it.

I have to tell you, there is no local consensus on this plan, this backroom

deal, this \$13 billion deal that will take money from your States and put it into a plan in my State that I oppose. I oppose it. The State legislature has never supported this deal.

The reason they are coming to you is because they can't get the approval of the State legislature. They didn't even try. You are being asked at 9 o'clock at night, while our country is at war in Afghanistan, on a Defense appropriations bill, to debate this transportation issue. Clearly, I do not think this is the appropriate forum.

I don't think it should be before the Federal Government at all. I think if the mayor wants that plan at O'Hare, he ought to submit a plan to the FAA. He has never even done that.

I applaud many of the things the mayor of the city of Chicago has done. It is a wonderful city. O'Hare is a wonderful airport. It is a great airport.

I want to make it clear, it will have to be modernized sometime. There is a problem that bigger jets can't taxi around at O'Hare. The Boeing 747-400, for example, is so wide that other planes have to get off taxiways when it is taxiing around. I think we need to modernize O'Hare. I will be supportive of that. I think a \$13 billion project to tear up and rebuild O'Hare is wasteful, however, of the funds that would be applied.

The bottom line is, there may be good arguments, and there are good arguments on both sides of this issue. But they should be presented to the FAA and the State's panel on aviation. The interesting thing is—the Senator from Arizona would be interested in this—we are preempting here the Illinois Aeronautics Act which, in fact, is the act that grants the city of Chicago the right to run an airport. The city of Chicago doesn't have a right, except one deriving from the State government, the Illinois Aeronautics Act, to even operate an airport. We would be asked to obliterate—

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

Mr. FITZGERALD. Senator, I wish to go on. I will yield at the end of the evening.

Mr. MCCAIN. The Senator from Illinois has the floor. I ask for the regular order.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. MCCAIN. Will the Senator yield for a further question?

Mr. FITZGERALD. Yes, from the Senator from Arizona.

Mr. MCCAIN. I would ask the Senator if it is not true that there is no legislative approval. The legislature has not been consulted. You were not consulted on this, as I understand it. I am asking if that is true. The congressional delegation was not consulted and the local people have not been consulted. Is it true that only in the last 48 hours this agreement was made, and in only 48 hours we are expected, without a hearing, without any consultation or advice or information provided to the Committee on Commerce, Science, and

Transportation, we are taking on this appropriations bill an issue that entails billions of dollars of Illinois taxpayers' money and billions of dollars of national taxpayers' money? Is it true we are going to try to push this through in order that it can be done on a Defense appropriations bill, I ask my colleague?

Mr. FITZGERALD. The Senator from Arizona is exactly right. We have never been shown any details of this plan. No Member of this body has been shown details of this plan. Senator DURBIN may have some details of which I am not aware. I have not been shown any details. It is a backroom agreement that was reached at about 9 or 10 o'clock in the evening two nights ago, Wednesday night.

Maybe the rush to pass this is because they do not want anybody to know the deals and know the details. Perhaps there is a problem with the details. I think we ought to be very reluctant to codify into Federal law a plan obligating the Federal Government to unspecified expenditures of money in the future without knowing the details when there are questions of safety and when we do not have the expertise in this body to do this. None of us has a background in airport engineering.

Mr. REID. Mr. President, I ask the Senator from Illinois to yield to the Senator from Nevada for a question without his losing the floor.

The PRESIDING OFFICER. Will the Senator yield?

Mr. FITZGERALD. I yield.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask my friend from Illinois, we have been talking now for quite a few hours—I should say you have been talking. I am wondering if my friend can advise me and the rest of the Senate if he is going to take some more time tonight.

Mr. FITZGERALD. Yes.

Mr. REID. Will the Senator allow me to ask another question through the Chair? I walked by his desk a few times and saw he has a lot of speaking material. It appears the Senator is going to be speaking for an extended period of time; is that a fair statement?

Mr. FITZGERALD. Yes, I have many more charts.

(Laughter.)

Mr. REID. I say to my friend from Illinois, it is 10 after 9, and as the Senator knows, we are trying to complete this most important Defense bill. The fact is, the Senator from Illinois has several more hours of speaking; is that right, if that is necessary?

Mr. FITZGERALD. If necessary.

Mr. REID. I appreciate the Senator yielding. I was just trying to gauge whether or not the Senator was getting tired yet.

(Laughter.)

Mr. FITZGERALD. I am doing OK. Thank you.

Mr. BYRD. Mr. President, will the distinguished Senator yield without losing his right to the floor?

Mr. FITZGERALD. Yes, I yield for a question.

Mr. BYRD. Mr. President, will the distinguished Senator yield to this Senator to call up the package that Senator STEVENS, Senator INOUE, and I have been working on, and present it to the Senate and perhaps have a vote up or down, with the understanding that upon the conclusion of that action, the Senator from Illinois would regain the floor?

Mr. FITZGERALD. I thank the Senator. I have the greatest respect for the Senator from West Virginia. I respect him as much as any of my colleagues, but I must respectfully decline that request. I have to say, as the Senator from West Virginia will recall, when I first came to the Senate, I read his book on the history of the Roman Republic. On my first opportunity to be back in the Illinois State senate and appear before them, I gave as a gift to every State Senator in Illinois a copy of your book.

Mr. BYRD. You did?

Mr. FITZGERALD. I gave them the Senator's admonition that the Senate should never yield too much power to the executive, and that was the decline of the ancient Roman Republic.

Mr. BYRD. I hope the Senator will keep that rule in mind. Let's not give too much power to the executive. If we could present our amendment, let Senators vote on the amendment—

Mr. FITZGERALD. I am afraid—

Mr. REID. Mr. President, will the Senator yield for another question?

The PRESIDING OFFICER. Without losing his right to the floor.

Mr. FITZGERALD. I yield for a question only.

Mr. REID. Will the Senator from Illinois, without losing his right to the floor, yield to his colleague from Illinois for 10 minutes?

Mr. FITZGERALD. No, I am not in a position to do that. I will yield temporarily to the Senator from Illinois with the understanding that when he completes his 10 minutes, automatically the floor reverts to me.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator from Illinois is yielding time to his colleague from Illinois without losing his right to the floor.

AMENDMENT NO. 2343, WITHDRAWN

Mr. DURBIN. I thank the Chair. Mr. President, I thank my colleagues from Illinois and Nevada for this opportunity.

When we were preparing for this debate, it was very important to me we keep it in the context of the bill that was being amended. I cannot think of more important legislation facing our Nation than the passage of the Defense appropriations bill at a time when America is at war.

Before I prepared the amendment which is before the Senate, I received assurances that we would not face a filibuster. I received assurances that we would not face what we have seen this

evening. I was told there would be an up-or-down vote, and I was prepared to accept the outcome of that vote. Something has changed. As a result of that change, the Senate has been here for 3 hours. The most important appropriations bill we can consider has been stalled and slowed down.

I feel very strongly about this issue, but I also feel very strongly about our responsibility in the Senate. I am prepared to save this battle for another day because I do not want to diminish the ability of this Nation in its war against terrorism or diminish in any way the resources available to the men and women in uniform. I do not know when that day will come. I hope it will be soon for the sake of my State that we will consider this important legislation for our airport, for our aviation needs in our State.

I express my apologies to the Senate. I never believed for a moment that we would face a filibuster over this. In fact, I received assurances otherwise. That is not the case. I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn. The Senator from Illinois still has the floor.

Mr. FITZGERALD. Mr. President, I thank my colleague from Illinois for withdrawing the amendment. I say to him that I do not think I made clear exactly how I would respond. I did say that I was willing to take an up-or-down vote, and perhaps we may yet have an up-or-down vote on this issue before the Senate. I do not believe I made those representations.

I do appreciate my friendship with Senator DURBIN. I hope there are not many more issues that we disagree with amongst ourselves with respect to our State.

In many cases, we have been able to have a great impact for the people of Illinois, and we will continue to do that. We have a difference of opinion on this issue. It has been tough for both of us because normally we work together and do not have differences of opinions on major issues such as this. So I appreciate Senator DURBIN's withdrawal of the amendment, and I look forward to continuing to work with him on this and other issues in the Senate.

I do think it was important for the Nation and the Senate to be educated on this issue because aviation in the heartland does affect all of us, and Senator DURBIN is certainly right on that. I believe this was a very important discussion, both for the citizens of Illinois and also for the citizens around the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, Senator STEVENS, Senator INOUE, and I have worked during the afternoon with our staffs to bring to the Senate an amendment which would provide for the carrying out of the purposes that I announced earlier when I presented the

amendment which was brought down by the failure of the Senate to waive a point of order.

We have drawn up an amendment which stays within the \$40 billion which was voted by Congress 3 days after the attack.

A point of order was made against the amendment I had offered. I sought to waive the point of order, and it was the Senate's judgment the motion to waive not be adopted. Consequently, what is left before the Senate now is the House bill. So in an effort to move ahead with something for homeland security and in the attempt to at least try to do something on all three of our original purposes—namely, fund adequately defense appropriations, live up to our agreement to New York as much as we can under the circumstances, and to provide a homeland defense bill, which while not going as far as we had earlier hoped, at least does something for the cities and rural areas of this country—Senator STEVENS, Senator INOUE, and I are proposing the following amendment. It is the Byrd/Stevens/Inouye amendment to Defense appropriations.

We are living within the \$40 billion structure we have already voted on several weeks ago. The amendment allocates \$20 billion. It was according to the law we passed that the Appropriations Committee would pass upon the final \$20 billion of that \$40 billion, and this is the final bill. We are attempting to follow the law in that respect and provide in this bill how that money should be allocated.

The amendment allocates \$20 billion as follows: Defense, \$2 billion; New York, New Jersey, the District of Columbia, Maryland, and Virginia, all coming under the rubric of New York as a designation, \$9.5 billion; homeland defense, \$8.5 billion.

When combined with the \$20 billion allocated by the President, the amendment results in the following allocation of the \$40 billion approved: Homeland defense, \$10.1 billion; foreign aid allocated by the President, \$1.5 billion.

Highlights of the \$20 billion are these: New York and other communities directly impacted by the September 11 attacks, \$9.5 billion, and the examples follow. FEMA disaster relief, which funds debris removal at the World Trade Center site, repair of public infrastructure such as the damaged subway, the damaged PATH commuter train, all government offices, and provides assistance to individuals for housing, burial expenses, and relocation assistance, receives \$5.82 billion.

Secondly, community development block grants, \$2 billion to help New York restore its economy; Amtrak security, \$100 million for security in Amtrak tunnels; mass transit security, funding of \$100 million for improving security in the New York and New Jersey subways; New York-New Jersey ferry improvements, \$100 million; hospital reimbursement, \$140 million to reimburse the hospitals in New York

that provided critical care on September 11, and the weeks and months that followed.

Workers compensation job training, \$175 million that would help New York to process workers compensation claims for the victims of the September 11 attacks. Fifty-eight million dollars is provided for job training, environmental health, and other programs; Federal facilities, \$200 million for the costs of keeping Federal agencies operating that were in the World Trade Center, such as the Social Security Administration, the Occupational Safety and Health Administration, the Pension and Welfare Benefits Administration, the Commodity Futures and Trading Commission, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Securities and Exchange Commission, the EEOC, the General Services Administration, and the National Labor Relations Board.

Emergency highway repairs, \$85 million for damaged roads in New York City; mental health services for children, \$10 million that would help New York schools to provide mental health services to the children of the victims of the World Trade Center bombing; law enforcement reimbursement, \$220 million for New Jersey, Maryland, and Virginia to reimburse for the costs of law enforcement and fire personnel for costs incurred on September 11 and the weeks that followed; \$68 million to provide for the crime victims fund; District of Columbia, \$200 million for the District and for Washington Metro for improved security; small business disaster loans, \$150 million; national monument security, \$86 million for improved security at national parks and monuments such as the Statue of Liberty, the Washington Monument, the Smithsonian, Kennedy Center, and other facilities. For the Department of Defense, \$2 billion including funding to repair the Pentagon; bioterrorism/food safety, \$3.1 billion, including \$525 million for food security; provides \$1.1 billion for upgrading our State and local public health and hospital infrastructure.

Recent events have made it clear our State and local public health departments have been allowed to deteriorate.

The head of the CDC testified only last week that at least \$1 billion is needed immediately to begin to upgrade our State and local health departments. Our package would provide \$165 million for the CDC capacity improvements. It would provide \$205 million for security improvements and research at the CDC and the NIH. It would provide \$593 million for the national pharmaceutical stockpile. It would provide \$512 million to contracts for smallpox vaccine to protect all Americans. The USDA Office of the Secretary would receive \$81 million for enhanced facility security and operational security at USDA locations. The Agriculture Research Service would receive \$70 million for enhanced

facility security and for research in the areas of food safety and bioterrorism. The Agriculture Research Service buildings and facilities would receive \$73 million for facility enhancement at Plum Island, NY, and Ames, IA, which includes funding necessary to complete construction on a biocontainment facility at the National Animal Disease Laboratory at Ames, IA.

The Cooperative State Research, Education and Extension Service would receive \$50 million for enhanced facility security at land grant university research locations and for research into areas of food safety and bioterrorism. The Animal and Plant Health Inspection Service buildings and facilities would receive \$109 million for enhanced facility security, for support of border inspections, for pest detection activities, and for other areas related to biosecurity and for relocation of the facility at the National Animal Disease Laboratory.

Next is \$15 million provided to the Food Safety Inspection Service for enhanced operational security and for implementation of the food safety bioterrorism protection program; \$127 million would be provided to the Food and Drug Administration for food safety and counterbioterrorism, including support of additional food security inspections, expedited review of drugs, vaccines and diagnostic tests, and for enhanced physical and operational security.

As to State and local law enforcement, the amendment would provide \$400 million. The amendment would also provide \$290 million for FEMA firefighters to improve State and local government capacity to respond to terrorist attacks.

The amendment would provide \$600 million to the Postal Service to provide equipment to cope with biological and chemical threats such as anthrax.

For Federal Antiterrorism Law Enforcement, the amendment would provide \$1.7 billion to be used as follows: \$614 million for the FBI; \$61 million for U.S. Marshals; \$100 million for cybersecurity; \$23 million for the Federal Law Enforcement Training Center for training new law enforcement personnel; \$21 million for the Bureau of Alcohol, Tobacco and Firearms; \$124 million for overtime and expanded aviation and border support for the Customs Service; \$73 million for the Secret Service; \$273 million for increased Coast Guard surveillance; \$95 million for Federal courts security; \$84 million for Justice Department legal activity; \$68 million for the crime victims fund; \$83 million for EPA for anthrax cleanup costs and drinking water vulnerability assessments; \$38 million for EPA for bioterrorism response teams and EPA laboratory security; \$20 million for the FEMA Office of National Preparedness.

Now, for the airport transit security, there would be \$530 million, including \$200 million for airport improvement grants; \$251 million for FAA operations

for cockpit security; \$50 million for FAA research to expedite deployment of new aviation security technology; \$23 million for transit security; \$6 million for transportation security.

Now, as to port security improvements, there will be \$50 million which would be broken down as follows: Coast Guard, \$12 million; Maritime Administration, \$23 million; and Customs, \$15 million.

Finally, for nuclear powerplant, lab, Federal facility improvements, there would be \$775 million. There would be \$140 million for energy for enhanced security at U.S. nuclear weapons plants and laboratories. There would be \$139 million for the Corps of Engineers to provide enhanced security at 300 critical dams, drinking water reservoirs and navigation facilities; \$30 million for the Bureau of Reclamation for similar purposes; \$36 million for Nuclear Regulatory Commission to enhance security at commercial nuclear reactors; \$50 million for security at the White House; \$31 million for GSA and the Archives to improve Federal building security; \$93 million for NASA for security upgrades at the Kennedy, Johnson, and other space centers; \$256 million for improved security for the legislative branch.

For nuclear nonproliferation, there would be \$226 million for the safeguarding and acquisition of Russian and former Soviet Union fissile nuclear materials and to help transition and retrain Russian nuclear scientists.

Finally, for border security, there would be \$709 million of which \$160 million would be for Customs for increased inspectors on the border and for the construction of border facilities and there would be \$549 million for the Immigration and Naturalization Service.

These are the breakdowns of the moneys that would be included in this amendment if agreed to by the Senate. At some point I will ask unanimous consent that the substitute be agreed to and considered as original text for the purpose of further amendment, and that no points of order be waived.

I yield the floor.

Mr. STEVENS. The Senator has not made that unanimous consent request yet, but I do believe I will support that unanimous consent request. I want the Senate to know that the Senator and Senator INOUE and I have conferred about the allocation of \$20 billion, and while I regret we reduced defense in this allocation to \$20 billion, I point out to the Senate that this year we have provided \$317 billion in the Defense bill in section (a) of this substitute. We have added the \$15.3 billion here in this allocation of the moneys from the \$15.7 from the \$40 billion. There has been a total of over a \$42 billion increase in defense spending from the beginning of this year to now. I do believe there is sufficient money to carry us through until the President may make a request.

Again, I point out to the Senate that the law we passed on September 18 does

require the President shall submit to the Congress as soon as practical detailed requests to meet any further funding requirements for the purposes specified in this act.

I also call the Senate's attention once more, there were five purposes outlined in the act: First, providing State, Federal-State, and local preparedness for mitigating and responding to the attacks; second, providing support to counterinvestigate and prosecute international terrorism; third, providing increased transportation security; fourth, repairing public facilities and transportation systems damaged by attacks; and five, supporting national security.

All these funds may be delivered for any authorized Government activity to meet those purposes.

This presentation tonight by Senator BYRD meets those requirements. All of the money is transferred to a Federal system under an authorized program, and all are within the five stated purposes that the Congress used in providing the \$40 billion in September.

We all differ some in terms of our priorities. In the final analysis, the priorities for this \$20 billion will be decided in conference. I have assured Senator BYRD that I will cosponsor this substitute and fight for its approval in the conference. I fully expect there will be some changes in the conference with the House in terms of the allocation of this money. I am confident we will be hearing from the administration in the meantime.

I take the floor to urge the Senate to approve the amendment and to allow the Senator's request to be granted. He has, in fact, now offered and asked for a unanimous consent, but we jointly are offering this as original text to replace the Senate substitute that was reported from the appropriations committee. It will be open to further amendment, as I understand, on all parts of the bill.

It is my hope that we would close their section B soon, because I think this allocation, as I said, will primarily absolutely be done in the final analysis insofar as the \$20 billion in conference. And we could argue here all night about where the money would go.

We met the President's request to limit that amount to \$20 billion. I think that is where we should stop.

I yield the floor.

Does the Senator from West Virginia wish to renew his request?

AMENDMENT NO. 2348

Mr. BYRD. Mr. President, if the Senator will yield to me for that purpose, I ask unanimous consent that the substitute be agreed to, that it be considered as original text for the purpose of further amendment, and that no points of order be waived.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. INOUE, and Mr. STEVENS proposes an amendment numbered 2348.

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

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

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

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

The amendment (No. 2348) was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I raise a point of order that section 8132 of the pending amendment constitutes legislation on appropriations and violates rule XVI of the standing rules of the Senate.

Mr. INOUE. Mr. President, may 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. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. BYRD. Mr. President, I wonder if we might be able to temporarily lay aside this point of order so the Senate could proceed with an amendment by Mr. FEINGOLD, have the debate on that, and then return to the point of order by Mr. GRAMM.

Mr. STEVENS. Could we get a time agreement on that amendment?

Mr. BYRD. Could we get a time agreement?

Mr. FEINGOLD. Sure.

Mr. McCAIN. I reserve the right to object. I do believe we have an agreement on a proposal by Senator GRAMM. I would like to dispense with that if the Senator from Alaska is ready and the Senator from West Virginia is ready to do that.

Mr. REID. If the Senator from Arizona will yield, or whoever has the floor will yield briefly, we are waiting for another Senator to come to the Chamber.

Mr. McCAIN. I remove my objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. And I certainly thank the Senator from West Virginia.

AMENDMENT NO. 2349

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

Mr. REID. Will the Senator from Wisconsin answer a question?

Mr. FEINGOLD. The Senator yields for a question.

Mr. REID. The Senator from Alaska asked if the Senator from Wisconsin would agree to a time limit.

Mr. FEINGOLD. I agree to a 10-minute limit.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I would just say, of course, that all points of order and stuff would still be available.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. BAUCUS, and Mr. HELMS, proposes an amendment numbered 2349.

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

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

The amendment is as follows:

(Purpose: To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2002)

At the appropriate place in the bill insert the following sections:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2002.

Mr. FEINGOLD. Mr. President, my amendment is very straightforward. It would eliminate the \$4,900 pay raise scheduled to go into effect in just a few weeks for Members of Congress. And I am very pleased to be joined in this effort by the senior Senator from Montana, Mr. BAUCUS, and the senior Senator from North Carolina, Mr. HELMS. Our economy is in a recession and hundreds of thousands of workers have been laid off. Many families face enormous financial pressures.

Shortly, we will debate how best to address this problem, and central for me in that debate is how to produce a short-term economic boost without undermining our long-term economic and budget position. The budget surpluses that were projected last spring have proved to be as illusory as many of us feared. The supplemental spending passed in the spring, along with the irresponsible tax cut passed this summer left us on the brink. The economic slowdown pushed us over the edge. So, when it came time to respond to the horrific events of September 11, we were forced to return to deficit spending.

We have spent all of the on-budget surplus, and are well into the surplus that represents Social Security Trust Fund balances. That is something that has only been done to meet the most critical national priorities. A \$4,900 pay raise for Members is not a critical national priority.

As I said when I last brought this amendment to the floor, I think the idea of an automatic congressional pay raise is never appropriate. It is an unusual thing to have the power to raise our own pay. Few people have that ability. Most of our constituents do not have that power. And that this power is so unusual is good reason for the Congress to exercise that power

openly, and to exercise it subject to regular procedures that include debate, amendment, and a vote on the RECORD.

As I noted during the debate of the Foreign Operations Appropriations measure, a number of my colleagues have approached me about this pay raise in the past few weeks, and some have indicated they support the pay raise. In fact, one of my colleagues said they would offer an amendment that actually increased the scheduled \$4,900 pay raise because they felt it was too low. I strongly disagree with that position, but I certainly respect those who hold that position. But whatever one's position on the pay raise, I do think, the Senate ought to be on record on the matter if it is to go into effect.

The current pay raise system allows a pay raise without any recorded vote. Even those who support a pay raise should be willing to insist that Members go on record on this issue. I think this process of stealth pay raises has to end, and I have introduced legislation to stop this practice. But the amendment I offer today does not go that far. All it does is simply stop the \$4,900 pay raise that is scheduled to go into effect in January.

When I offered this amendment to the Foreign Operations appropriations bill several weeks ago, a point of order was raised against it as not being germane to that bill. Let me say here that unlike that bill, the measure before us today has already raised the issue of a pay increase in the legislative branch in Section 810 of the House-passed bill. So this amendment is plainly germane to the bill before us.

It is possible—in fact, obviously likely—that a Senator may raise a point of order against this amendment, and maybe some people will try to hide behind the procedural vote that would result. But make no mistake, the vote in relation to this amendment will be the vote on the congressional pay raise.

Just a few weeks ago, Iowa's State employees voted to delay their own cost-of-living adjustment in order to help that State cope with its budget problems. Members of the Florida house voted to eliminate the cost-of-living pay increase they got on July 1 to help meet that State's budget get through a softening economy, and South Carolina's Governor Jim Hodges is taking a \$4,000 pay cut as part of his efforts to keep this State's budget in balance.

I hope my colleagues will follow the examples set by Iowa's State employees, the Florida house, and Governor Hodges. Given all that has happened, all that will happen, and the sacrifices that will be asked of all Americans, this isn't time for Congress to accept a \$4,900 pay raise. Let's stop this backdoor pay raise, and then let's enact legislation to end this practice once and for all.

Right this minute, our Nation is sending the men and women of our Armed Services into harm's way. I do not think it is the time for Congress to

accept a pay raise. Let's stop this backdoor pay raise, and then let's enact legislation to end this practice once and for all.

Mr. President, at this point I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The sponsor's time has expired.

Who yields time?

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, as the former chairman and now ranking member of the Appropriations Subcommittee on Treasury and General Government, I would like to make a few observations on this amendment and tell my colleagues at the outset that my comments are not designed to bring into question the motives of any Senator who votes for the amendment. But there is an old adage: If the shoe fits, wear it.

We have had to wrestle with some pretty important issues since September 11. During that time, I think Members of this body have displayed a great deal of courage. And their constituents certainly have the right to expect that kind of courage. But that is the way it should be.

Neither bombs nor fires, terrorists nor wars have been able to shake our resolve, but the mention of a pay raise somehow makes a lot of Senators' courage melt like snowballs in summer, and that iron will begins to make them shake in their boots.

Some Senators may honestly believe we should not receive a pay raise at any cost. Some, in fact, think we should be working here for nothing. Some maybe just don't think they are worth the salary. But I tell you, there is an old saying that has developed over the years, and I would like to invite our constituents and the press to explore the actions of a Member who falls into the definition of what has been called: "Vote no, but take the dough." That phrase is a pretty good description of politicians who want the money but do not want the heat of voter displeasure, even though setting our own salaries is a constitutional requirement.

I have voted a number of times on pay raises—sometimes for, sometimes against. Every time I voted against them, and they passed, I donated those

pay raises to charity. I could not, in good conscience, keep the money if I would not support it with my vote. I gave a total of five \$1,000 scholarships and gave other money to a homeless shelter. At no time when I voted against it did I keep it. I know there are a number of other Members who have done the same thing. But those times I thought the increase was warranted, I voted for it, and I kept it and I justified it, as many other Members have also done. I think I can justify it this time, too.

With the tragedies at the Pentagon and the World Trade Center still fresh in our minds, I would recommend to those who oppose a cost-of-living increase and, therefore do not want the COLA, to donate it to a charity involved in the aftermath of September 11, if they really truly believe they don't deserve it.

If they are that guilt ridden, they can, in fact, simply return it back to the Federal Treasury. There is no law that prevents them from doing that.

Every Member has to live with his own conscience and decisions, but there certainly are Members who fall into that category "vote no and take the dough." In the past, in fact, some have come to the floor to emphatically denounce the increase while letting other Members shoulder the burden to pass the bill and they quietly pocket the money and sneak off in the night hoping nobody will notice that their outrage does not jibe with their actions.

We have been here 16 hours—at least I have, since 6 o'clock this morning—with no end in sight, with important amendments with which we have yet to deal. This bill simply is the wrong vehicle for this amendment. It should have been offered on the Treasury-Postal-general government bill. It was not.

To make matters worse, many of the very people who speak out against this COLA have asked money to be earmarked in that bill where this should have been addressed. It is automatic, as all of our Members know. I would also remind the Members that the Treasury-Postal-general government bill has all the courthouse construction money, the Federal courts money, the money to fight the war on drugs, security money for the Olympics, other things in it that make it a very important bill.

To try to amend this bill, the Department of Defense supplemental, with a decision for Members after it has already been approved in the Treasury-general government bill, is not a good policy and opens a Pandora's box of other amendments that have already been settled in the other eight bills that have passed both the House and Senate, and conference committees, too. If the opponents of the COLA don't like it, they should have offered an amendment to delete it when our bill, the Treasury-general government bill, was on the floor. They had ample op-

portunity when Chairman DORGAN and I were pleading with Members to come to the floor and offer amendments.

This amendment may be great eater, but one thing is clear, it is not an automatic ticket to reelection. Self-flagellation never is.

As I have already stated, I don't question the motives of any Member on how they vote. But I would invite our constituents to look into the Member's past votes on this issue and see what they did with the money the last time, if they voted against it. I believe their constituents would like to know if they were driven by a deeply held belief about self-worth or if they were in the category of "vote no and take the dough."

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Nevada.

Mr. REID. Mr. President, I raise a point of order that the amendment is not germane.

Mr. FEINGOLD. Mr. President, I raise the defense of germaneness, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I would like to amend my point of order. I failed to mention it was also legislation on an appropriations bill.

The PRESIDING OFFICER. The Chair understands that the point of order is that it is legislation on an appropriations bill. The defense of germaneness has been raised.

Mr. FEINGOLD. I raise the defense of germaneness and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Is the amendment germane? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "no."

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

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

The yeas and nays resulted—yeas 33, nays 65, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—33

Allard	Enzi	Roberts
Baucus	Feingold	Schumer
Brownback	Fitzgerald	Sessions
Bunning	Grassley	Smith (NH)
Carnahan	Hutchinson	Smith (OR)
Cleland	Hutchison	Snowe
Collins	Johnson	Specter
Corzine	Levin	Stabenow
DeWine	Lincoln	Wellstone
Durbin	McCain	Wyden
Edwards	Miller	
Ensign	Reid	

NAYS—65

Akaka	Dodd	Lugar
Allen	Domenici	McCconnell
Bayh	Dorgan	Mikulski
Bennett	Feinstein	Murkowski
Biden	Frist	Murray
Bingaman	Graham	Nelson (NE)
Bond	Gramm	Nelson (FL)
Boxer	Gregg	Nickles
Breaux	Hagel	Reed
Burns	Harkin	Reid
Byrd	Hatch	Rockefeller
Campbell	Hollings	Santorum
Cantwell	Inhofe	Sarbanes
Carper	Inouye	Shelby
Chafee	Kennedy	Stevens
Clinton	Kerry	Thomas
Cochran	Kohl	Thompson
Conrad	Kyl	Thurmond
Craig	Landrieu	Torricelli
Crapo	Leahy	Voinovich
Daschle	Lieberman	Warner
Dayton	Lott	

NOT VOTING—2

Helms Jeffords

The PRESIDING OFFICER. On this vote, the yeas are 33, the nays are 65. The amendment is not germane, and it falls for that reason.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that section 8132 on page 117 of the substitute amendment be stricken.

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

AMENDMENT NO. 2352

Mr. STEVENS. Mr. President, I have at the desk an amendment numbered 2352 which I call up on behalf of Senator MCCAIN and Senator GRAMM.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. REID and Mr. GRAMM, proposes an amendment numbered 2352.

(Purpose: To provide the President the authority to increase national security and save lives)

Section 8628(f), insert the following:

(g) Notwithstanding any other provision of this act or any other provision of law, the President shall have the sole authority to reprogram, for any other defense purpose, the funds authorized by this section if he determines that doing so will increase national security or save lives.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, the amendment as written speaks for itself. I thank the Senator from Alaska and the Senator from West Virginia for agreeing to it. This resolves a great concern that many Members had concerning the issue of the tanker aircraft.

I thank the Senator from Alaska.

Mr. STEVENS. I yield back any remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2352.

The amendment (No. 2352) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. 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. 2553

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mrs. CARNAHAN, proposes an amendment numbered 2553.

Mr. BOND. 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:

At the appropriate place, insert:

SECTION 1. SENSE OF CONGRESS

It is the sense of Congress that the military aircraft industrial base of the United States be preserved. In order to ensure this we must retain—

(1) Adequate competition in the design, engineering, production, sale and support of military aircraft;

(2) Continued innovation in the development and manufacture of military aircraft;

(3) Actual and future capability of more than one aircraft company to design, engineer, produce and support military aircraft.

SEC. 2. STUDY OF IMPACT ON THE INDUSTRIAL BASE.

In order to determine the current and future adequacy of the military aircraft industrial base a study shall be conducted. Of the funds made available under the heading "Procurement, Defense-Wide" in this Act, up to \$1,500,000 may be made available for a comprehensive analysis of and report on the risks to innovation and cost of limited or no competition in contracting for military aircraft and related weapon systems for the Department of Defense, including the cost of contracting where there is no more than one primary manufacturer with the capacity to bid for and build military aircraft and related weapon systems, the impact of any limited competition in primary contracting on innovation in the design, development, and construction of military aircraft and related weapon systems, the impact of limited competition in primary contracting on the current and future capacity of manufacturers to design, engineer and build military aircraft and weapon systems. The Secretary of Defense shall report to the House and Senate Committees on Appropriations on the design of this analysis, and shall submit a report to these committees no later than 6 months from the date of enactment of this Act.

Mr. BOND. Mr. President, I again express my sincere thanks to Senator INOUE and Senator STEVENS for the very effective way they brought together a very important bill in these difficult times.

Mr. President, I rise today to discuss the future of our national security as it pertains to U.S. air superiority—the key to ensuring victory in modern war, and to propose an amendment requesting a study of our current and future tactical and military aircraft industrial base.

The recent Joint Strike Fighter competition was a tough fight between two well matched and seasoned competitors, Lockheed Martin and Boeing. The next generation of Air Force, Navy and Marine fighter pilots will benefit from this fierce competition. But the Defense Department's long term acquisition strategy has revealed a potential and troubling weakness in the future health of our tactical and military aircraft industrial base.

I have long maintained that no matter which company won this contract, the only way to guarantee our national security over the long haul is to maintain the robust aircraft industrial base that preserves innovation and competition which are critical to the development and success of future tactical and military aircraft programs.

When the Joint Strike Fighter competition was announced, I stated my strongly held view and supposition that the award would be split so that the loser of the competition would remain in business.

Maintaining a robust industrial base is not about Boeing or Lockheed Martin or any one commercial enterprise but what is best for our Nation. I have said for years that, since the cold war's end, we have funded and structured our military on a minimum to get by. And that is wrong. Investing the future of American air superiority, or any other critical defense program, in one company is a risky proposition. The weakened industrial base that results adversely impacts the kind of surge production capability this Nation may need someday to offset unforeseen attrition in our aircraft force structure.

The Department of Defense has stated that with regards to the Joint Strike Fighter it will maintain a "winner-take-all" strategy. By their our account the winner will be the only U.S. producer of tactical fighter aircraft after F-22 and F/A-18 E/F production ceases.

As recently as April of last year, the Honorable Jacques S. Gansler in a statement provided to the Senate Armed Services Committee on defense industrial base considerations said:

Today, there exist two or three major (robust and technologically superior) firms in each critical area of defense needs. However, with the potential to go even below that number in the future, we are in danger of losing our greatest weapon in containing costs and insuring rapid innovation; namely, competition.

DoD's determination to maintain the "winner-take-all" strategy, even in light of their assessment that we will be left with one tactical fighter aircraft producer, deserves a thorough and exhaustive review. A number of broad

questions present themselves that must be answered.

Will the U.S. Government be able to ensure sufficient expertise exists in the long term so we can preserve a competitive and innovative industrial base in the design, production, and support of tactical and military aircraft?

Will the Joint Strike Fighter be the last manned tactical fixed-wing fighter as asserted by Undersecretary of Defense E.C. Aldridge in a letter to Senator LEVIN? And does the ability to bid on unmanned combat or surveillance aircraft, as asserted by Under Secretary Aldridge, provide ample opportunity for a tactical aircraft manufacturer to retain a robust design, production and support team?

Can an aerospace manufacturer reconstitute a tactical and/or military capability once it is lost, and when the barrier to re-entry become too high?

Does this Nation's national security interests outweigh the economic benefits to any one company? And will our national security be affected if we cannot continue to ensure a high level of innovation and competitiveness in the development and production of tactical and military aircraft?

This includes the presence, or lack of, a robust surge capacity in the event our nation faces high attrition rates with its tactical aircraft force structure.

The Department of Defense commissioned a RAND study to examine both near-term and long-term competition options within the Joint Strike Fighter program. The study concluded that the additional costs of split production, estimated to range from \$.5 to \$1 billion, would not be recouped over the life of the program, currently expected to extend through the year 2040. But does the nation's national security take priority when added costs are less than \$1 billion over the life of a 40 plus year program (a cost of less than \$25 million per year to preserve more than one source for our fighter aircraft)?

A Wall St. Journal article published on Oct. 18, 2001, discusses the stinging defeat handed to General Dynamics in their takeover bid of Newport News Shipbuilding, Inc., when the Justice Department filed an anti-trust suit in federal district court seeking to block the proposed acquisition on the grounds it would eliminate competition in the market for nuclear submarines. The article states:

The critical issue in the review process was whether a combination of General Dynamics with Newport News would eliminate competition in the market for naval submarines and whether the loss of that competition would hurt innovation.

Comments made by the Under Secretary of Defense for Acquisition, Technology and Logistics, the Honorable "Pete" Aldridge, in a letter to my distinguished colleague Senator Carl Levin, and at a Press Conference announcing the JSF winner, make it clear that not only is DoD going to pursue the winner-take-all strategy

but that they are taking a “hands off” approach to any potential teaming effort between Lockheed Martin—with its coalition of manufacturers—and Boeing. This puts the responsibility and weight of the health of our future industrial base in the hands of a commercial enterprise, and not the administration or the Congress. This is not a wise policy and it justifiably applies to all aspects of our critical needs military industrial base.

Finally, on Oct. 23, 2001, the Department of Justice announced they were filing suit to block General Dynamics’ purchase of Newport News Shipbuilding. In the body of their press release the Department of Justice states: Our armed forces need the most innovative and highest quality products to protect our country. This merger-to-monopoly would reduce innovation and, ultimately, the quality of the products supplied to the military, while raising prices to the U.S. military and to U.S. taxpayers.

The Fiscal Year 2001 Defense Appropriations Bill in discussing the Joint Strike Fighter program on page 117 of the report contains the following language: The Committee believes that industrial base concerns can best be addressed AFTER the source selection decision. While the future industrial base may be a concern, DoD can be partner in discussion to address these concerns as companies work on viable teaming or work sharing agreements.

As I have noted, it is clear that DoD will not be a partner in any teaming arrangements so it is up to the Congress to act. In order to do so we must acquire a body of data on our tactical aircraft industrial base. And determine if this base will provide sufficient “innovation AND competition” in the years after only one company remains to build follow-on aircraft to those currently in production or in development.

My amendment specifically asks that the Secretary of Defense conduct the study. I will furthermore recommend that Secretary Rumsfeld select RAND Corporation to perform the study. Why RAND? They are already familiar with the Joint Strike Fighter program, having conducted the DoD study that examined the near and long term competition options. The Department of Defense should have no difficulty working with RAND, and in providing them the data they need to do a thorough study of the impact to the industrial base of DoD’s acquisition strategy.

In summary, my amendment calls for a study of the costs, risks, and implications to national security of vesting all our tactical aircraft expertise in one prime contractor. The simple fact is that we, as a nation, do not know the risks, costs and implications of this move. We do know intuitively that the loss of competition and innovation can have a disastrous impact on the nation’s ability to field future state of the art weapons programs.

The Defense Department has never studied this issue even though they ac-

knowledge that the continuing shrinkage of our industrial base is cause for concern. It has never examined the risks or the national security implications. The DoD study regarding the JSF program looked exclusively at the financial costs of keeping two production lines to build Joint Strike Fighter aircraft.

That study concluded that there is an additional financial cost associated with two JSF production lines. But what the study failed to examine was the national security risks associated with vesting the future of American air superiority into the hands of a single company.

We must not allow our industrial base to shrink down to one company in any critical needs area without close examination and an understanding of the risks and implications. The stakes are too large.

We do not—we cannot—know what the future holds for this country 20, 30 or 40 years hence. We learned on September 11 that there are heavy penalties for misjudging unforeseen risks. We cannot afford a similar mistake when it comes to the health of our industrial base and the men and women responsible for flying into harms way. We cannot go down the road to one company blindly.

As my amendment clearly states: We must retain adequate competition in the design, engineering, production, sale and support of military aircraft; We must retain continued innovation in the development and manufacture of military aircraft; and We must retain the actual and future capability of more than “one” aircraft company to design, engineer, produce and support military aircraft.

This study will help to arm us with the knowledge Congress and the President need to make a wise decision. We need the results of this study. And I urge my colleagues to join me in supporting this amendment.

I ask my colleagues to support this amendment.

Mrs. CARNAHAN. Mr. President, I am pleased to support the amendment proposed by my friend and colleague from Missouri. Senator BOND’s legislation requires the Defense Department to report to Congress on the future of the tactical aircraft industry.

This is an important piece of legislation. It will allow the Pentagon to examine the long term impact of the largest contract award in world history on October 26 of this year, the Defense Department awarded the Joint Strike Fighter contract exclusively to the Lockheed Martin JSF team. Senator BOND and I are concerned that this decision might put America’s tactical aircraft industry in jeopardy, and set a bad precedent for other defense contracts. The JSF program is the largest defense contract in history. It is the only fighter jet contract planned in the next 30 years.

Up until October 26th, Boeing and Lockheed remained America’s only

major contractors in the tactical aircraft industry. Now, if the Lockheed team performs the entire contract, Boeing would likely be forced out of the fighter jet business. Competition in the industry would be eliminated. Future innovation would be stifled. Costs would rise. Our national security would be put at risk. The preeminent military power in the world cannot have just one company building fighter jets. That would be unacceptable to me and many members in our defense community.

Just 3 years ago, the Defense Department blocked the largest merger in defense industry history due to concerns that the merger would stifle innovation and reduce competition in key aspects of defense production. It cannot now stand idly by and allow the elimination of competition for fighter jets.

When the Joint Strike Fighter award was announced last month, many of us in the Missouri delegation made it clear that we believe it is imperative for Boeing to play a role in the production of this aircraft. Now we are proposing a study to examine the consequences if we should fail to secure a major role for Boeing in this important program.

Senator BOND has posed some pertinent questions today. I hope this body will support a study that simply seeks to answer these questions. Above all, we must examine how the U.S. Government will be able to preserve sufficient expertise in this industry, if Boeing is driven out of the tactical aircraft business.

When the JSF award was announced, the Defense Department issued a statement that said that the Pentagon would encourage Lockheed and Boeing to work together on this program. A Department of Defense press release stated on October 26 that, and I quote,

The expertise resident in the teams not selected today can still make a contribution to the JSF effort through revised industrial teaming arrangements. DOD will encourage teaming arrangements that make the most efficient use of the expertise in the industrial base to deliver the ‘best value’ product.”

I fully agree with this statement. I expect the Department of Defense to follow through on its commitment to encourage teaming between Lockheed Martin and Boeing. Boeing should be a major partner in this project. Boeing and Lockheed Martin executives are currently engaged in negotiations on this very subject. I believe that Boeing has a strong case for why it should play a major role in this critical program.

Boeing and its predecessor McDonnell-Douglas have a long history of delivering top-quality airplanes to militaries around the globe. Its award-winning management team has built a solid reputation for meeting production deadlines. Boeing makes some of the most affordable aircraft in the world. Boeing’s workforce has a unique expertise. Boeing remains the world leader in developing short take-off

fighters for the Marines. Boeing also produces for the Navy the foremost jet fighter for aircraft carrier operations.

Lockheed Martin could use Boeing's vast experience in building these aircraft. Lockheed Martin executives should bear this in mind during their discussions with Boeing. I believe that the next generation of tactical jets must be built by an experienced team.

This team should include Boeing Managers, engineers and technicians, who have helped build the Navy's F/A-18 Super Hornets as well as the Marine Corps' AV-8B Harriers. Lockheed should keep in mind the concerns of the Pentagon, and Democratic and Republican leaders alike. Lockheed's discussion with Boeing will have some serious long-term effects. With only major companies in the tactical aircraft industry, Lockheed's decisions will directly impact the industrial base of the Nation's fighter business.

Let there be no mistake. My colleagues and I in the Missouri delegation will not rest until we are assured that Boeing's role in the tactical aircraft business is secure. Senator BOND and I are united in our determination to pursue every avenue, in the Armed Services Committee and the Appropriations Committee, to ensure that the industrial base of this critical industry is preserved.

Our colleagues in the House, including the Democratic leader, the majority deputy whip, and the ranking member of the Armed Services Committee, and committed to this effort. Today, we must take this first step. We must examine the consequences of the JSF contact award, and ensure that the future of America's tactical aircrafts remains secure.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, Senator STEVENS and I commend the Senator from Missouri for his amendment. We are pleased to accept it. We urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2353) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2354

Mr. BOND. Mr. President, I send another amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2354.

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

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

The amendment is as follows:

(Purpose: To require procedures that ensure the fair and equitable resolution of labor integration issues in transactions for the combination of air carriers)

At the appropriate place, insert:

SEC. ____ (a) The purpose of this section is to require procedures that ensure the fair and equitable resolution of labor integration issues, in order to prevent further disruption to transactions for the combination of air carriers, which would potentially aggravate the disruption caused by the attack on the United States on September 11, 2001.

(b) In this section:

(1) The term "air carrier" means an air carrier that holds a certificate issued under chapter 411 of title 49, United States Code.

(2) The term "covered employee" means an employee who—

(A) is not a temporary employee; and

(B) is a member of a craft or class that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.).

(3) The term "covered transaction" means a transaction that—

(A) is a transaction for the combination of multiple air carriers into a single air carrier;

(B) involves the transfer of ownership or control of—

(i) 50 percent or more of the equity securities (as defined in section 101 of title 11, United States Code) of an air carrier; or

(ii) 50 percent or more (by value) of the assets of the air carrier;

(C) became a pending transaction, or was completed, not earlier than January 1, 2001; and

(D) did not result in the creation of a single air carrier by September 11, 2001.

(c) If an eligible employee is a covered employee of an air carrier involved in a covered transaction that leads to the combination of crafts or classes that are subject to the Railway Labor Act, the eligible employee may receive assistance under this title only if the parties to the transaction—

(1) apply sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 CAB 45) to the covered employees of the air carrier; and

(2) subject to paragraph (1), in a case in which a collective bargaining agreement provides for the application of sections 3 and 13 of the labor protective provisions in the process of seniority integration for the covered employees, apply the terms of the collective bargaining agreement to the covered employees, and do not abrogate the terms of the agreement.

(d) Any aggrieved person (including any labor organization that represents the person) may bring an action to enforce this section, or the terms of any award or agreement resulting from arbitration or a settlement relating to the requirements of this section. The person may bring the action in an appropriate Federal district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.

Mr. BOND. Mr. President, this amendment reflects a bill previously entered with my colleague, Senator

CARNAHAN, and other Senators. I ask they be given an opportunity to add themselves as cosponsors to this amendment.

This arises out of the attacks of September 11. It helps solve a serious problem in the airline industry. And it provides for fair treatment of the parties involved. I think this is a reasonable response.

Mr. President, the attacks of September 11 created severe strains on our Nation and its economy. The economic harm from those attacks has been most pronounced in our airline industry, the backbone of our transportation system.

Congress moved quickly and properly to respond to the crisis facing the commercial airlines with relief legislation in September. The fallout of the attacks, however, continues to be felt by the airlines and airline employees even after the Federal help.

Many will argue that a crisis continues in the airline industry.

All of our major airlines received aid through the industry relief bill. The Federal help was distributed fairly in proportion to the carrier's share of the market.

American Airlines received the largest share of that aid based on its combined size as a result of its acquisitions from TWA.

Unlike the other major carriers and their employees, the American and TWA employees faced the repercussions of September 11 with the uncertainty of the fact that their carriers had not completed the combination of operations envisioned by the AA/TWA transaction.

With the severe disruption of the airline industry caused by the attacks, the TWA employees in particular faced an uncertain future of layoffs knowing that there was no process in place to fairly and reasonably integrate their groups into the much larger American groups.

Indeed, the potential exists for them to suffer disproportionate job losses because there is no fair process in place.

In support of that principle of fair treatment, I have proposed the Airline Workers Fairness Act.

This legislation is designed to achieve a simple yet essential purpose—to provide a neutral and fair process to integrate employee groups of airlines involved in uncompleted mergers and transactions. It achieves this goal through:

A third party neutral arbitrator selected by the parties to make a final and binding decision based on the principles of fairness and equity.

This is not a new idea, but is the long-established process set forth by the former Civil Aeronautics Board some thirty years ago.

The notion of a fair and equitable seniority integration before a neutral arbitrator has been the industry standard for over fifty years in dozens of different airline mergers and acquisitions.

This bill recognizes that especially in the midst of severe disruption in the

airline industry, none of the interested parties have the ability to determine a fair and equitable resolution.

It puts the decision making out of the realm of passion and self-interest and into the hands of an experienced and fair-minded professional arbitrator.

Finally, this bill gives both sides the chance for a fair hearing.

We are not talking about micro-managing airlines or interfering in private contracts. The procedures this bill establishes are recognized widely as industry standard for seniority integrations.

They are also needed by employees and their families facing the loss of a lifetime's work.

Layoffs seem inevitable, but we can ensure that in the midst of the severe dislocations and upheaval in the lives of these airlines employees that our fundamental values were preserved, fair treatment and a fair hearing.

I have heard from all sides on this issue.

Both pilots unions have been on the phone and in my office on countless occasions. I have also been contacted by the International Association of Machinists representing both flight attendants and machinists.

All parties have clearly expressed to me and my staff that they want this seniority integration to come to a conclusion. It is ultimately clear, however, that an agreement cannot be reached under the status quo.

A fair process is desperately needed by thousands of hard working and dedicated employees and their families who face enormous dislocation and insecurity.

I ask that we echo the words of our Commander in Chief and our colleagues in the Congress; in a time of crisis we must not give up our fundamental values.

The Airlines Workers Fairness Act preserves our fundamental value of fair treatment during the crisis facing the airline industry.

It says that we will not abandon that value, rather we will recognize the enormous sacrifices made by the workers in this industry, both now and in the past. We will give them that simple assurance of fair treatment in the face of the crisis and sacrifice.

We are not meddling with collective bargaining or union politics * * * rather, we are simply helping two parties find the parameters to reach a fair and equitable resolution.

I urge my colleagues to support this important principle to assure fair and adequate treatment for all airline employees.

I ask my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate?

The Senator from Hawaii.

Mr. INOUE. Mr. President, Senator STEVENS and I are pleased to accept this amendment and take it to conference. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 2354) was agreed to.

Mr. INOUE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

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

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

Mr. BYRD. Mr. President, while Senators are working out some matters, I ask unanimous consent that I may speak for not to exceed 8 minutes on another matter.

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

CONGRATULATING SENATOR STROM THURMOND
ON HIS 99TH BIRTHDAY

Mr. BYRD. Mr. President, I did not speak on the day that was the most famous of all such days, the day of Senator THURMOND's birthday. I was busy on appropriations matters. I did not want to let this week go by without my saying just a few words about Senator THURMOND.

It was 99 years ago that STROM THURMOND was born in Edgefield, SC. Ninety-nine years old. What a feat, 99. Abraham lived to be 175 years old. Isaac lived to be 180. Jacob lived to be 147, and Joseph lived to be 110. Moses lived to be 120. Joshua lived to be 110. And STROM THURMOND has lived now to be 99. What a feat. That makes him old enough to be my big brother.

Well, when STROM THURMOND was born on December 5, 1902, the Wright Brothers had not yet made their historic flight at Kitty Hawk. He has lived to see men walking on the Moon. He has lived to see American space vessels exploring the far reaches of our galaxy. When he was born, Theodore Roosevelt was President of the United States. Since then, we have had 16 more Presidents.

When he was born, the Kaiser still ruled in Germany. Since then, that country has seen the rise and fall of the Weimar Republic, the rise and fall of Nazi Germany, a divided Germany, and now a united Germany. When STROM THURMOND was born, the Czar still ruled in Russia. Since then, that country has experienced the Russian Revolution of 1917—that was the year I was born—the Bolshevik government, the Communist government, the Soviet empire, and now Russia again.

Almost as intriguing has been the extraordinary career of our remarkable colleague. During the same time period, Senator THURMOND has been a teacher, an athletic coach, an educational administrator, a lawyer, a State legislator, and a circuit court judge.

Joseph wore a coat of many colors, but STROM THURMOND has held all of these offices, these professions, before coming to the U.S. Senate.

He won his first elective office, county superintendent, the same year that Herbert Hoover won his first elective office, 1928. STROM THURMOND was a soldier in World War II where he took part in the D-Day invasion of Normandy. He was a Presidential nominee in 1948. He was Governor of his beloved State of South Carolina from 1947 to 1951.

He has been a Democrat, Dixiecrat, and a Republican. Most of all, he has been and is a great American.

All of this would have been more than enough experiences and achievements in one lifetime for most mortals, but incredibly STROM THURMOND's greatest days were still ahead of him. In 1954, he won his first election to the U.S. Senate as a write-in candidate. That is saying something for any man who can win on a write-in seat in the Senate, making him the only person in history to be elected to the Senate as a write-in candidate. He pledged to the people of South Carolina that if they elected him as a write-in candidate, he would resign and he would run again and win the election the old-time way. And he did just what he promised he would do. So now he has become the longest serving Senator in history and the oldest person ever to have served in the Senate.

It is more than just longevity that has made STROM THURMOND an extraordinary Senator. As chairman of the Senate Armed Services Committee and chairman of the Senate Judiciary Committee, he has fought for a stronger military, to keep our country free, and he has fought for tougher anti-crime laws to make our streets safer. As President pro tempore of the Senate, he has brought dignity and style and a southern refinement to this important position. For these and other achievements, he has had high schools, State and Federal buildings, as well as streets and dams and town squares named in his honor.

A few years ago in 1991, the Senate designated room S-238 here in the U.S. Capitol as the "Strom Thurmond Room" in recognition of the selfless and dedicated service he has provided to our Nation and its people.

I remember that day, a long time ago, when STROM THURMOND suffered the loss of his wife. I used to see her sitting in the galleries. I can see her right now sitting in that first seat. We are not supposed to call attention to the people in the galleries, but I can remember having seen her sitting in that very first seat where the gentleman is

sitting right at this minute and watching the Senate.

I remember the day that that lady passed away. I came to the Senate. STROM THURMOND was sitting right back here where Senator JOE LIEBERMAN is sitting tonight. I walked up to him, gripped his hand, and told him I was sorry. And he was his spartan self. He thanked me and continued in his service.

On this his 99th birthday, I wish to say what a privilege and an honor it has been to have served with this remarkable man for all of these remarkable years, a man whom the good Lord has blessed with this long lifetime of service to his people. He has always been an outstanding legislator, a southern gentleman, and foremost, a good friend.

Count your garden by the flowers,
Never by the leaves that fall;
Count your days by the sunny hours,
Not remembering clouds at all.

Count your nights by stars, not shadows;
Count your life by smiles, not tears;
And on this beautiful December evening,
Strom, count your age by friends, not years.

Happy birthday, Senator. May God always bless you.

(Applause, Senators rising.)

Mr. THURMOND. Mr. President, Senator BYRD is a man of character, a man of ability, a man of dedication, and we are all proud of him. Thank you very much.

(Applause.)

Mr. BYRD. Mr. President, I thank all the Senators.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, this has been a very hectic day for everyone. Before the night passed, I wanted to make sure everyone understood how much we on this side of the aisle appreciate the Senator from Hawaii. Senator STEVENS today gave a very emotional speech regarding Senator INOUE, and it was not appropriate after that very emotional presentation was given by Senator STEVENS to say anything about Senator INOUE. I did not want the night to pass without everyone understanding how we feel about Senator INOUE. In fact, he is one of the most revered people in the history of the Senate. I do not know of anyone I have ever heard who has said an unkind word about the Senator from Hawaii, Mr. INOUE. Just because we were silent earlier today does not negate the strength of the feeling we have for Senator INOUE. In the time I have served in the Senate, there is no one I respect or admire more than the Senator from Hawaii, Mr. INOUE.

The work he has done on this bill is as exemplary as the work he has done as a Senator.

(Applause, Senators rising.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. 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. 2355

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 2355.

Mr. BOND. 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 provide funding for necessary expenses of the HUBZone program authorized under the Small Business Act, and for other purposes)

At the appropriate place insert:

“SMALL BUSINESS ADMINISTRATION

“DISASTER LOAN PROGRAM ACCOUNT

“SEC. 115. Of the amount made available under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107-77), for administrative expenses to carry out the direct loan program, \$5,000,000 shall be made available for necessary expenses of the HUBZone program as authorized by section 31 of the Small Business Act, as amended (15 U.S.C. 657a), of which, not more than \$500,000 may be used for the maintenance and operation of the Procurement Marketing and Access Network (PRO-Net). The Administrator of the Small Business Administration shall make quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives regarding all actions taken by the Small Business Administration to address the deficiencies in the HUBZone program, as identified by the General Accounting Office in report number GAO-02-57 of October 26, 2001.”

Mr. BOND. Mr. President, this amendment is an attempt to close a gap that was opened as a result of the Commerce-State-Justice appropriations bill. During the consideration of that bill, the conference committee deleted funding for a small but important program known as the Hubzone program. We enacted it in this body in 1997 with unanimous, bipartisan support to direct Federal contracting dollars to the Nation's most depressed areas of high poverty and high unemployment; that is, in the inner cities, in the rural areas, in the Native American communities, and in the Alaskan Native villages.

We find small firms do not normally want to locate in these areas because they do not have enough customer traffic to buy their products, but as a result they cannot find a customer base. In the Hubzone program, the Government acts as a customer and it buys about \$190 billion of goods and services each year.

This amendment does not appropriate new money. It simply restores the program to be implemented using the recommendations made in a General Accounting Office report. I ask the support of my colleagues in adopting this amendment.

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

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

Mr. INOUE. Mr. President, the amendment submitted by Senator BOND has been cleared on our side, and on behalf of Senator STEVENS, we accept that amendment.

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

The amendment (No. 2355) was agreed to.

Mr. BOND. I move to reconsider the vote by which the amendment was agreed to.

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

AMENDMENT NO. 2356

Mr. TORRICELLI. Mr. President, on behalf of myself, Senator CORZINE, Senator BIDEN, Senator CARPER, I have an amendment that would assure the Nation will for the next year have two independent suppliers of antitank and short-range missiles. Without this, we fear the Nation will be reduced to a single supply.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. TORRICELLI], for himself, Mr. CORZINE, Mr. BIDEN, and Mr. CARPER, proposes an amendment numbered 2356.

The amendment is as follows:

(Purpose: To require a production grant of \$2,000,000 to Green Tree Chemical Technologies in order to sustain the company through fiscal year 2002)

At the appropriate place in division A, insert the following:

SEC. . The Secretary of the Army shall, using amounts appropriated by title II of this division under the heading “OPERATION AND MAINTENANCE, ARMY”, make a production grant in the amount of \$2,000,000 to Green Tree Chemical Technologies of Parlin, New Jersey, in order to help sustain that company through fiscal year 2002.

Mr. INOUE. Mr. President, the managers of the bill have studied the amendment and we are pleased to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 2356.

The amendment (No. 2356) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

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

Mr. BYRD. Mr. President, in accordance with paragraph 2 of Rule VI of the Standing Rules of the Senate, I ask unanimous consent that I may absent myself from the Senate for the rest of the evening.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I have been asked to announce by the majority leader, after having conferred with the minority leader, that there will be no more rollcall votes tonight.

Mr. MCCAIN. I object.

Mr. REID. We thought we had this cleared. I apologize.

Mr. MCCAIN. Mr. President, I would like the RECORD to note that on a recorded vote I would have voted against this bill.

The PRESIDING OFFICER. The RECORD so notes.

The Senator from Hawaii.

AMENDMENTS NOS. 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, AND 2366, EN BLOC

Mr. INOUE. Mr. President, on behalf of the managers of the bill, I am pleased to present the following amendments, and I ask unanimous consent they be considered, voted, and agreed to, en bloc: an amendment by Senator NICKLES concerning the modeling and simulation program; an amendment by Senator LOTT concerning the Armed Forces retirement homes; an amendment by Senator KENNEDY concerning pullover shirts for the Marine Corps; an amendment by Senator REID regarding radar modernization; an amendment by Senator REID regarding the Clark County bioterrorism and public health laboratory; an amendment by Senator REID regarding the rural low bandwidth medical collaboration system; an amendment for Senator WARNER concerning the crit-

ical infrastructure protection initiative; an amendment for Senator LINCOLN concerning the Battlespace Logistics Readiness and Sustainment Program; an amendment for Senator INOUE concerning the Counter-narcotics and Antiterrorism Operational Medical Support Program; an amendment for Senator MCCONNELL directing the Department of Defense to undertake an assessment of the Chemical Demilitarization Program.

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

The amendments (Nos. 2357 through 2366) were agreed to en bloc, as follows:

AMENDMENT NO. 2357

At the appropriate place in the bill, insert the following:

SEC. . Of the funds appropriated in the Act under the heading "Research, Development, Test and Evaluation, Air Force" up to \$4,000,000 may be made available to extend the modeling and re-engineering program now being performed at the Oklahoma City Air Logistics Center Propulsion Directorate.

AMENDMENT NO. 2358

(Purpose: To increase by \$7,500,000 the amount available for Armed Forces Retirement Homes)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by title VI under the heading "OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS", \$7,500,000 may be available for Armed Forces Retirement Homes.

AMENDMENT NO. 2359

(Purpose: To set aside Marine Corps operation and maintenance for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Marine Corps, \$2,800,000 may be used for completing the fielding of half-zip, pullover, fleece uniform shirts for all members of the Marine Corps, including the Marine Corps Reserve.

AMENDMENT NO. 2360

(Purpose: To make available from aircraft procurement, Air Force, \$6,000,000 for 10 radars in the Air Force Radar Modernization Program for C-130H2 aircraft (PE040115) for aircraft of the Nevada Air National Guard at Reno, Nevada)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, AIR FORCE", \$6,000,000 may be available for 10 radars in the Air Force Radar Modernization Program for C-130H2 aircraft for aircraft of the Nevada Air National Guard at Reno, Nevada.

AMENDMENT NO. 2361

(Purpose: To make available from research, development, test, and evaluation, Army, \$3,000,000 for Medical Development (PE604771N) for the Clark County, Nevada, bioterrorism and public health laboratory)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUA-

TION, ARMY", \$3,000,000 may be made available for Medical Development for the Clark County, Nevada, bioterrorism and public health laboratory.

AMENDMENT NO. 2362

(Purpose: To make available from research, development, test, and evaluation, Air Force, \$1,000,000 for Agile Combat Support (PE64617) for the Rural Low Bandwidth Medical Collaboration System)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", \$1,000,000 may be made available for Agile Combat Support for Rural Low Bandwidth Medical Collaboration System.

AMENDMENT NO. 2363

(Purpose: To set aside funds for the critical infrastructure protection initiative of the Navy)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Navy, \$6,000,000 may be made available for critical infrastructure protection initiative.

AMENDMENT NO. 2364

At the appropriate place in the bill, insert the following:

SEC. . Of the funds provided in this Act the heading, "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", \$2,000,000 may be made available for Battlespace Logistics Readiness and Sustainment project in Fayetteville, Arkansas."

AMENDMENT NO. 2365

(Purpose: To provide funds for the Counter Narcotics and Terrorism Operational Medical Support Program)

At the appropriate place in division A, insert the following:

SEC. . Of the funds appropriated by title VI of this division under the heading "DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE", \$2,400,000 may be made available for the Counter Narcotics and Terrorism Operational Medical Support Program at the Uniformed Services University of the Health Sciences.

AMENDMENT NO. 2366

(Purpose: To require an assessment of various alternatives to the current Army plan for the destruction of chemical weapons)

At the appropriate place in division A, insert the following:

SEC. . (a) ASSESSMENT REQUIRED.—Not later than March 15, 2002, the Secretary of the Army shall submit to the Committees on Appropriations of the Senate and House of Representatives a report containing an assessment of current risks under, and various alternatives to, the current Army plan for the destruction of chemical weapons.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description and assessment of the current risks in the storage of chemical weapons arising from potential terrorist attacks.

(2) A description and assessment of the current risks in the storage of chemical weapons arising from storage of such weapons after April 2007, the required date for disposal of such weapons as stated in the Chemical Weapons Convention.

(3) A description and assessment of various options for eliminating or reducing the risks described in paragraphs (1) and (2).

(c) CONSIDERATIONS.—In preparing the report, the Secretary shall take into account the plan for the disassembly and neutralization of the agents in chemical weapons as described in Army engineering studies in 1985 and 1996, the 1991 Department of Defense Safety Contingency Plan, and the 1993 findings of the National Academy of Sciences on disassembly and neutralization of chemical weapons.

Mr. INOUE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2367 THROUGH 2385, EN BLOC

Mr. INOUE. Mr. President, I am pleased to present, on behalf of the managers, the second managers' package. I ask unanimous consent that the Senate proceed to consider, vote on, and agree to en bloc: an amendment for Senator KERRY concerning operational nuclear test monitoring; an amendment for Senators KERRY and KENNEDY concerning sensor fused weapons CBU-97; an amendment for Senator FEINSTEIN concerning the Tactical Support Center Mobile Acoustic Analysis System; an amendment for Senator KENNEDY regarding the Air National Guard for an information analysis network; an amendment for Senator KENNEDY concerning the DLAMP program; an amendment for Senator HELMS concerning the Display Performance and Environmental Laboratory Project; two amendments for Senator HELMS concerning the Joint Airborne Tactical Electronic Combat Training Program; an amendment for Senator INOUE concerning environmental studies in the Philippines; an amendment for Senator WARNER concerning the burial of veterans; an amendment for Senator BURNS concerning the National Business Center; an amendment for Senator STEVENS concerning crewmen's headsets; an amendment for Senator MCCONNELL concerning low-cost digital modems; an amendment for Senator GREGG concerning multifunctional composite materials; an amendment for Senator SHELBY concerning the Collaborative Engineering Center of Excellence and the Cooperative Microsatellite Experiment; an amendment for Senator BIDEN concerning metal matrix composites; an amendment for Senator SPECTER concerning the Solid Electrolyte Oxygen Separation Program; an amendment for Senator GRASSLEY that concerns unmatched disbursements; and an amendment for Senator VOINOVICH concerning three dimensional ultrasound imaging.

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

The amendments (Nos. 2367 through 2385) were agreed to en bloc, as follows:

AMENDMENT NO. 2367

(Purpose: To make available \$12,500,000 from research, development, test, and evaluation, Defense-wide, for operational nuclear test monitoring requirements of the Air Force)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" and available for the Advanced Technology Development for Arms Control Technology element, \$7,000,000 may be made available for the Nuclear Treaty sub-element of such element for peer-reviewed seismic research to support Air Force operational nuclear test monitoring requirements.

AMENDMENT NO. 2368

(Purpose: To make available \$14,200,000 for procurement for the Air Force for procurement of Sensor Fused Weapons (CBU-97))

At the appropriate place in division A, insert the following:

SEC. . Of the amount available in title III of this division under the heading "PROCUREMENT OF AMMUNITIONS, AIR FORCE", \$10,000,000 may be available for procurement of Sensor Fused Weapons (CBU-97).

AMENDMENT NO. 2369

(Purpose: To make available from other procurement, Navy, \$8,000,000 for procurement of the Tactical Support Center, Mobile Acoustic Analysis System)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, NAVY", \$8,000,000 may be made available for procurement of the Tactical Support Center, Mobile Acoustic Analysis System.

AMENDMENT NO. 2370

(Purpose: To set aside funds for continuation of the Air National Guard Information Analysis Network (GUARDIAN))

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by this division for operation and maintenance, Air National Guard, \$4,000,000 may be used for continuation of the Air National Guard Information Analysis Network (GUARDIAN)).

AMENDMENT NO. 2371

(Purpose: To set aside a specified amount of operation and maintenance, Defense-wide funds for the DLAMP program)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title II for operation and maintenance, Defense-wide, \$55,700,000 may be available for the Defense Leadership and Management Program.

AMENDMENT NO. 2372

(Purpose: To provide funding for the Display Performance and Environment Evaluation Laboratory Project of the Army Research Laboratory)

At the appropriate place in division A, add the following new section:

SEC. . Of the funds made available in Title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to \$4,000,000 may be made available for the Display Performance and Environmental Evaluation Laboratory Project of the Army Research Laboratory.

AMENDMENT NO. 2373

(Purpose: To expand the number of U.S. Navy combat aircrews who can benefit from Airborne Tactical Adversary Electronic Warfare/Electronic Attack training)

At the appropriate place in division A, add the following new section:

SEC. . Of the funds made available in Title II of this Act under the heading "OPERATION AND MAINTENANCE, NAVY", up to \$2,000,000 may be made available for the U.S. Navy to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

AMENDMENT NO. 2374

(Purpose: To expand the number of U.S. Air Force combat aircrews who can benefit from Airborne Tactical Adversary Electronic Warfare/Electronic Attack training)

At the appropriate place in division A, add the following new section:

SEC. . Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Air Force", up to \$2,000,000 may be made available for the U.S. Air Force to expand the number of combat aircrews who can benefit from outsourced Joint Airborne Tactical Electronic Combat Training.

AMENDMENT NO. 2375

(Purpose: To express the sense of the Senate regarding environmental contamination and health effects emanating from the former United States military facilities in the Philippines)

At the appropriate place, insert:

SEC. . SENSE OF THE SENATE REGARDING ENVIRONMENTAL CONTAMINATION IN THE PHILIPPINES.

It is the sense of the Senate that—

(1) the Secretary of State, in cooperation with the Secretary of Defense, should continue to work with the Government of the Philippines and with appropriate non-governmental organizations in the United States and the Philippines to fully identify and share all relevant information concerning environmental contamination and health effects emanating from former United States military facilities in the Philippines following the departure of the United States military forces from the Philippines in 1992;

(2) the United States and the Government of the Philippines should continue to build upon the agreements outlined in the Joint Statement by the United States and the Republic of the Philippines on a Framework for Bilateral Cooperation in the Environment and Public Health, signed on July 27, 2000; and

(3) Congress should encourage an objective non-governmental study, which would examine environmental contamination and health effects emanating from former United States military facilities in the Philippines, following the departure of United States military forces from the Philippines in 1992.

AMENDMENT NO. 2376

(Purpose: To authorize the burial in Arlington National Cemetery of any former Reservist who died in the September 11, 2001, terrorist attacks and would have been eligible for burial in Arlington National Cemetery but for age at time of death)

At the end of title VIII of division A, add the following:

SEC. 8135. (a) AUTHORITY FOR BURIAL OF CERTAIN INDIVIDUALS AT ARLINGTON NATIONAL CEMETERY.—The Secretary of the Army shall authorize the burial in a separate gravesite at Arlington National Cemetery, Virginia, of any individual who—

(1) died as a direct result of the terrorist attacks on the United States on September 11, 2001; and

(2) would have been eligible for burial in Arlington National Cemetery by reason of service in a reserve component of the Armed Forces but for the fact that such individual was less than 60 years of age at the time of death.

(b) ELIGIBILITY OF SURVIVING SPOUSE.—The surviving spouse of an individual buried in a gravesite in Arlington National Cemetery under the authority provided under subsection (a) shall be eligible for burial in the gravesite of the individual to the same extent as the surviving spouse of any other individual buried in Arlington National Cemetery is eligible for burial in the gravesite of such other individual.

AMENDMENT NO. 2377

(Purpose: To provide for the retention of certain contracting authorities by the Department of the Interior's National Business Center)

At the appropriate place in the bill, add the following:

“SEC. . In fiscal year 2002, the Department of the Interior National Business Center may continue to enter into grants, cooperative agreements, and other transactions, under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, and other related legislation.”

AMENDMENT NO. 2378

(Purpose: To set aside funds for the Product Improved Combat Vehicle Crewman's Headset)

At the appropriate place in division A, insert the following:

Of the total amount appropriated by this division for other procurement, Army, \$9,000,000 may be available for the “Product Improved Combat Vehicle Crewman's Headset.”

AMENDMENT NO. 2379

(Purpose: To set aside funds to be used to support development and testing of new designs of low cost digital modems for wideband common data link)

At the appropriate place in division A, insert the following:

SEC. 8135. Of the funds appropriated by this division for research, development, test and evaluation, Navy, up to \$4,000,000 may be used to support development and testing of new designs of low cost digital modems for Wideband Common Data Link.

AMENDMENT NO. 2380

(Purpose: To set aside Army RDT&E funds for research and development of key enabling technologies for producing low cost, improved performance, reduced signature, multifunctional composite materials)

At the appropriate place in division A, insert the following:

SEC. 8135. Of the amount appropriated by this division for the Army for research, development, test, and evaluation, \$2,000,000 may be available for research and development of key enabling technologies (such as filament winding, braiding, contour weaving, and dry powder resin towpregs fabrication) for producing low cost, improved performance, reduced signature, multifunctional composite materials.

AMENDMENT NO. 2381

(Purpose: To set aside Army RDT&E funding for certain programs)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated under title IV for research, development, test and evaluation, Army, \$2,000,000 may be available for the Collaborative Engineering Center of Excellence, \$3,000,000 may be available for the Battlefield Ordnance Awareness, and \$4,000,000 may be available for the Cooperative Microsatellite Experiment.

AMENDMENT NO. 2382

(Purpose: To make available from research, development, test, and evaluation, Army, \$5,000,000 to develop high-performance 81mm and 120mm mortar systems that use metal matrix composites to substantially reduce the weight of such system)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY” that is available for Munitions \$5,000,000 may be available to develop high-performance 81mm and 120mm mortar systems that use metal matrix composites to substantially reduce the weight of such systems.

AMENDMENT NO. 2383

(Purpose: To set aside Air Force RDT&E funds for human effectiveness applied research (PE 602202F) for continuing development under the solid electrolyte oxygen separation program of the Air Force)

At the appropriate place in division A, insert the following:

SEC. . Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Air Force, up to \$6,000,000 may be used for human effectiveness applied research for continuing development under the solid electrolyte oxygen separation program of the Air Force.

AMENDMENT NO. 2384

(Purpose: To continue to apply in fiscal year 2002 a requirement (in an appropriations Act for the Department of Defense for a previous fiscal year) for matching each DOD disbursement in excess of \$500,000 to a particular obligation before the disbursement is made)

At the appropriate place in division A, insert the following:

SEC. . Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111, 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2002.

Mr. GRASSLEY. Mr. President, this is my annual Defense Department accounting amendment.

I call it my accounting 101 amendment.

I call it accounting 101 because it calls on DOD to apply one of the most elementary accounting procedures in existence.

It request that DOD match disbursements with obligations before making payments.

Accountants and bookkeepers have been using this procedure since the beginning of time. It is an important internal control check. But it is simple and effective. Most people do it when they reconcile their monthly credit card bills.

Before a bill is approved for payment, someone has to check to make sure that the item in question was, in fact, ordered and received; and it can be located in the warehouse or elsewhere. It is a way of detecting and deterring theft and fraud. Today, it can be done electronically with computers.

For unexplained reasons in the past, DOD has not followed this simple pro-

cedure. DOD likes to pay the bill first and at some later date—maybe a year or two later—try to match the payment with a bill. In the Pentagon, they call it “pay and chase.” In many cases, the bill is never found.

Pay and chase is one big reason why DOD piled up \$50 billion in unmatched disbursements in the 1990's.

Sloppy bookkeeping leaves DOD's financial resources vulnerable to fraud and abuse.

Earlier this year, the very distinguished chairman of the Appropriations Committee, Senator BYRD, raised a series of very troublesome questions about DOD accounting practices. He did it at a hearing before the Armed Services Committee on January on Mr. Rumsfeld's nomination.

Senator BYRD said and I quote: “The Pentagon's books are in such utter disarray that no one knows what America's military actually owns or spends.”

Senator BYRD also said and I quote: “The Department of Defense's own auditors say the department cannot account for \$2.3 trillion in transactions in one year alone.”

The failure to match disbursements with obligations is a big driver behind the problem identified by Senator BYRD.

Senator BYRD's inquiry set off a firestorm at the Pentagon. It became a catalyst for change. Secretary Rumsfeld and his team are now committed to reform.

As a former chief executive officer with a large corporation, Mr. Rumsfeld understands that he must have accurate, up-to-date information at his fingertips.

He knows that he can't make good decisions with lousy information. But that's all he gets right now—lousy financial information.

Secretary Rumsfeld knows that financial reform is mandatory.

This year I have had the privilege of working with the very distinguished chairman of the Appropriations Committee, Senator BYRD, to solve this problem.

Our financial reform initiative was accepted by the committee and is now part of the Fiscal Year 2002 Defense authorization bill.

Secretary Rumsfeld's initiatives and the provisions in the Defense authorization bill are part of a long-term effort.

It may take four years or more before the new systems are up and running and producing reliable financial information.

The amendment that I offer today is a short-term, stopgap measure. It will help to maintain pressure and discipline in accounting before the new systems can kick in to action.

Mr. President, the policy embodied in this amendment has been incorporated in the last seven appropriations acts—fiscal years 1995 through 2001.

Under current law, Section 8137 of the act for Fiscal Year 2001, the matching threshold is set at \$500,000.00.

By a unanimous vote taken on June 9, 2000, the Senate agreed to keep the threshold at the \$500,000.00 level.

Both the General Accounting Office and the inspector general believe that this policy is helping the department avoid "problem disbursements" and other related accounting problems.

Secretary Rumsfeld has made a firm commitment to "clean up" the books and bring some financial management reform to the process at the Pentagon.

Mr. President, that's half of the battle right there—the will to do it. And the will is there.

Having that kind of attitude at the top gives me a high level of confidence. Maybe we can get the job done this time.

Since Secretary Rumsfeld's proposed reforms are still in the development phase and may be several years down the road, I am recommending that the matching threshold be maintained at the current level of \$5,000,000.00.

I urge my colleagues to support this amendment.

AMENDMENT NO. 2385

(Purpose: To set aside Army RDT&E funds for the Three-Dimensional Ultrasound Imaging Initiative II)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division for the Army for research, development, test, and evaluation, \$5,000,000 may be available for the Three-Dimensional Ultrasound Imaging Initiative II.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2386 THROUGH 2395, EN BLOC

Mr. INOUE. Mr. President, if may I continue with the managers' package, on behalf of the managers of the bill, I am pleased to offer the following amendments, and I ask unanimous consent that the Senate proceed to consider, vote on, and agree to, en bloc: an amendment for Senator KERRY on solid dye laser technology; an amendment for Senator FEINSTEIN on Shortstop Electronic Protection System; an amendment for Senator FEINSTEIN on Broad Area Maritime Surveillance Program; an amendment for Senator LUGAR, Increase Former SU Threat Reduction (FSUTR); an amendment for Senator LOTT, initiative; an amendment for Senator LOTT on military personnel research; an amendment for Senator LOTT on C-130 Roadmap; an amendment for Senator HELMS on LOGTECH; an amendment for Senator LOTT on LDH-9; an amendment for Senator COLLINS on the Striker advanced lightweight grenade launcher.

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

The amendments (Nos. 2386 through 2395) were agreed to, en bloc, as follows:

AMENDMENT NO. 2386

(Purpose: To make available from research, development, test, and evaluation, Army, \$5,000,000 for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount available in title IV of this division under the heading "RESEARCH DEVELOPMENT, TEST AND EVALUATION, ARMY" that is available for missile technology, \$5,000,000 may be available for the Surveillance Denial Solid Dye Laser Technology program of the Aviation and Missile Research, Development and Engineering Center of the Army.

AMENDMENT NO. 2387

(Purpose: To make available from other procurement, Army, \$10,000,000 for procurement of Shortstop Electronic Protection Systems for critical force protection)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", \$10,000,000 may be made available for procurement of Shortstop Electronic Protection Systems for critical force protection.

AMENDMENT NO. 2388

(Purpose: To make available from research, development, test, and evaluation, Navy, \$20,000,000 for the Broad Area Maritime Surveillance program)

At the appropriate place in division A, insert the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", \$5,000,000 may be made available for the Broad Area Maritime Surveillance program.

AMENDMENT NO. 2389

(Purpose: To increase by \$46,000,000 the amount available for former Soviet Union threat reduction and to provide an offset)

At the end of title VIII of division A, add the following:

SEC. . (a) INCREASE IN AMOUNT AVAILABLE FOR FORMER SOVIET UNION THREAT REDUCTION.—The amount appropriated by title II of this division under the heading "FORMER SOVIET UNION THREAT REDUCTION" is hereby increased by \$46,000,000.

(b) Offset.—The amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby decreased by \$46,000,000.

AMENDMENT NO. 2390

(Purpose: To provide funding for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950)

On page 223, line 23, insert before the period " of which, \$3,000,000 may be used for a Processible Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processible rigid-rod materials".

AMENDMENT NO. 2391

(Purpose: To increase by \$2,000,000 the amount available for Military Personnel Research (PE61103D))

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE WIDE", \$2,000,000 may be made available for Military Personnel Research.

AMENDMENT NO. 2392

(Purpose: To express the support of the Senate for the Air Force's long-range beddown plan for the C-130J fleet)

At the appropriate place, insert the following:

SEC. . Provided, That the funds appropriated by this act for C-130J aircraft shall be used to support the Air Force's long-range plan called the "C-130 Roadmap" to assist in the planning, budgeting, and beddown of the C-130J fleet. The "C-130 Roadmap" gives consideration to the needs of the service, the condition of the aircraft to be replaced, and the requirement to properly phase facilities to determine the best C-130J aircraft beddown sequence.

AMENDMENT NO. 2393

(Purpose: To provide funding for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH))

At the appropriate place in the bill, add the following new section:

SEC. . Of the funds made available in Title II of this Act under the heading "Operation and Maintenance, Army", \$2,550,000 may be available for the U.S. Army Materiel Command's Logistics and Technology Project (LOGTECH).

AMENDMENT NO. 2394

(Purpose: To increase by \$5,000,000 the amount available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship (PE603564N))

At the appropriate place, insert the following:

SEC. . Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", \$5,000,000 is available for the planning and design for evolutionary improvements for the next LHD-type Amphibious Assault Ship.

AMENDMENT NO. 2395

(Purpose: To set aside \$5,000,000 of Procurement, Defense-Wide funds for low-rate initial production of the Striker advanced lightweight grenade launcher (ALGL116044BBB), and \$1,000,000 of RDT&E, Navy funds for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker ALGL (PE 0603640M))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. (a) Of the total amount appropriated by title III of this division for procurement, Defense-Wide, up to \$5,000,000 may be made available for low-rate initial production of the Striker advanced lightweight grenade launcher.

(b) Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Navy, up to \$1,000,000 may be made available for the Warfighting Laboratory for delivery and evaluation of prototype units of the Striker advanced lightweight grenade launcher.

Mr. INOUE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2396 THROUGH 2405, EN BLOC

Mr. INOUE. Mr. President, I ask unanimous consent that the Senate

proceed to consider, vote on, and agree to the following amendments on behalf of the managers, en bloc: an amendment for Senator COLLINS on Smart Maps initiative; an amendment for Senator COLLINS on chemical and biological agents sensors; an amendment for Senator LANDRIEU on Army Nutrition Program; an amendment for Senator LANDRIEU on Partnership for Peace; an amendment for Senator THOMPSON on communicator system for Army National Guard; an amendment for Senator DORGAN on miniaturized wireless system; an amendment for Senator HARKIN on Consolidated Interactive Virtual Information Center of the National Guard; an amendment for Senator REED on Navy warfighting experimentation and demonstration for high-speed vessels; another amendment for Senator REED on Impact Aid for children with severe disabilities; and an amendment for Senators BIDEN and CARPER on worker safety demonstration programs.

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

The amendments (Nos. 2396 through 2405) were agreed to en bloc, as follows:

AMENDMENT NO. 2396

(Purpose: To set aside \$4,000,000 of RDT&E, Defense-Wide funds for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency (PE 0305102BQ))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, up to \$4,000,000 may be made available for the Intelligent Spatial Technologies for Smart Maps Initiative of the National Imagery and Mapping Agency.

AMENDMENT NO. 2397

(Purpose: To set aside \$5,000,000 of research, development, test, and evaluation, Defense-Wide funds for further development of light weight sensors of chemical and biological agents using fluorescence-based detection (PE 0602384BP))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test and evaluation, Defense-Wide, \$5,000,000 may be available for further development of light weight sensors of chemical and biological agents using fluorescence-based detection.

AMENDMENT NO. 2398

(Purpose: To authorize the availability of \$2,500,000 for the Army Nutrition Project)

At the end of title VIII of division A, add the following:

SEC. . Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" \$2,500,000 may be made available for the Army Nutrition Project.

AMENDMENT NO. 2399

(Purpose: To authorize the availability of an additional \$2,000,000 for the Partnership for Peace (PFP) Information Management System)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading

"RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", \$2,000,000 may be made available for the Partnership for Peace (PFP) Information Management System. Any amount made available for the Partnership for Peace Information Management System under this section is in addition to other amounts available for the Partnership for Peace Information Management System under this Act.

AMENDMENT NO. 2400

(Purpose: To make available \$4,892,000 for the Communicator Automated Emergency Notification System of the Army National Guard)

At the end of title VII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", \$4,892,000 may be used for the Communicator Automated Emergency Notification System of the Army National Guard.

AMENDMENT NO. 2401

(Purpose: To provide funds for a miniaturized wireless system)

At the appropriate place in the bill, add the following:

SEC. . Of the funds provided for Research, Development, Test and Evaluation in this bill, the Secretary of Defense may use \$10,000,000 to initiate a university-industry program to utilize advances in 3-dimensional chip scale packaging (CSP) and high temperature superconducting (HTS) transceiver performance, to reduce the size, weight, power consumption, and cost of advanced military wireless communications systems for covert military and intelligence operations, especially HUMINT.

AMENDMENT NO. 2402

(Purpose: To make available \$5,000,000 for the Consolidated Interactive Virtual Information Center for the National Guard)

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR NATIONAL GUARD CONSOLIDATED INTERACTIVE VIRTUAL INFORMATION CENTER.—Of the amount appropriated by title II of this division under the heading "Operation and Maintenance, Air National Guard," \$5,000,000 may be available for the Consolidated Interactive Virtual Information Center for the National Guard.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the Consolidated Interactive Virtual Information Center of the National Guard is in addition to any other amounts available under this Act for the Consolidated Interactive Virtual Information Center.

AMENDMENT NO. 2403

(Purpose: To make available \$1,200,000 for concept development and composite construction of high speed vessels currently implemented by the Navy Warfare Development Command)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" and available for Navy Space and Electronic Warfare (SEW) Architecture/Engine, \$1,200,000 may be made available for concept development and composite construction of high speed vessels currently implemented by the Navy Warfare Development Command.

AMENDMENT NO. 2404

(Purpose: To set aside operation and maintenance, Defense-Wide funds for impact aid for children with severe disabilities)

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Defense-Wide, \$5,000,000 may be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-396; 114 Stat. 1654A-77).

AMENDMENT NO. 2405

(Purpose: To make funds available to enhance the worker safety demonstration programs of the military departments)

At the appropriate place in division A, insert the following:

SEC. ____ (a) FINDINGS.—The Senate makes the following findings:

(1) The military departments have recently initiated worker safety demonstration programs.

(2) These programs are intended to improve the working conditions of Department of Defense personnel and save money.

(3) These programs are in the public interest, and the enhancement of these programs will lead to desirable results for the military departments.

(b) FUNDS FOR ENHANCEMENT OF ARMY PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, ARMY", \$3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Army.

(c) FUNDS FOR ENHANCEMENT OF NAVY PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, NAVY", \$3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Navy.

(d) FUNDS FOR ENHANCEMENT OF AIR FORCE PROGRAM.—Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR FORCE", \$3,300,000 may be available to enhance the Worker Safety Demonstration Program of the Air Force.

Mr. INOUE. 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.

AMENDMENTS NOS. 2406 THROUGH 2414, EN BLOC

Mr. INOUE. Mr. President, if I may proceed further, I ask unanimous consent that the Senate proceed to consider, vote on, and agree to, en bloc: an amendment for Senator CARNAHAN on Rosecrans Memorial Airport; an amendment for Senator NELSON of Florida on the Center for Advanced Power Systems; an amendment for Senator DEWINE on collaborative technology clusters; an amendment for Senator CLELAND on Army live fire ranges; an amendment for Senator CLELAND on Aging Aircraft Program; an amendment for Senator SNOWE on Navy Pilot Human Resources Call Center; an amendment for Senator SNOWE on compact kinetic energy missile; an amendment for Senator CLELAND on engineering control and surveillance systems; and an amendment for Senator BUNNING on Navy Medical Research Center.

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

The amendments (Nos. 2406 through 2414) were agreed to en bloc, as follows:

AMENDMENT NO. 2406

(Purpose: To set aside Air National Guard operation and maintenance funds for certain replacement and repair projects for facilities used by the Air National Guard at Rosecrans Memorial Airport, St. Joseph, Missouri)

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by this division for operation and maintenance, Air National Guard, \$435,000 may be available (subject to section 2805(c) of title 10, United States Code) for the replacement of deteriorating gas lines, mains, valves, and fittings at the Air National Guard facility at Rosecrans Memorial Airport, St. Joseph, Missouri, and (subject to section 2811 of title 10, United States Code) for the repair of the roof of the Aerial Port Facility at that airport.

AMENDMENT NO. 2407

At the appropriate place in Division A, insert the following:

SEC. . Of the amount appropriated in title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", \$7,000,000 may be made available for the Center for Advanced Power Systems.

AMENDMENT NO. 2408

(Purpose: To set aside Air Force RDT&E funds to complete the research and development tasks under the Collaborative Technology Clusters program of the Air Force Research Laboratory)

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the amount appropriated by title IV of this division for the Air Force for research, development, test, and evaluation, \$3,500,000 may be available for the Collaborative Technology Clusters program.

AMENDMENT NO. 2409

(Purpose: To make available \$7,000,000 for Army live fire ranges)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, ARMY", \$7,000,000 may be available for Army live fire ranges.

AMENDMENT NO. 2410

(Purpose: To make available \$3,900,000 for the aging aircraft program of the Air Force)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title II of this division under the heading "OPERATION AND MAINTENANCE, AIR FORCE", \$3,900,000 may be available for the aging aircraft program of the Air Force.

AMENDMENT NO. 2411

(Purpose: To set aside Navy operation and maintenance funds for the Navy Pilot Human Resources Call Center, Cutler, Maine (Civilian Manpower and Personnel Management, BLN 480))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated in title II of this division for operation and maintenance, Navy, for civilian manpower and personnel management, \$1,500,000 may be used for the Navy Pilot Human Resources Call Center, Cutler, Maine.

AMENDMENT NO. 2412

(Purpose: To set aside Army RDT&E funds for Compact Kinetic Energy Missile Inertial Future Missile Technology Integration (PE 0602303A, BLN 10))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated in title IV of this division for research, development, test and evaluation, Army, \$5,000,000 may be used for Compact Kinetic Energy Missile Inertial Future Missile Technology Integration.

AMENDMENT NO. 2413

(Purpose: To make available \$1,600,000 for the Navy for Engineering Control and Surveillance Systems)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "OTHER PROCUREMENT, NAVY", \$1,600,000 may be available for the Navy for Engineering Control and Surveillance Systems.

AMENDMENT NO. 2414

(Purpose: To provide \$5,000,000 for a program at the Naval Medical Research Center (NMRC) to treat victims of radiation exposure (PE0604771N))

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", \$5,000,000 may be available for a program at the Naval Medical Research Center (NMRC) to treat victims of radiation exposure.

Mr. INOUE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2415 THROUGH 2425, EN BLOC

Mr. INOUE. Mr. President, if I may proceed further, I ask unanimous consent that the Senate proceed to consider, vote on, and agree to, en bloc: an amendment for Senator LANDRIEU, Gulf States Initiative; an amendment for Senator COLLINS, laser fabricated steel reinforcement for ship construction; an amendment for Senator DODD on report on progress of CTR to India, Pakistan; an amendment for Senator DODD on the M4 carbine; an amendment for Senator DODD on the AN/AVR-2A; an amendment for Senator DODD on the F-16 batteries; an amendment for Senator DODD on the four hushkits for C-9; an amendment for Senator SARBANES on Operating Room of the Future; an amendment for Senator TORRICELLI on Coalition for Advanced Biomaterials; an amendment for Senator TORRICELLI on advanced digital recorders for P-3; and an amendment for Senator BINGAMAN on Big Crow, Defense Systems Evaluation.

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

The amendments (Nos. 2415 through 2425) were agreed to en bloc, as follows:

AMENDMENT NO. 2415

(Purpose: To make available \$10,000,000 for the Gulf States Initiative)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", \$10,000,000 may be available for the Gulf States Initiative.

AMENDMENT NO. 2416

(Purpose: To set aside \$4,300,000 of Research, Development, Test, and Evaluation, Navy funds for the demonstration and validation of laser fabricated steel reinforcement for ship construction (PE 0603123N))

On page 326, between lines 17 and 18, insert the following:

SEC. 8135. Of the total amount appropriated by title IV of this division for research, development, test, and evaluation, Navy, \$4,000,000 may be available for the demonstration and validation of laser fabricated steel reinforcement for ship construction.

AMENDMENT NO. 2417

(Purpose: To require a report on progress toward implementation of comprehensive nuclear threat reduction programs to safeguard Pakistani and Indian missile nuclear stockpiles and technology)

At the appropriate place in the Committee amendment, insert the following new section:

SEC. . . . REPORT ON PROGRESS TOWARD IMPLEMENTATION OF COMPREHENSIVE NUCLEAR THREAT REDUCTION PROGRAMS TO SAFEGUARD PAKISTANI AND INDIAN MISSILE NUCLEAR STOCKPILES AND TECHNOLOGY.

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

(1) Since 1991 the Nunn-Lugar cooperative threat reduction initiative with the Russian Federation has sought to address the threat posed by Soviet-era stockpiles of nuclear, chemical, and biological weapons-grade materials being illicitly acquired by terrorist organizations or rogue states.

(2) India and Pakistan have acquired or developed independently nuclear materials, detonation devices, warheads, and delivery systems as part of their nuclear weapons programs.

(3) Neither India nor Pakistan is currently a signatory of the Nuclear Non-Proliferation Treaty or the Comprehensive Test Ban Treaty or an active participant in the United Nations Conference of Disarmament, nor do these countries voluntarily submit to international inspections of their nuclear facilities.

(4) Since the commencement of the military campaign against the Taliban regime and the al-Qaeda terrorist network in Afghanistan, Pakistan has taken additional steps to secure its nuclear assets from theft by members of al-Qaeda or other terrorists sympathetic to Osama bin Laden or the Taliban.

(5) Self-policing of nuclear materials and sensitive technologies by Indian and Pakistani authorities without up-to-date Western technology and expertise in the nuclear security area is unlikely to prevent determined terrorists or sympathizers from gaining access to such stockpiles over the long term.

(6) The United States has a significant national security interest in cooperating with India and Pakistan in order to ensure that effective nuclear threat reduction programs and policies are being pursued by the governments of those two countries.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in cooperation with the Secretaries of State and Energy, shall submit a report to Congress describing the steps that have been taken to develop cooperative threat reduction programs with India and

Pakistan. Such report shall include recommendations for changes in any provision of existing law that is currently an impediment to the full establishment of such programs, a timetable for implementation of such programs, and an estimated five-year budget that will be required to fully fund such programs.

AMENDMENT NO. 2418

(Purpose: To make available \$5,000,000 for the Marine Corps for M-4 Carbine, Modular Weapon Systems)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "PROCUREMENT, MARINE CORPS", \$5,000,000 may be available for M-4 Carbine, Modular Weapon Systems.

AMENDMENT NO. 2419

(Purpose: To make available \$7,500,000 for the Army for AN/AVR-2A laser detecting sets)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, ARMY", \$7,500,000 may be available for AN/AVR-2A laser detecting sets.

AMENDMENT NO. 2420

(Purpose: To make available \$2,500,000 for the Air Force for Industrial Preparedness (PE0708011F) for continuing development of the nickel-metal hydride replacement battery for F-16 aircraft)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", \$2,500,000 may be available for Industrial Preparedness (PE0708011F) for continuing development of the nickel-metal hydride replacement battery for F-16 aircraft.

AMENDMENT NO. 2421

(Purpose: To make available \$8,960,000 for the Navy for four Hushkit noise inhibitors for C-9 aircraft)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III under the heading "AIRCRAFT PROCUREMENT, NAVY", \$8,960,000 may be available for the Navy for four Hushkit noise inhibitors for C-9 aircraft.

AMENDMENT NO. 2422

(Purpose: To make available \$5,000,000 for the development of the Operating Room of the Future, an applied technology test bed at the University of Maryland Medical Center in collaboration with the Telemedicine and Advanced Technology Research Center of the Army)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title VI of this division under the heading "DEFENSE HEALTH PROGRAM", \$5,000,000 may be available for the Army for the development of the Operating Room of the Future, an applied technology test bed at the University of Maryland Medical Center.

AMENDMENT NO. 2423

(Purpose: To make available \$5,700,000 for the Army for the Coalition for Advanced Biomaterials Technologies and Therapies (CABTT) program to maximize far-forward treatment and for the accelerated return to duty of combat casualties)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading "RESEARCH DEVELOPMENT, TEST AND EVALUATION, ARMY", \$5,700,000 may be made available for the Coalition for Advanced Biomaterials Technologies and Therapies (CABTT) program to maximize far-forward treatment and for the accelerated return to duty of combat casualties.

AMENDMENT NO. 2424

(Purpose: To make available \$9,800,000 for the Navy for Advanced Digital Recorders and Digital Recorder Producers for P-3 aircraft)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title III of this division under the heading "AIRCRAFT PROCUREMENT, NAVY", \$9,800,000 may be available only for Advanced Digital Recorders and Digital Recorder Producers for P-3 aircraft.

AMENDMENT NO. 2425

(Purpose: To make funds available for Big Crow (PE605118D))

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR CERTAIN PROGRAMS AND PROJECTS.—From amounts appropriated by this division, amounts may here- by be made available as follows:

(1) \$8,000,000 for Big Crow (PE605118D).

Mr. INOUE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2426 THROUGH 2438, EN BLOC

Mr. INOUE. And finally, Mr. President—

Mr. STEVENS. No. Two more.

Mr. INOUE. For the managers of the bill, I ask unanimous consent the Senate proceed to consider, vote on, and agree to, en bloc: an amendment for Senator COCHRAN, domed housing units on the Marshall Islands; an amendment for Senator RICK SANTORUM, National Tissue Engineering Center; an amendment for Senator SANTORUM, M107 HE 155 millimeter; an amendment for Senator SANTORUM on Integrated Medical Information Tech System; an amendment for Senator SANTORUM on modular helmet; an amendment for Senator SANTORUM on information operations; an amendment for Senator KENNEDY on NULKA; an amendment for Senator HARKIN on health protection of workers at Iowa AAP; an amendment for Senator SHELBY on low-cost launch vehicle technology; an amendment for Senator BUNNING on study of the Army trainee barracks; an amendment for Senator HUTCHINSON on pilot program for efficient inventory management; an amendment for Senator MCCAIN, strike Section 902 of Division B for funding certain military construction projects; and an amendment for Senator STABENOW on advanced safety tether operations.

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

The amendments (Nos. 2426 through 2438) were agreed to en bloc, as follows:

AMENDMENT NO. 2426

(Purpose: To provide for the acquisition, installation, and maintenance of domed housing units on the Marshall Islands)

At the end of title VIII of this division, add the following:

SEC. 8135. (a) FUNDING FOR DOMED HOUSING UNITS ON MARSHALL ISLANDS.—From within amounts appropriated by title IV of this division under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" the Commanding General of the Army Space and Missile Defense Command may acquire, and maintain domed housing units for military personnel on Kwajalein Atoll and other islands and locations in support of the mission of the command.

AMENDMENT NO. 2427

(Purpose: To set aside for medical technology, National Tissue Engineering Center \$4,000,000 of the amount provided for Army, research, development, test and evaluation)

Of the funds made available in title IV of the act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" \$4,000,000 may be available for a national tissue engineering center.

AMENDMENT NO. 2428

(Purpose: To set aside for artillery projectiles, M107, HE, 155mm, \$5,000,000 of the amount provided for Army, Ammunition Procurement)

Of the funds in Title III for Ammunition Procurement, Army, \$5,000,000 may be available for M107, HE, 155mm.

AMENDMENT NO. 2429

(Purpose: To set aside for Agile Combat Support, Integrated Medical Information Technology System (PE 604617) \$1,000,000 of the amount for Air Force, research, development, test, and evaluation)

Of the funds in Title IV for Research, Development, Test and Evaluation, Air Force, \$1,000,000 may be available for Integrated Medical Information Technology System.

AMENDMENT NO. 2430

(Purpose: To set aside for Air Crew Systems Development, Modular Helmet Development (PE 604264N) \$3,000,000 of the amount for the Navy for research, development, test and evaluation)

Of the funds authorized in Title IV for appropriation for Research, Development, Test and Evaluation, Navy, \$3,000,000 may be available for modular helmet.

AMENDMENT NO. 2431

(Purpose: To set aside for land forces readiness-information operations sustainment (PE 19640) \$5,000,000 of the amount provided for the Army Reserve for operations and maintenance)

Of the funds available in Title II for Operation & Maintenance, Army Reserve, \$5,000,000 may be available for land forces readiness-information operations.

AMENDMENT NO. 2432

(Purpose: To set aside \$10,000,000 of other procurement, Navy funds for the NULKA decoy procurement)

At the appropriate place in the bill, insert the following:

SEC. . Of the total amount appropriated by title III of this division for other procurement, Navy, \$10,000,000 may be available for the NULKA decoy procurement.

AMENDMENT NO. 2433

(Purpose: To facilitate the protection of the health of current and former workers at Iowa Army Ammunition Plant)

At the end of title VIII of division A, insert the following:

SEC. ____ (a) * * *.—Section 1078(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106-398; 114 Stat. 1654A-283) is amended—

(1) in paragraph (1), by inserting “, or its contractors or subcontractors,” after “Department of Defense”; and

(2) in paragraph (3), by striking “stored, assembled, disassembled, or maintained” and inserting “manufactured, assembled, or disassembled”.

(b) DETERMINATION OF EXPOSURES AT IAAP.—The Secretary of Defense shall take appropriate actions to determine the nature and extent of the exposure of current and former employees at the Army facility at the Iowa Army Ammunition Plant, including contractor and subcontractor employees at the facility, to radioactive or other hazardous substances at the facility, including possible pathways for the exposure of such employees to such substances.

(c) NOTIFICATION OF EMPLOYEES REGARDING EXPOSURE.—(1) The Secretary shall take appropriate actions to—

(A) identify current and former employees at the facility referred to in subsection (b), including contractor and subcontractor employees at the facility; and

(B) notify such employees of known or possible exposures to radioactive or other hazardous substances at the facility.

(2) Notice under paragraph (1)(B) shall include—

(A) information on the discussion of exposures covered by such notice with health care providers and other appropriate persons who do not hold a security clearance; and

(B) if necessary, appropriate guidance on contacting health care providers and officials involved with cleanup of the facility who hold an appropriate security clearance.

(3) Notice under paragraph (1)(B) shall be by mail or other appropriate means, as determined by the Secretary.

(d) DEADLINE FOR ACTIONS.—The Secretary shall complete the actions required by subsections (b) and (c) not later than 90 days after the date of the enactment of this Act.

(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the results of the actions undertaken by the Secretary under this section, including any determinations under subsection (b), the number of workers identified under subsection (c)(1)(A), the content of the notice to such workers under subsection (c)(1)(B), and the status of progress on the provision of the notice to such workers under subsection (c)(1)(B).

AMENDMENT NO. 2434

(Purpose: To add funding for Air Force RDT&E for Low Cost Launch Vehicle Technology)

At the end of title VIII of division A, add the following:

SEC. 8135. Of the amount appropriated by title IV of this division under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE” \$1,000,000, may be available for Low Cost Launch Vehicle Technology.

AMENDMENT NO. 2435

(Purpose: To require a Comptroller General study of the physical state of Initial Entry Trainee housing and barracks of the Armed Services)

At the end of title VIII of division A, add the following:

SEC. 8135. (a) STUDY OF PHYSICAL STATE OF ARMED SERVICES INITIAL ENTRY TRAINEE HOUSING AND BARRACKS.—The Comptroller General of the United States shall carry out a study of the physical state of the Initial Entry Trainee housing and barracks of the Armed Services.

(b) REPORT TO CONGRESS.—Not later than nine months after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the study carried out under subsection (a). The report shall set forth the results of the study, and shall include such other matters relating to the study as the Comptroller General considers appropriate.

(c) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this section, the term “congressional defense committees” means—

(1) the Committees on Appropriations and Armed Services of the Senate; and

(2) the Committees on Appropriations and Armed Services of the House of Representatives.

AMENDMENT NO. 2436

(Purpose: To provide funds for a pilot program for the development of an efficient inventory management system for the Department of Defense)

On page 326, between lines 17 and 18, insert the following:

PILOT PROGRAM FOR EFFICIENT INVENTORY MANAGEMENT SYSTEM FOR THE DEPARTMENT OF DEFENSE

SEC. 8135. (a) Of the total amount appropriated by this division for operation and maintenance, Defense-Wide, \$1,000,000 may be available for the Secretary of Defense to carry out a pilot program for the development and operation of an efficient inventory management system for the Department of Defense. The pilot program may be designed to address the problems in the inventory management system of the Department that were identified by the Comptroller General of the United States as a result of the General Accounting Office audit of the inventory management system of the Department in 1997.

(b) In entering into any contract for purposes of the pilot program, the Secretary may take into appropriate account current Department contract goals for small business concerns owned and controlled by socially and economically disadvantaged individuals.

(c) Not later than one year after the date of the enactment of this Act, the Secretary may submit to Congress a report on the pilot program. The report shall describe the pilot program, assess the progress of the pilot program, and contain such recommendations as the Secretary considers appropriate regarding expansion or extension of the pilot program.

AMENDMENT NO. 2437

(Purpose: To provide funds to carry out authorized military construction projects funds for which are diverted to military construction projects for the national emergency)

Strike section 902 of division B and insert the following:

SEC. 902. (a) FUNDING FOR CERTAIN MILITARY CONSTRUCTION PROJECTS.—If in exercising the authority in section 2808 of title 10, United States Code, to carry out military

construction projects not authorized by law, the Secretary of Defense utilizes, whether in whole or in part, funds appropriated but not yet obligated for a military construction project previously authorized by law, the Secretary may carry out such military construction project previously authorized by law using amounts appropriated by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107-38; 115 Stat. 220), or any other appropriations Act to provide funds for the recovery from and response to the terrorist attacks on the United States that is enacted after the date of the enactment of this Act, and available for obligation.

AMENDMENT NO. 2438

(Purpose: To make available \$2,000,000 for the Advanced Safety Tether Operation and Reliability/Space Transfer using Electrodynamic Propulsion (STEP-AIRSEDS) program (PE0602236N))

At the end of title VIII of division A, add the following:

SEC. 8135. (a) FUNDING FOR ADVANCED SAFETY TETHER OPERATION AND RELIABILITY/SPACE TRANSFER USING ELECTRODYNAMIC PROPULSION (STEP-AIRSEDS) PROGRAM.—Of the amount appropriated by title IV of this division under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION NAVY”, \$2,000,000 may be allocated to the Advanced Safety Tether Operation and Reliability/Space Transfer using Electrodynamic Propulsion (STEP-AIRSEDS) program (PE0602236N) of the Office of Naval Research/Naval Research Laboratory.

Mr. INOUE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2439 THROUGH 2459, EN BLOC

Mr. INOUE. Mr. President, on behalf of the managers of the bill, I ask unanimous consent that the Senate proceed to consider, vote on, and agree to the following amendments, en bloc: an amendment for Senator STABENOW, community service projects; an amendment for Senator STEVENS, NOAA; an amendment for Senator GREGG, date change; an amendment for Senator DURBIN, legislative branch, technical; an amendment for Senator SPECTER, intelligent transportation system; an amendment for Senator LANDRIEU, dirty bombs; an amendment for Senator MURRAY, apples; an amendment for Senator DOMENICI, waste isolation; an amendment for Senator DURBIN, Nutwood Levee; an amendment for Senator DOMENICI, electrical energy systems; an amendment for Senator HARKIN, essential air service; an amendment for Senator STEVENS, GSA provision; an amendment for Senator STEVENS, Postal Service product rates; an amendment for Senator BOND, Smithsonian Institution artifacts; an amendment for Senator DASCHLE, Kennedy Center; an amendment for Senator STEVENS, Cook Inlet Housing Authority; an amendment for Senator DOMENICI, dam safety; an amendment for Senator STEVENS, Alaska Native contracting; an amendment for Senators BIDEN and HOLLINGS on the National Railroad Passenger Corporation;

and an amendment for Senator DASCHLE on mining.

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

The amendments (Nos. 2439 through 2459) were agreed to, en bloc, as follows:

AMENDMENT NO. 2439

(Purpose: To establish a program to name national and community service projects in honor of victims killed as a result of the terrorist attacks on September 11, 2001)

On page 201, after line 22, insert the following:

SEC. 1202. UNITY IN THE SPIRIT OF AMERICA.

(a) **SHORT TITLE.**—This title may be cited as the “Unity in the Spirit of America Act” or the “USA Act”.

(b) **PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS.**—The National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by inserting before title V the following:

“TITLE IV—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

“SEC. 401. PROJECTS.

“(a) **DEFINITION.**—In this section, the term ‘Foundation’ means the Points of Light Foundation funded under section 301, or another nonprofit private organization, that enters into an agreement with the Corporation to carry out this section.

“(b) **IDENTIFICATION OF PROJECTS.**—

“(1) **ESTIMATED NUMBER.**—Not later than December 1, 2001, the Foundation, after obtaining the guidance of the heads of appropriate Federal agencies, such as the Director of the Office of Homeland Security and the Attorney General, shall—

“(A) make an estimate of the number of victims killed as a result of the terrorist attacks on September 11, 2001 (referred to in this section as the ‘estimated number’); and

“(B) compile a list that specifies, for each individual that the Foundation determines to be such a victim, the name of the victim and the State in which the victim resided.

“(2) **IDENTIFIED PROJECTS.**—The Foundation may identify approximately the estimated number of community-based national and community service projects that meet the requirements of subsection (d). The Foundation shall name each identified project in honor of a victim described in subsection (b)(1)(A), after obtaining the permission of an appropriate member of the victim’s family and the entity carrying out the project.

“(c) **ELIGIBLE ENTITIES.**—To be eligible to have a project named under this section, the entity carrying out the project shall be a political subdivision of a State, a business, a nonprofit organization (which may be a religious organization, such as a Christian, Jewish, or Muslim organization), an Indian tribe, or an institution of higher education.

“(d) **PROJECTS.**—The Foundation shall name, under this section, projects—

“(1) that advance the goals of unity, and improving the quality of life in communities; and

“(2) that will be planned, or for which implementation will begin, within a reasonable period after the date of enactment of the Unity in Service to America Act, as determined by the Foundation.

“(e) **WEBSITE AND DATABASE.**—The Foundation shall create and maintain websites and databases, to describe projects named under this section and serve as appropriate vehicles for recognizing the projects.”.

AMENDMENT NO. 2440

On page 152, after line 19, insert:

SEC. 204. From within funds available to the State of Alaska or the Alaska Region of

the National Marine Fisheries Service, an additional \$500,000 shall be made available for the cost of guaranteeing the reduction loan authorized under section 144(d)(4)(A) of title I, Division B of Public Law 106-554 (114 Stat. 2763A-242) and that subparagraph is amended to read as follows: “(4)(A) The fishing capacity reduction program required under this subsection is authorized to be financed through a reduction loan of \$100,000,000 under section 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1279f and 1279g).”.

AMENDMENT NO. 2441

(Purpose: To improve the bill)

On page 205, after line 12, insert the following:

SEC. 104. Section 612 of P.L. 107-77 is amended by striking “June 30, 2002” and inserting “April 1, 2002”.

AMENDMENT NO. 2442

On page 209, after line 25, insert:

SEC. 110. (a) Section 133(a) of the Legislative Branch Appropriations Act, 2001, (Public Law 107-68) is amended—

(1) by striking “90-day” in paragraph (1) and inserting “180-day”; and

(2) by striking “90-days” in paragraph (2)(C) and inserting “180 days”.

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2001 (Public Law 107-68).

AMENDMENT NO. 2443

(Purpose: To expedite the deployment of the intelligent transportation infrastructure system)

On page 191, after line 12 insert:

SEC. 1001.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 449; 23 U.S.C. 502 note) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (F), and (G), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph (C):

“(C) **FOLLOW-ON DEPLOYMENT.**—(i) After an intelligent transportation infrastructure system deployed in an initial deployment area pursuant to a contract entered into under the program under this paragraph has received system acceptance, the Department of Transportation has the authority to extend the original contract that was competitively awarded for the deployment of the system in the follow-on deployment areas under the contract, using the same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment in that initial deployment area under the program.

“(ii) If any one of the follow-on deployment areas does not commit, by July 1, 2002, to participate in the deployment of the system under the contract, then, upon application by any of the other follow-on deployment areas that have committed by that date to participate in the deployment of the system, the Secretary shall supplement the funds made available for any of the follow-on deployment areas submitting the applications by using for that purpose the funds not used for deployment of the system in the nonparticipating area. Costs paid out of funds provided in such a supplementation shall not be counted for the purpose of the limitation on maximum cost set forth in subparagraph (B).”.

(4) by inserting after subparagraph (D), as redesignated by paragraph (1), the following new subparagraph (E):

“(E) **DEFINITIONS.**—In this paragraph:

“(i) The term ‘initial deployment area’ means a metropolitan area referred to in the second sentence of subparagraph (A).

“(ii) The term ‘follow-on deployment areas’ means the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia.”; and

(5) in subparagraph (D), as redesignated by paragraph (1), by striking “subparagraph (D)” and inserting “subparagraph (F)”.

AMENDMENT NO. 2444

(Purpose: To provide that funds available to improve nuclear nonproliferation and verification research and development shall be available to research and development with respect to radiological dispersion devices)

In chapter 5 of division B, under the heading “NATIONAL NUCLEAR SECURITY ADMINISTRATION” under the paragraph “DEFENSE NUCLEAR PROLIFERATION”, insert after “nuclear nonproliferation and verification research and development” the following: “(including research and development with respect to radiological dispersion devices, also known as ‘dirty bombs’)”.

AMENDMENT NO. 2445

On page 138, after line 2, insert the following:

SEC. 101. Section 741(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (P.L. 107-76), is amended by striking “20,000,000 pounds” and inserting “5,000,000 pounds”.

AMENDMENT NO. 2446

(Purpose: Technical modification of authority to improve safety of transportation routes to the Waste Isolation Pilot Plant)

On page 165, after 22, insert the following: SEC. 501. Of the funds provided in this or any Act for “Defense Environmental Restoration and Waste Management” at the Department of Energy, up to \$500,000 may be available to the Secretary of Energy for safety improvements to roads along the shipping route to the Waste Isolation Pilot Plant site.

AMENDMENT NO. 2447

(Purpose: To make a technical correction to the FY 2002 Energy and Water Appropriations Act, P.L. 107-66 for Nutwood Levee, IL)

On page 165, after line 22, insert the following:

SEC. 503. **NUTWOOD LEVEE, ILLINOIS.**—The Energy and Water Development Appropriation Act, 2002 (Public Law 107-66) is amended under the heading “Title I, Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Construction, General” by inserting after “\$3,500,000” but before the “.” “; Provided further, That using \$400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may initiate construction on the Nutwood Levee, Illinois project”.

AMENDMENT NO. 2448

(Purpose: To make available, with an offset, an additional \$14,000,000 for the electric energy systems and storage program of the Department of Energy)

On page 165, after line 22, add the following:

SEC. 502. Title II of the Energy and Water Development Appropriations Act, 2002 (Public Law 107-66) is amended by adding at the end the following new section:

“SEC. 313. (a) INCREASE IN AMOUNT AVAILABLE FOR ELECTRIC ENERGY SYSTEMS AND STORAGE PROGRAM.—The amount appropriated by this title under the heading ‘DEPARTMENT OF ENERGY’ under the heading ‘ENERGY PROGRAMS’ under the paragraph ‘ENERGY SUPPLY’ is hereby increased by \$14,000,000, with the amount of the increase to be available under the paragraph for the electric energy systems and storage program.

“(b) DECREASE IN AMOUNT AVAILABLE FOR DEPARTMENT OF ENERGY GENERALLY.—The amount appropriated by this title under the heading ‘DEPARTMENT OF ENERGY’ (other than under the heading ‘National Nvd. Security Administration or under the heading ‘ENERGY PROGRAMS’ under the paragraph ‘ENERGY SUPPLY’) is hereby decreased by \$14,000,000, with the amount of the decrease to be distributed among amounts available under the heading ‘DEPARTMENT OF ENERGY’ in a manner determined by the Secretary of Energy and approved by the Committees of Appropriations.”.

AMENDMENT NO. 2449

(Purpose: To assure minimum service levels under the Essential Air Service Program)

On page 186, line 22, before the period, insert: *Provided*, That it is the Sense of the Senate that funds provided under this paragraph shall be used to provide subsidized service at a rate of not less than three flights per day for eligible communities with significant enplanement levels that enjoyed said rate of service, with or without subsidy, prior to September 11, 2001.”.

AMENDMENT NO. 2450

On page 196, after line 16, insert:

SEC. 1101. None of the funds appropriated by this Act or any other Act may be used after June 30, 2002 for the operation of any federally owned building if determined to be appropriate by the Administrator of the General Services Administration; or to enter into any lease or lease renewal with any person for office space for a federal agency in any other building, unless such operation, lease, or lease renewal is in compliance with a regulation or Executive Order issued after the date of enactment of this section that requires redundant and physically separate entry points to such buildings, and the use of physically diverse local network facilities, for the provision of telecommunications services to federal agencies in such buildings.

AMENDMENT NO. 2451

(Purpose: To set new criteria and rates for delivery of services under Section 5402 of Title 39)

On page 195, on line 20 before the period, insert: *Provided*, That the Postal Service is authorized to review rates for product delivery and minimum qualifications for eligible service providers under section 5402 of title 39, and to recommend new rates and qualifications to reduce expenditures without reducing service levels.”.

AMENDMENT NO. 2452

On page 168, after line 9, insert:

SEC. 601. (a) IN GENERAL.—The Secretary of the Smithsonian Institution may collect and preserve in the National Museum of American History artifacts relating to the September 11th attacks on the World Trade Center and the Pentagon.

(b) TYPES OF ARTIFACTS.—In carrying out subsection (a), the Secretary of the Smithso-

nian Institution shall consider collecting and preserving—

(1) pieces of the World Trade Center and the Pentagon;

(2) still and video images made by private individuals and the media;

(3) personal narratives of survivors, rescuers, and government officials; and

(4) other artifacts, recordings, and testimonial that the Secretary of the Smithsonian Institution determines have lasting historical significance.

(c) There is authorized to be appropriated to the Smithsonian Institution \$5,000,000 to carry out this section.

AMENDMENT NO. 2453

(Purpose: To increase the number of general trustees of the John F. Kennedy Center for the Performing Arts and to designate the Secretary of State as a trustee)

At the appropriate place, insert the following:

SEC. ____ TRUSTEES OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.

(a) MEMBERSHIP.—Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)) is amended—

(1) by striking “There is hereby” and inserting the following:

“(1) IN GENERAL.—There is”; and

(2) by striking the second sentence and inserting the following:

“(2) MEMBERSHIP.—The Board shall be composed of—

“(A) the Secretary of Health and Human Services;

“(B) the Librarian of Congress;

“(C) the Secretary of State;

“(D) the Chairman of the Commission of Fine Arts;

“(E) the Mayor of the District of Columbia;

“(F) the Superintendent of Schools of the District of Columbia;

“(G) the Director of the National Park Service;

“(H) the Secretary of Education;

“(I) the Secretary of the Smithsonian Institution;

“(J)(i) the Speaker and the Minority Leader of the House of Representatives;

“(ii) the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives; and

“(iii) 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives;

“(K)(i) the Majority Leader and the Minority Leader of the Senate;

“(ii) the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate; and

“(iii) 3 additional Members of the Senate appointed by the President of the Senate; and

“(L) 36 general trustees, who shall be citizens of the United States, to be appointed in accordance with subsection (b).”.

(b) TERMS OF OFFICE FOR NEW GENERAL TRUSTEES.—Section 2(b) of the John F. Kennedy Center Act (20 U.S.C. 76h(b)) shall apply to each general trustee of the John F. Kennedy Center for the Performing Arts whose position is established by the amendment made by subsection (a)(2) (referred to in this subsection as a “new general trustee”), except that the initial term of office of each new general trustee shall—

(1) commence on the date on which the new general trustee is appointed by the President; and

(2) terminate on September 1, 2007.

AMENDMENT NO. 2454

On page 168, after line 9, insert the following:

SEC. 602. (a) GENERAL TRUSTEES.—

(1) IN GENERAL.—Subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is amended in its last clause by striking out the word “thirty” and inserting in lieu thereof the word “thirty-six”.

(2) TERMS OF OFFICE FOR NEW GENERAL TRUSTEES.—

(A) INITIAL TERMS OF OFFICE.—

(i) COMMENCEMENTS OF INITIAL TERM.—The initial terms of office for all new general trustee offices created by this Act shall commence upon appointment by the President.

(ii) EXPIRATIONS OF INITIAL TERM.—The initial terms of office for all new general trustee offices created by this Act shall continue until September 1, 2007.

(iii) VACANCIES AND SERVICE UNTIL THE APPOINTMENT OF A SUCCESSOR.—For all new general trustee offices created by this Act, subsections (b)(1) and (b)(2) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) shall apply.

(B) SUCCEEDING TERMS OF OFFICE.—Upon the expirations of the initial terms of office pursuant to Section 1(b)(1) of this Act, the terms of office for all new general trustee offices created by this Act shall be governed by subsection (b) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h).

(b) EX OFFICIO TRUSTEES.—Subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is further amended by inserting in the second sentence “the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives,” after “the Secretary of the Smithsonian Institution.”.

(c) HOUSEKEEPING AMENDMENT.—To conform with the previous abolition of the United States Information Agency and the transfer of all functions of the Director of the United States Information Agency to the Secretary of State (sections 1311 and 1312 of Public Law 105-277, 112 Stat. 2681-776), subsection (a) of section 2 of the John F. Kennedy Center Act (20 U.S.C. 76h) is further amended by striking in the second sentence “the Director of the United States Information Agency,” and inserting in lieu thereof “the Secretary of State.”.

AMENDMENT NO. 2455

(Purpose: To allow for expenditures of previously appropriated housing funds)

On page 201, after line 22, insert the following:

SEC. 1201. Within funds previously appropriated as authorized under the Native American Housing and Self Determination Act of 1996 (Pub. L. 104-330, §§1(a), 110 Stat. 4016) and made available to Cook Inlet Housing Authority, Cook Inlet Housing Authority may use up to \$9,500,000 of such funds to construct student housing for Native college students, including an on-site computer lab and related study facilities, and, notwithstanding any provision of such Act to the contrary, Cook Inlet Housing Authority may use a portion of such funds to establish a reserve fund and to provide for maintenance of the project.”.

AMENDMENT NO. 2456

(Purpose: To make a technical correction to the FY 2002 Energy and Water Appropriations Act, P.L. 107-66 for the Bureau of Reclamation Dam Safety Program)

On page 165, after line 22, insert the following:

GENERAL PROVISION, THIS CHAPTER

SEC. 501. The Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is amended as follows:

(1) by inserting in Section 4(c) after “2000,” and before “costs” the following: “and the

additional \$32,000,000 further authorized to be appropriated by amendments to the Act in 2001.”; and

(2) by inserting in Section 5 after “levels,” and before “plus” the following: “and, effective October 1, 2001, not to exceed an additional \$32,000,000 (October 1, 2001, price levels)”.

AMENDMENT NO. 2457

(Purpose: To clarify Federal procurement law for certain qualified entities)

On page 168, after line 9, insert the following new section:

SEC. 603. Section 29 of P.L. 92-203, as enacted under section 4 of P.L. 94-204 (43 U.S.C. 1626), is amended by adding at the end of subsection (e) the following:

“(4)(A) Congress confirms that Federal procurement programs for tribes and Alaska Native Corporations are enacted pursuant to its authority under Article I, Section 8 of the United States Constitution.

“(B) Contracting with an entity defined in subparagraph (e)(2) of this section or section 3(c) of P.L. 93-262 shall be credited towards the satisfaction of a contractor’s obligations under section 7 of P.L. 87-305.

“(C) Any entity that satisfies subparagraph (e)(2) of this section that has been certified under section 8 of P.L. 85-536 is a Disadvantaged Business Enterprise for the purposes of P.L. 105-178.”.

AMENDMENT NO. 2458

At the appropriate place in the bill insert: No appropriated funds or revenues generated by the National Railroad Passenger Corporation may be used to implement Section 204(c)(2) of P.L. 105-134 until the Congress has enacted an Amtrak reauthorization Act.

AMENDMENT NO. 2459

(Purpose: To provide for the conveyance of certain real property in South Dakota to the State of South Dakota with indemnification by the United States Government, and for other purposes)

(The text of the amendment is printed in the RECORD under “Amendments Submitted.”)

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. INOUE. I yield the floor.

NAVAL SHIPBUILDING

Ms. COLLINS. Mr. President, I rise today to discuss with the distinguished chairman and ranking member of the Appropriations Subcommittee on Defense, a matter of great importance to our national security—our naval shipbuilding programs. As my colleagues are aware, both the House and Senate national Defense authorization bills for the current fiscal year contain provisions supporting continued production of the DDG-51 *Arleigh Burke*-class destroyers, the investment of research and development in a next generation destroyer or “DD(X)” program, and advanced procurement for the LPD 17 program. I am elated to see that the Senate version of the Defense Appropriations bill for FY2002 contain similar provisions, but troubled by the action that was taken in the house, particularly on the DD(X) program.

I appreciate the chairman and ranking Member’s support for these shipbuilding programs and would like to take a few minutes to discuss the vital need for them. All of these programs are critical to sustaining a strong forward deployed naval presence, while addressing the anti-access challenges faced by our men and women who continue to protect our nation’s assets, interests, and freedom.

Mr. INOUE. Mr. President, I join with the Senator from Maine in recognizing the critical need for us to acquire and modernize our naval fleet in order to strengthen our Navy and Marine Corps for the 21st century. The Senator from Maine has been a real advocate for the Navy’s shipbuilding programs and I look forward to this and future discussions on these very important issues.

Ms. COLLINS. I thank the distinguished Chairman and would like to begin with the DDG-51 *Arleigh Burke*-class destroyer, which has been the backbone of the Navy’s surface fleet. The Navy has indicated in its most recent study of the *Arleigh Burke* (DDG-51)-class destroyer industrial base, and in testimony before the Senate Armed Services Committee, that three DDG-51 destroyers per year is the most economical rate of procurement. Last year, the National Defense Authorization Act provided the authority to the Secretary of the Navy to enter into contracts to procure three vessels in each fiscal year 2002 and 2003. The FY2002 National Defense Authorization bill includes \$2.966 billion for the procurement of three *Arleigh Burke*-class destroyers.

This year, the Senate Armed Services Committee added report language agreeing with the Navy’s long standing assessment that the destroyer industrial base is at risk unless three destroyers are built each year, or unless the destroyer shipbuilders attain significant other work beyond their historic level. As such, the FY2002 national Defense authorization report reiterates that the Secretary of the Navy should include procurement of three *Arleigh Burke*-class destroyers in the FY2003 budget request. I strongly support the inclusion in the fiscal year 2003 defense budget of a third DDG-51, which would be built at Bath Iron Works in my home state. The integrity of our shipbuilding industrial base largely depends upon it. I would ask that chairman and ranking Member whether they agree with me on this important point.

Mr. STEVENS. I join my colleague in her expressed concern with the procurement rate of the DDG-51 program. I am particularly sensitive to recent reports that indicate the DDG-51 procurement rate is projected to drop below three ships per year after FY2002 for the first time in the program’s history. Such a rate could place this unique, specialized industrial base at risk to meet future naval requirements. It could, in fact, jeopardize ef-

forts to sustain an adequately sized surface force and maintain the continued affordability of the ships required for our future naval forces. And so I do support the inclusion of a third DDG-51, to be built by Bath Iron Works, in next year’s budget.

Mr. INOUE. Mr. President, my colleagues are correct in stating that the DDG-51 *Arleigh Burke*-class destroyers have played, and will continue to play, a critical role as a vital part of our naval fleet. The DDG-51 program is a mature and highly successful major acquisition program providing front-line state-of-the-art combatants for the fleet. At the same time, we need to make a smooth transition from the DDG-51 to a next generation destroyer. Our committee will continue to support the DDG-51 program and the transition to building a next generation destroyer.

Ms. COLLINS. The next generation destroyer, now the DD(X) program, is the Navy’s future and way ahead to transform our naval forces to meet the challenges of the 21st century. This program, which will emphasize a common hullform and technology development, will form the foundation of our future destroyer and cruiser production. The Navy will use the advanced technology and networking capabilities from the DD(X) in the development of additional ships in the DD(X) family of ships program. As Chief of Naval Operations testified before the Senate Armed Services Committee, earlier this year, the DD(X) program “is central to our [naval] transformation effort . . . and is another step toward the creation of a more integrated Navy/Marine Corps team.” It is therefore critical that the Senate’s FY2002 budget level for the DD(X) program be increased or at least retained in conference.

Mr. STEVENS. I could not agree more with my colleague that while there is some uncertainty surrounding the restructuring of the DD-21 program, a continued investment and commitment to a next generation destroyer needs to be sustained to transform the Navy and Marine Corps. While we are waiting for that program to develop, it makes sound defense, fiscal, and industrial base policy to sustain an annual three-ship DDG-51 procurement rate after FY2002, and most immediately, in FY2003, and I encourage the Navy to do so.

Ms. COLLINS. Mr. President, I also would like to briefly speak on the LPD-17 program, which is a critical ship for the modernization of the Navy’s amphibious force. Each of these ships can carry more than 700 Marines and their equipment to shore to perform their mission. The LPD-17 program is critical to replace four aging classes of ships and to significantly increase the operational capabilities of the Marine Corps.

Mr. STEVENS. I have always been a supporter of the LPD-17 program and the committee very much appreciates

the need for the lift capacity of this ship. In 2010, when the last LPD-17 class ship is scheduled to join the fleet, the amphibious force will consist of 36 ships or 12, three-ship Amphibious Ready Groups (ARGs), consisting of one LHA or LHD, one LPD and one LSD. I assure you that we are committed to seeing this program through production.

Ms. COLLINS. As always, I am impressed by the ranking member's knowledge and his grasp of the issues, and I appreciate that we are in agreement as to the value and need for this critical ship. I look forward to our continued work together in support of this and all of these shipbuilding programs.

Mr. INOUE. I thank the Senator from Maine for her continued commitment to our naval forces ensuring that we build enough ships to meet the Nation's defense needs. I recognize and am sensitive to the fact that the Navy needs to sustain an investment of \$10 to \$12 billion in the shipbuilding account to maintain a minimum shipbuilding rate of 8-10 ships per year before it will be able to fulfill all the required missions for our naval forces, and I will work with the Navy and my colleagues in the Senate to address this issue. I thank my colleague for her dedication to these issues and I look forward to continuing these types of discussions on the critical needs of our military forces.

Ms. COLLINS. Again, I thank the chairman and ranking member for their forthrightness, their knowledge and their determination to keep America strong. I also commend them for their continued dedication to our men and women in uniform and the efforts they have undertaken in this important appropriations bill to provide them with the compensation, tools and equipment they need to maintain America's pre-eminence in the world.

CRUSADER PROGRAM

Mr. NICKLES. Mr. President, I am concerned about the funding reductions to the Crusader program, and the impact that may have on the procurement of long lead items for the Crusader. The Crusader is an important new weapon system for the Army and we should not do anything that could delay this important program during this critical time that we are now in.

Mr. INOUE. I assure my friend from Oklahoma that we will do what we can in the conference to ensure adequate funding for the Crusader.

Mr. STEVENS. I know my friend from Oklahoma has been watching the Crusader program for some time and is keenly interested in its progress, as is the Army. I want to add my assurance to that of the chairman's that we will do all we can in conference to ensure the Crusader is not delayed by inadequate funding.

DEFENSE PERSONNEL RECORDS IMAGING SYSTEM

Mr. THOMPSON. Mr. President, will the ranking member yield briefly for the purpose of a colloquy?

Mr. STEVENS. I yield to the Senator from Tennessee for the purpose of a colloquy.

Mr. THOMPSON. Mr. President, I'd like to bring to the attention of the Senate an important information technology program. The Defense Personnel Records Imaging System (DPRIS) is the follow-on records management system needed to process, store, and distribute military personnel information.

Currently, DPRIS is not ready to move from the Concept Advanced Demonstration phase to the System Integration phase. In order for the program to complete developmental activities to mature the system to the point that it is ready for Low-Rate Initial Production, \$2 million is required for further demonstration/validation work.

Mr. President, the recent call up of thousands of National Guardsmen and Reservists to respond to the war on terrorism has further taxed an already overburdened personnel records management system. We need to get DPRIS completely through R&D, so we can make a smooth transition from the old system to the new.

I know the chairman and ranking member of the Defense Appropriations Subcommittee understand the importance of this program, and would hope that they would give this DPRIS funding every consideration during conference with the House. At a minimum, I hope the chairman and ranking member will encourage the Department of Defense to either reprogram funds for this purpose, or to request these funds in a supplemental appropriations request that is likely to come early next year.

Mr. STEVENS. Mr. President, the Senator from Tennessee raises an important issue in this IT program. We will do our best to work with the Senator on this matter during the conference with the House. We will also work with the Senator and the Department of Defense on this issue in the future.

Mr. THOMPSON. Mr. President, I thank the chairman and ranking member for their attention to this matter, and appreciate the challenges they face in crafting the Department of Defense spending bill.

SMART PAY CARD PROGRAM

Mr. BURNS. I rise to ask a point of clarification by the chairman and ranking member relating to a letter that Senator BAUCUS and I sent to the CBO regarding the use of the Smart Pay Card used by Department of Defense employees, the armed services, and contractors with the Department of Defense.

Mr. STEVENS. I yield, for the purpose of your question regarding the Smart Pay Card.

Mr. BURNS. I thank the Senator. At this point, I would ask unanimous consent that the November 15, 2001 letter from Senator BAUCUS and me to CBO Director, Dan Crippen, be printed in the CONGRESSIONAL RECORD.

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

U.S. SENATE,

Washington, DC, November 15, 2001.

Mr. DAN L. CRIPPEN, Director,
Congressional Budget Office, Ford House Office
Building, Washington, DC.

DEAR MR. CRIPPEN: In view of the increased federal expenditures generated as a result of the September 11 terrorist attacks, we believe that, more than ever, the federal government should explore new ways of managing federal outlays by adopting more efficient ways to control federal spending. In that regard, we are requesting CBO to score our proposal for improvements to the GSA SmartPay program, which we believe will provide to the GSA's management of the SmartPay program a positive material effect on the fiscal operations of current and future implementations of SmartPay programs. We would like your comments on the following proposal.

By way of background, the SmartPay program was established in 1998 to improve the speed of acquisition and reduce the cost of payments handling for many classes of purchases and acquisitions in the federal agencies, offices and departments. There are approximately 3.5 million active cards, accounting for approximately \$20 billion in annual purchases. The GSA estimates that the SmartPay card programs currently save the government approximately \$1.2 billion annually in administrative costs. While these numbers are impressive, recent congressional hearings convince us that there have also been tens of millions of dollars of rebate opportunities lost by the government due to card misuse, along with millions in additional savings that have not been realized in the program's implementation thus far.

THE PROPOSAL

There are four specific areas of proposed savings that we would like you to examine:

1. *Pricing Concession Management*: PCM is the measure of unit pricing reductions enjoyed by the government as a result of discount agreements with high-use vendors.

a. Roughly 200 retailers nationwide represent 65% of all Visa and MasterCard credit card purchases today. It is our belief that analysis of SmartPay use might show analogous concentrations, and would allow for targeted negotiations with key vendors who provide significant levels of products and services to the federal government.

b. There are currently few if any discounts being offered for SmartPay users that are directly tied to the SmartPay card as the purchase mechanism.

c. Based on the volume of SmartPay use today, we estimate that there is over \$50 million available in discounts from volume purchase agreements that could be negotiated if more detailed analysis were being routinely performed on government-wide purchases made with SmartPay products.

2. *Rebates Management*: RM is the aggressive tracking, invoicing, and collection of all applicable rebates that are negotiated with SmartPay issuers. RM improvements consist of collection all existing rebates and future rebates as well as ensuring that the Issuing Banks are correctly calculating the rebates.

3. *Loss and Abuse Reduction*: GSA rebates from SmartPay card issuers are net of chargeoffs within the program. Currently, these chargeoffs amount to more than \$55 million, and delinquency rates on T&E cards are between 7-14%.

a. GSA should enable the use of commercially proven strategies and technologies for reducing, minimizing, or eliminating the current unacceptable level of fraud or abuse losses on the card programs, such strategies

could save a significant portion of the \$55 million.

b. Using the best practices employed by card issuers, as well as those used by corporations for their own card programs, will provide benefits from both the Issuer and the User side of SmartPay programs.

4. *Increasing SmartPay Administrative Efficiencies*: Outsourcing portions of the management of the SmartPay program will allow for application of commercially proven expertise in some areas. It will also serve to expedite timely approval of card charges and increase risk review and validation. As a result, existing personnel will be able to spend less time on the activities required for approving, processing, monitoring, and validating all of the administrative functions associated with procurement, payment and audit processes.

a. *Automated Daily Approval and Control*: Using an outside vendor's system to automate many of the paper processes currently in many SmartPay program implementations would save significant time for SmartPay administrative personnel in the various departments and agencies that use the programs.

b. *Statement Reconciliation and Payment Approval*: Using an outside vendor to perform statement reconciliations, payment approval authorization, and exception reporting will lower fraud as well as the cycle time required to identify potential fraud or abuse issues.

For additional information on our proposal please contact Zak Andersen in Senator Baucus's office and Stan Ullman in Senator Burns's office.

We appreciate your active consideration of this matter, and we would welcome your office's analysis of this proposal before the next budget cycle begins early next year.

Sincerely,

MAX BAUCUS,
U.S. Senator.
CONRAD BURNS,
U.S. Senator.

Mr. BURNS. Before asking my first question, I want to provide a very brief context for my letter to CBO and the issues I will be raising. The subject of the letter is whether the federal government can save even more money than it has been saving with the use of the Smart Pay Card program. This matter was brought to the attention of Senator BAUCUS and myself by Michael B. Walker, a Montanan who has considerable experience in the credit industry. Mr. Walker, who is CEO of Payment Programs Management Corporation, believes that there is an opportunity for the federal government to save hundreds of millions of more dollars with its use of credit cards issued to federal employees. Senator BAUCUS and I wanted to get an independent confirmation of those savings from the CBO before encouraging Congress to adopt the refinement outlined in our letter. It is my understanding that CBO will score the various proposed improvements in our letter before the end of this year, but the scoring may not arrive in time to affect appropriations bills for the current fiscal year. Since the largest users of the card are the employees of DOD, I thought that it would be appropriate to raise this matter in connection with this bill. Assuming that CBO does respond with a scoring that the improvements sug-

gested in our letter will potentially save hundreds of millions of dollars, will the Senator from Alaska tell me whether he will work with the Department of Defense to encourage the consideration of any and all potential savings and benefits suggested in the letter send to CBO by Senator BAUCUS and myself?

Mr. STEVENS. I would be happy to work with the Senator.

Mr. BURNS. I thank the Senator. My next question is a follow up question. Assuming that the armed services are prepared to offer proposed improvements in the use of federal credit cards, would you encourage them to work with the General Services Administration, which is charged with the overall administration of the Smart Pay Card Program, to get these improvements adopted?

Mr. STEVENS. I would be happy to work with the Senator to ensure every opportunity to meet with the General Services Administration and discuss this important issue.

NETFIRES—FOGM

Mr. SHELBY. Mr. President, I applaud and share Senator INOUE's desire to strongly support the Army in its transformation to a lighter, more deployable, agile, lethal and survivable force, in order to meet the challenges we have today and certainly expect in the future. This transformation to an Objective Force is very ambitious in terms of new capabilities, and I think we should all recognize the significant technological risks associated with this endeavor.

Mr. INOUE. I thank the Senator for his support as a member of the subcommittee and for his work on this bill. Army transformation is ambitious, and, while we are all very supportive of the Army's efforts to transform, I know we are equally sensitive to the technology challenges facing the Army.

Mr. SHELBY. While the Objective Force and the Future Combat System are relatively new terms, many people may not be aware that Army scientists and engineers have been working on transformation technology since before the end of the cold war. For example, the Fiber Optic Guided Missile, FOGM, has been demonstrated with soldiers and has performed most of the objectives required for the artillery component of the Future Combat System known as NetFires. FOGM is inherently immune to radio-frequency jamming, a serious concern for NetFires. It does not require a not-yet-developed automatic target recognition capability like NetFires. It is soldier-proven technology already in service or in development in several other countries. It offers the potential for significant savings in time and money in getting to low rate initial production, compared with NetFires. I fully support work on leap-ahead technology programs like NetFires, but I believe we should take prudent steps to mitigate against high risk programs by con-

tinuing work on alternative capabilities.

Mr. INOUE. As we know well, all weapon development programs involve significant risk. The NetFires—FOGM example is instructive. We will continue to monitor the Future Combat System program as the required technologies mature, and the Senator can be sure we will continue to pay close attention to alternative capability programs.

Mr. SHELBY. I believe the off-the-shelf FOGM can provide an acceptable alternative to NetFires if circumstances require it. I know that with Senator INOUE's leadership, we will keep on top of these critical technology issues. I look forward to our continuing to work together as we face funding decisions about these important transformation programs.

PROJECT ALPHA

Mr. HARKIN. Mr. President, I wish to engage in a brief colloquy with the chairman of the subcommittee. We are all too aware of the terrible terrorist threats we face and of the difficulty in predicting and assessing these threats. I have been especially concerned about possible threats to the U.S. food supply and about our lack of protections and monitoring of our food.

Project Alpha is a proactive approach using advanced technologies, expert systems, and thinking "outside the box" in order to predict, assess, and analyze terrorist threats. I am proud that Iowa State University and the National Animal Disease Center in Ames, IA, would play a key role in this project. I hope the committee will open to the use of funds in this bill, and I ask for the chairman's support for implementation of Project Alpha and its National Decision Assessment Immersion Center, with emphasis on protecting the U.S. food supply.

Mr. INOUE. I am aware of the potential of Project Alpha and of the participation of the Maui High Performance Computing Center as another key partner. You can be sure I will give careful consideration to this project as we guide this bill through conference.

BIOINFORMATICS

Mrs. CLINTON. Mr. President, I wish to engage my colleague, the distinguished chair of the Defense Appropriations Subcommittee, in a colloquy.

Mr. INOUE. Mr. President, I will be glad to engage in a discussion with Senator CLINTON.

Mrs. CLINTON. Mr. President, I thank the senior Senator from Hawaii. I want to discuss the emerging field of Bioinformatics. Bioinformatics has become one of our most important emerging technologies. Bioinformatics is the use of high-powered computing techniques to analyze the data generated by the Human Genome Project. Massive computing power is needed in order to interpret this vast amount of data. The University at Buffalo is seeking to establish a Center of Excellence in Bioinformatics. The University at Buffalo is home to the Center for Computational Research, one of the top ten

supercomputing sites in the nation. The University at Buffalo would forge an academic and industrial partnership with renowned academic, medical, and research institutions, including Binghamton University. Will the Senator agree that Buffalo's blend of leading academic, research, industrial, and medical institutions make Buffalo an ideal location for a Center of Excellence in Bioinformatics?

Mr. INOUE. I agree with my colleague that Buffalo is an ideal location for a Center of Excellence in the important emerging field of bioinformatics.

Mrs. CLINTON. I thank my colleague. I am aware that funds are made available in both the House version of the Defense appropriations fiscal year 2002 bill and the bill the Senator has proposed. I ask that the Senator from Hawaii support as much funding for bioinformatics programs as possible, within the fiscal constraints we face, as the Defense spending bill completes conference.

Mr. INOUE. I assure the Senator we will do all we can.

HYBRID ELECTRIC VEHICLE TECHNOLOGIES

Mr. SCHUMER. Mr. President, it is my understanding that the fiscal year 2002 Defense appropriations bill contains funding for Hybrid Electric Vehicle, HEV, technologies. I am seeking the chairman's assistance to ensure that the funding in this bill for HEVs will also be dedicated to the work of applying currently developed and demonstrated HEV technology to a weapons system.

The U.S. Army High Mobility Artillery Rocket System, HIMARS, program has an HEV initiative that will put hybrid propulsion on the Family of Medium Tactical Vehicles, FMTV, platform. As the chairman well knows, the Army has identified Hybrid Electric Drive as the key technology for transformation. Hybrid electric propulsion provides greater fuel and logistics cost savings, increased survivability through silent mode operations, provides improved mobility, and supplies a new capability to the vehicle systems power management that currently does not exist within any Army weapons system. This initiative that I am referring to will jump-start the Army's effort to weaponize an HEV platform with the HIMARS program. The timing of these funds for this conversion effort of HIMARS to HEV is critical. Providing the funds now, in fiscal year 2002, would allow the hybrid drive initiative to dovetail with the current production planned for HIMARS. Missing the opportunity this year would require untimely changes to the HIMARS production line, and would be excessively more expensive for the U.S. Army conversion to the HEV platform.

This significant HEV series technology has already been accomplished under the Dual Use Science and Technology initiative by the National Automotive Command under TACOM contract. The contract converted the FMTV platform into series HEV tech-

nology. The contract should be continued for a timely series HIMARS HEV conversion. It is my understanding that the FY 2002 MRLS Product Improvement Program line contains \$20 million of which \$10 million should be programmed to begin the timely conversion of the hybrid series FMTV truck to a HIMARS series hybrid electric vehicle platform. I urge the Chairman to support this important transformation project.

Mr. INOUE. I agree with the senior Senator from New York that HEV technology is vital to the future success of the Army transformation and believe the Congress should support such technologies. This initiative of placing series HEV on a current successful weapon development program leverages the existing technologies and is the right course of action. I understand that this modification will support initiating the timely introduction of series HEV onto a HIMARS platform. I can assure the senior Senator from New York that this committee will review this issue during the conference. I understand that utilizing the existing contract and previous accomplished work may be the best means to leverage the taxpayers' investment, as well as to accelerate the HEV weaponization for Army transformation.

Mr. SCHUMER. I appreciate the leadership that Senator INOUE is taking on this issue in light of today's recognized need to accelerate the Army's transformation and reduction of logistic infrastructure and skyrocketing costs associated with supporting fuel requirements on today's battlefields.

Mr. INOUE. I will ensure that the committee will thoroughly review this issue during the conference of the Defense appropriations bill.

CRUSADER PROGRAM

Mr. INHOFE. Mr. President, I say to Senator STEVENS that I appreciate all his hard work on the Defense appropriations bill. I would like to discuss pending actions on the Crusader Program. Crusader is a critical transformation system, which is already a generation ahead of the existing Paladin system. When fielded, Crusader will have unparalleled rate of fire, range of fire and lethality unmatched by any system in the world. We must continue to fund this program in its entirety. To do this we must put \$80,972,000 into the Defense appropriations bill. Again, I thank the Senate and the committee for their hard work.

Mr. STEVENS. I agree with my colleague, Senator INHOFE, and I also feel that this program warrants full funding under the Defense appropriations bill. During conference we must restore the funding in its entirety.

Mr. NICKLES. I share the concerns of Senator INHOFE and I, too, believe that we need to fully fund the program. The Crusader is meeting performance tests; it is on schedule and on budget. We must address the funding requirements in conference.

Mr. INOUE. The Crusader Program is vital to Army transformation and should be fully funded to meet the needs of the Army.

Mr. INOUE. Mr. President, I say to Senators STEVENS, INOUE, and NICKLES that I appreciate their attention and continued support on this matter.

CONSOLIDATED INTERACTIVE VIRTUAL INFORMATION CENTER

Mr. HARKIN. Mr. President, I wish to engage in a brief colloquy with the chairman of the subcommittee. There is an important project in the Iowa National Guard to bring unique networking and secure storage capabilities to bear on distance learning and simulations, including real-time simulations at multiple sites. The Consolidated Interactive Virtual Information Center has taken on new immediacy since September 11 along with the National Guard as a whole. It has been used to train Guard members in protecting our airports and could play a critical role in homeland defense.

I am pleased that the Appropriations Committee has recommended this project for funding within National Guard distance learning accounts, but I wanted to clarify the intent. Is it your expectation that the CIVIC project will receive sufficient funding for a second year of development, and a level at least equal to last year's?

Mr. INOUE. I am happy to recognize the value of the CIVIC project. While there are other worthy distance learning programs, it is important that sufficient funds be made available to the CIVIC project for its continued development at a level at least as great as last year. In addition, as stated in the committee report, I hope this worthy project will be funded in next year's budget.

TRANSIT CAPITAL INVESTMENT GRANTS

Mr. SCHUMER. Mr. President, I rise to enter into a brief colloquy with the distinguished chairman of the Senate Appropriations Committee regarding a section which would provide \$100,000,000 in badly needed transit capital investment grants to those transit agencies that were most severely impacted by the terrorist attacks of September 11, 2001.

Mr. Chairman, it is my understanding that the Metropolitan Transportation Authority (MTA) of New York State and the Port Authority Trans-Hudson (PATH) commuter rail system as well as transit authorities in New Jersey would be eligible for the assistance provided under this provision as these agencies would have to be considered among the most severely impacted by the terrorist attacks of September 11, 2001.

Mr. BYRD. The Senator from New York is correct.

Mr. SCHUMER. It is also my understanding that the portion of this provision that precludes any transit agency that receives a direct Federal payment under any other section of this bill from receiving any of the \$100,000,000 in

capital investment grants is not intended to apply to the Metropolitan Transportation Authority, the Port Authority Trans-Hudson commuter rail system; or the transit authorities in New Jersey.

Mr. BYRD. The Senator from New York is correct. That provision is intended to address the Washington, D.C. Metro System, which receives a direct federal payment elsewhere in the bill.

Mr. SCHUMER. I thank the distinguished chairman of the Senate Appropriations Committee, the Senator from West Virginia, for his clarification on this point and for his leadership on this essential homeland security package. Mr. President, I yield the floor.

ANIMAL RESEARCH FACILITIES

Mr. HARKIN. Mr. President, after many visits over the years to the animal disease facilities at Ames, Iowa, I am all too aware of the very great need to modernize them, providing the security, safety, and capability to conduct necessary work that will both protect animal agriculture and human health as well. The Appropriations Committee concurred when it approved the amendment proposed by Senator BYRD that provided very necessary funds for those facilities those at Plum Island.

We do not know when a major emergency will be upon us for which these facilities could be crucial. Hopefully, we will have them built when that time comes. In order to maximize the likelihood that will be the case, I believe it is clear that the Secretary should do all that she can to accelerate the design and the construction of the Ames, Iowa facilities, and the design of facilities at Plum Island.

Clearly, to the extent that it is prudent, the authorities that are available should be used in the Federal Acquisition Regulations to accelerate the planning, design of the entire modernization plan, and the construction of those facilities for which funds are available. I also expect that the Department will provide appropriate support to maximize the speed of planning design and construction, moving to the construction phases as soon as possible for this important project. Certainly, the portion of the design for which construction funds are available should receive the highest priority.

Mr. KOHL. Mr. President, I fully concur with the remarks of the Senator from Iowa and the chairman of the Senate Agriculture Committee. The Department should move with the greatest dispatch to design and construct these biosecurity-3 facilities. It is important that we move forward quickly in order to enhance research in this critical area, and it is also important that research facilities of this nature be in compliance with very strict biosecurity standards. Every area of our nation would see very significant damage to animal agriculture if certain diseases manifest themselves. The Department should use the authorities it has to accelerate the design and construction of these important facilities.

CALIFORNIA ANTI-TERRORISM INFORMATION CENTER

Mrs. FEINSTEIN. Mr. President, I rise with my colleague from California and the chairman of the Appropriations Committee to address the dangerous gap that exists in the counterterrorism intelligence network in this country. Information pertaining to terrorist threats is not currently collected in a centralized place for review, analysis, and dissemination. Statewide counter terrorist data is therefore not accessible to every law enforcement agency that may need it. The collection, analysis, and accessibility of this information to law enforcement are critically important to protect the health and safety of citizens.

In late September, the California Governor and Attorney General signed a memorandum of understanding that established The California Anti Terrorism Information Center (CATIC) to address this critical problem. Every day, State and local law enforcement learn information that may be useful to Federal intelligence authorities or that may actually prevent terrorist events from taking place. Despite this obvious point, there is currently no reliable and secure system to ensure that this information flows back and forth among the right people in a rapid and organized manner.

The California Anti-Terrorism Information Center is designed to solve this problem by developing a sophisticated data system that includes trained intelligence specialist, extensive technology infrastructure, and strong safeguards to protect constitutionally guaranteed civil liberties.

This new system represents a crucial advance in counter-terrorism intelligence sharing and some federal agencies have already committed analysts to CATIC. Dozens of State and local personnel will also be detailed to the various investigative and analytic units of CATIC. I believe Federal resources are also a necessary component of this project if it is to achieve maximum effectiveness.

Mrs. BOXER. It has become increasingly clear that the coordination between Federal, State and local law enforcement is crucial if we are to keep our citizens safe. The California Governor and Attorney General have combined their efforts and devised a system to meet these critical needs. The California Anti-Terrorism Information Center will provide law enforcement agencies with valuable intelligence support, enhancing their efforts to combat the threat of terrorism. I join my colleague in urging the Department of Justice to fund the California Anti-Terrorism Information Center.

Mr. BYRD. I understand the concerns raised by the Senators from California. I urge the Department of Justice and other national security agencies to give due consideration to projects such as the California Anti-Terrorism Information Center that ensure a reliable

system of intelligence sharing between local, State, and Federal law enforcement agencies.

REVERSE COMMUTE PILOT PROJECT

Mr. LEVIN. I would like to engage in a colloquy with my colleague, the distinguished chairman of the Appropriations Committee, regarding a border security need along our northern border. First, let me commend the chairman for recognizing the many areas of our homeland defense that are in need of funding and for providing that funding in this economic stimulus package. I am especially encouraged to see a large border security initiative that will finally address the lack of resources given to the northern border in the past to ensure the safety and integrity of our northern border without negatively impacting the free flow of commerce.

While much has been done over the last decade to improve security on our border with Mexico, the northern border has largely been ignored. For example, only 1,773 Customs Service personnel are present at our border with Canada, while 8,300 protect our southern border. Similarly, while 8,000 Border Patrol agents monitor our 2,000 mile southern border, only 300 are stationed at our 4,000 mile northern border. This policy of neglect must be corrected without delay and I think the additional funding you are recommending will do that.

One of the vulnerabilities which has come to light regarding our international bridges and tunnels on our border with Canada is that potentially dangerous vehicles are inspected only after they have crossed into our country. With the increased security risks faced by our Nation in the post-September 11 climate, it seems obvious that inspecting vehicles for dangerous materials such as bombs or explosives after they enter our tunnels or cross our bridges is ineffective, at best.

To rectify this homeland security vulnerability, we must work with our neighbors to establish a reverse inspection program that would inspect vehicles before they have entered into our country. This would reduce the possibility that important transportation infrastructure could be endangered or destroyed.

One way to move this process forward would be to establish a pilot program on reverse inspection. Customs could work in consultation and partnership with the Canadian Customs Service and identify any hurdles and the details that would need to be worked out. One logical place to start would be in Southeast Michigan where 50 percent of the U.S.-Canada trade traverses the border, and where we have the Ambassador Bridge and Detroit Windsor Tunnel, two of the busiest border crossings.

I would like to inquire of Chairman BYRD if he would agree that this is something the Customs Service should take a hard look at?

Mr. BYRD. I see no reason why the U.S. Customs Service should not look

at the issue of reverse inspection and I would support their doing so.

Mr. THURMOND. Mr. President, I would like to take this opportunity to first offer my thanks to the servicemen and women serving our Nation in the War on Terror. Their courage, sacrifice, and professionalism assures us of victory over our terrorist enemies, and is a testament to America.

As the first stage of this war ends, a number of promising developments have taken place. In Afghanistan many of our enemies have been routed. In Germany, Afghan political leaders have taken great steps to secure peace and stability for the future of their nation. As we ask the Afghan people to turn towards peace and democracy, it is our duty to help them. Otherwise we risk facing another similar crisis in the future.

Tackling the job ahead in Afghanistan will require men and women of the highest caliber. They must be equal parts warrior and statesman. For it is these men and women who will help secure peace for this troubled land and build the foundation for the future of democracy in Afghanistan. I speak of course of the soldiers and Marines of the Civil Affairs community.

As a former Civil Affairs commander, and Deputy Chief of the Office of Civil Affairs, I know first hand what a contribution these fine warriors can make. They have made a positive impact on nearly every continent of the globe. In fact, during the last five years alone, over 4,600 Civil Affairs personnel have utilized their expertise in securing the peace and rebuilding the Balkans.

Civil Affairs soldiers are warriors of the finest sort. They train to fight and work for peace. Civil Affairs soldiers are experts in humanitarian operations and institution building. Consequently, I can think of no time when the role of Civil Affairs would be more crucial than it will be in Afghanistan.

I would like to take this opportunity to call upon the Department of Defense to take advantage of the unique skills that these men and women possess. Furthermore, we owe it to these men and women to equip them as we do our finest soldiers and Marines in accordance with the gravity of their mission. If we do this I have no doubt that these soldiers will succeed in any mission that comes their way.

Mr. HATCH. Mr. President, I rise in support of the Defense appropriations bill.

I believe this bill provides the right balance of funding for the Department of Defense given the administration's efforts to reorganize and realign the missions and architecture of this pillar of our freedom. I am particularly heartened that President Bush and Secretary Rumsfeld are working hard to revitalize the Department. I am totally in support of their efforts and feel it is important that the administration be allowed to determine the new force structure in light of our rapidly developing military posture at home and overseas.

While we can not fix 10 years of neglect overnight, this bill does many things to help the Defense Department and the men and women who serve so proudly. In particular, I am very pleased that this appropriations bill fully funds an average 5 percent military pay raise. It also provides additional pay raises for military personnel in middle level ranks, thus helping the Department to retain these valuable personnel. Again, this bill addresses the needs of the soldiers, sailors, airmen, and marines by reducing out of pocket costs for housing from 15 percent in 2001 to 11.3 percent in 2002. I am also glad that we are trying to make our troops lives more stable by asking the Department of Defense to develop a plan that reduces the number of permanent change of station moves for the military.

This year's defense starts us on the right road to fixing the military's readiness, training, and depot support programs. It provides almost \$10 billion increase over fiscal year 2001 funding levels for these critical programs. It also fully funds the Army Transformation initiatives which I support wholeheartedly. Additionally, this bill enhances critical defense health programs such as breast and prostate cancer research and adequately funds TRICARE for life.

The fiscal year 2002 Defense bill has made a significant contribution to this Nation's intelligence-gathering capability by funding the Senior Scout Program which I have long supported. I also pleased that the President's request for missile defense is supported in this bill. We cannot ignore the threat that our Nation faces from enemies who each year grow more and more capable of reaching our Nation with nuclear missiles.

However, I am very disappointed about the funding reduction of \$50 million for the D-5 Life Extension Program. This reduction means that some of our submarines will carry outdated and possibly dangerous trident missile systems.

In closing, I would like to recognize the exceptional efforts of U.S. Air Force Major James R. Byrne, who has served me as a legislative fellow for the past year. Jim's command of the legislative process and his ability to research complex legal questions have been exceptional. I want to recognize particularly Jim's outstanding counsel on homeland defense issues including security preparation for the Olympics.

Major Jim Byrne is a true patriot, an officer, and a gentleman. I want to thank him for his dedication and hard work, and to wish him well on his new assignment as he departs the Senate for Germany. The staff and I will miss him. I have every confidence, however, that he will continue to serve our Nation with distinction.

Mr. WELLSTONE. Mr. President, I rise today to support the 2002 appropriations bill, particularly some key provisions that will help ease the fi-

nancial burdens of our men and women in the National Guard and support those on the front lines in the fight against terrorism.

The 2002 DOD appropriations bill provides \$317 billion to our Armed Forces. I think it is especially important that the bill provides a 5 percent across the board pay raise and targeted raises for skilled positions in the Armed Forces. I believe we must provide the best possible training, equipment, and preparation for our military forces, so they can effectively carry out whatever peacekeeping, humanitarian, war-fighting, or other missions they are given. For many years running, those in our armed forces have been suffering from a declining quality of life, despite rising Pentagon budgets. The pressing needs of our dedicated men and women in uniform, and those of their families, must be addressed, especially as they continue to be mobilized for duty in response to the attacks of September 11th. It is because of this that I want to take a second to discuss a very important provision for our armed forces included in this bill.

This bill includes a provision expanding the protections of the Soldiers' and Sailors' Civil Relief Act to National Guard personnel protecting our Nation's airports and other vulnerable public facilities. This act suspends certain civil obligations to enable service members to devote full attention to duty. It protects our Armed Forces from foreclosures, evictions, and installment contracts; reinstates any health insurance that may have been terminated during the time of service, protects against cancellation of life insurance, and limits interest on debt to 6 percent.

It is my belief that the SSCRA was never meant to purposely exclude Guard called up by the Governor at the request of the President—as the case of the Guard mobilized today. Passing this bill will provide the men and women of the National Guard some financial security, and more importantly, a little peace of mind.

Although I support this bill, I am against its provision of \$8.3 billion for missile defense. I oppose the plan to deploy a national missile defense shield for many reasons. The crucial question is whether a missile shield will make the United States more or less secure. After studying the matter carefully, I have concluded that deploying a missile shield is likely to make us less secure, and that we would be better off using these funds to finance key antiterrorism initiatives.

The new funding language in the bill allows the President to choose between missile defense research and development and combating terrorism. I believe that fighting terrorism should take priority over missile defense, and should receive most or all of the new funding. I am hopeful that the President will choose that option. I would also like to take a moment to talk about the importance of the money included in this bill to improve our

homeland security. We have some absolutely urgent national security needs here at home and I thank my colleague from West Virginia for his leadership on this homeland security appropriation. Although I had hoped we could have provided more money for the important programs in this package, and believe we must re-visit this issue again, I am grateful for what was worked out and am hopeful that we will be able to pass this bill quickly and get the funding in the communities where it belongs.

We need to beef up our ability to anticipate future acts of terrorism. We need to better insure the safety of our borders. We need to ensure the safety of our transportation system and our energy facilities. And we need to make sure that first responders to any future acts of terrorism have the resources and training they need to fully, adequately, and safely respond.

I won't go too much into the details of the homeland security appropriation but I would like to mention a few provisions. This appropriation has funding for: Health and Human Services for lab security, disaster response, smallpox and anthrax vaccines; Department of Agriculture and FDA to hire food inspectors, improve lab security and expand lab facilities; aid state and local law enforcement agencies; FEMA firefighting grants; border security including funds for INS and Customs on the northern border.

This homeland security appropriation has money allocated for state and local law enforcement to prevent and respond to terrorist attacks. This is money that can be used for programs such as a local homeland defense emergency reserve fund. Since September 11, support for local public service and servants has never been more important. This type of fund would support local communities whose resources have been exhausted by our current national emergency posture. Specifically, this money could be used to create an emergency fund for counties and local entities to dip into when their local resources have been exhausted by extreme and unforeseen circumstances. In Minnesota, for example, county sheriffs provide additional security for nuclear power plants, water treatment facilities, refineries, chemical and other facilities vulnerable to terrorist targets; but additional security costs were never factored into local budgets. The extra costs of new hiring and staff overtime have already taken their toll on Minnesota communities' local budgets and other unexpected costs are sure to arise in the future. This type of fund would provide much needed relief and adequate economic security to our overtaxed communities.

The homeland security appropriation also has money for a FEMA Firefighters Grant Program. The FEMA Firefighters Grant Program provides grants to state and local communities to expand and improve firefighting programs. Over 50 percent of funding goes

to volunteer fire departments in rural communities. In recent weeks, I have had the opportunity to meet with fire department officials and first responders throughout the State of Minnesota. The one request that they have all made to me is for additional support for training and equipment. We have learned since the events of September 11 what a crucial role our fire departments play in all of our communities. The FEMA Fire Grant program is an efficient vehicle to get funding out to these departments to provide increased training and to purchase new equipment. Given that the issues local fire departments now confront are national in nature, it is reasonable that the federal government provide these additional resources for training and new equipment.

The bill in front of us now also has money to enhance our border security, particularly our northern border with Canada. Specifically, the money will be used to increase the number of INS border patrol agents and INS facilities, to create a data base for monitoring foreign student visas, to increase Customs Service border patrol agents and facilities, and for GSA facilities.

In Minnesota, the agencies protecting our borders—even in normal times—are understaffed. Given Sept. 11, the situation is now urgent. Border patrol, INS and the Customs Service simply do not have the capacity to do regular inspections as people come across the border and then to follow-up after they enter the country. Some borders are only open part-time in the summer—such as the border at Crane Lake. Borders such as these are basically wide-open. Some are even staffed via telephone and video. For example, a person wanting to cross into the United States from Canada simply arrives and calls the Border Patrol to announce “we are here.” Many border crossings do not even have a facility and the checks are conducted outdoors. International Falls is one place that although open full time, conducts much of its business outdoors.

When I first heard about the security situation on our northern border I was absolutely amazed. The situation there demands immediate attention and even now I question if we are providing enough. The anti-terrorism legislation we passed earlier authorized money to triple the number of security agents on our northern border, the money is appropriated today will not make that a reality. But it is a good start.

This homeland security appropriation also contains money that is essential for fighting bioterrorism. We need to improve our State and local public health capacity. There is widespread agreement that the public health system has been underfunded for years. We need more laboratories, more epidemiologist, more equipment. This appropriations bill provides money to do that. Many local public health departments don't have e-mail capacity. Many don't even have fax capacity. In

the event of bioterrorism, good communication is an absolute necessity. This appropriations bill helps make sure that communication can take place.

The recent antrax attacks have shown us that early detection and treatment saves lives. We learned that hospitals need help to be able to recognize the pathogens that may be used in a bioterrorist attack. This appropriations bill provides that help. We learned that bioterrorism can have a powerful effect on the workplace. I have been advocating that we work on identifying the best ways to maintain the safety of our workers in the event of bioterrorism. I am pleased that this bill provides money for training and education regarding effective workplace responses to bioterrorism. We learned how important the CDC is for the security of all of us. This bill makes sure that they have the money they need to do their job to protect us. This bill provides funds to make sure there are adequate supplies of vaccines, antibiotics and other medicines necessary to protect all of us. These are not optional programs. They are an essential part of protecting the public health.

We have got to do a better job of addressing the needs of our most important assets in the fight against terrorism: our law enforcement, firefighters, health care providers, and other first responders. We have a long way to go but we have taken an important first step today with this appropriations bill.

Ms. LANDRIEU. Mr. President, on this day in 1941, our Nation was “suddenly” and “deliberately” attacked by an enemy who sought to conquer our homeland and destroy our way of life. Today marks the 60th anniversary of the Japanese attack on Pearl Harbor, a day which saw 2,388 Americans perish and 1,178 wounded. Many thought that American shores would never again be breached by enemies, but that most tragic day in September visited sadness on our Nation again.

I would have liked to have been in the city of New Orleans today, as the National D-Day Museum opens up a new wing dedicated to the war in the Pacific. The D-Day museum is a fitting tribute to all of those who stormed the shores of foreign nations to ensure that future generations, would enjoy the fruits of liberty and democracy. The sneak attack on American Naval and Air Forces in Hawaii marked the end of a distinct period in American history, and the beginning of another. In the years that followed that fateful day, America help up the mantle of Liberty for all civilized and freedom loving people and she still does today.

I ask my colleagues to join me in supporting the Senate amendment, which pays tribute to all the soldiers, sailors, airmen, and marines who gave the ultimate sacrifice to the Nation 60 years ago today at Pearl Harbor. It also pays tribute to the American spirit that triumphed over enemies in two

theaters of the world in the most horrible war man had ever known. This amendment will also commemorate the opening of an institute dedicated to commemorating the unique and powerful spirit of America at the National D-Day Museum in New Orleans.

Victory in the Second World War by the United States and her allies will probably be known as one of the greatest achievements in all of history. The ultimate victory over enemies in the Pacific and in Europe is a testament to the uncommon valor of American soldiers, sailors, airmen, and marines. The years 1941–1945 also witnessed an unprecedented mobilization of domestic industry which in large measure contributed to our safety at home and supplied our fighting men on two distant fronts. As the generation that faced this challenge takes its final lap, it is important that we take the time this day and every day to honor them for the many sacrifices they made. These men and women can always be remembered in the promising words of President Franklin D. Roosevelt when he proclaimed in a 1942 fireside chat: “We are going to win the war, and we are going to win the peace that follows.” It was the gallantry of American troops abroad and the tireless devotion of workers at home that made these words come true.

Though our Nation has seen war many times, the strength of American democracy has ensured that war is an aberration and not the norm in our society. The conflict we now face will put great strains upon our Nation and will ask of us to sacrifice in unprecedented ways. In times of peace, it is the natural order that children live to bury their parents. War violates this National order. War causes parents to bury those children who have been cut down in their prime by the arrows of conflict and discord. War makes young men and women widowers and widows long before the proper time, and deprives our youth of parents to teach them the wonders of life. This conflict has already deprived our nation of so many brave men and women, and many more will perish before it is concluded.

Indeed, the valorous acts of veterans are normally remembered in bronze and stone on battlefields both at home and abroad. American orators have been inspired by their deeds to utter words of uncommon elegance. Today in this Chamber and in many places across the Nation, the events of Pearl Harbor will be remembered. But the greatest honor we can give to our veterans is the unwritten memorial of memory, etched not on stone but in the hearts of all who survive and gladly toil on liberty's behalf.

Mr. REED. Mr. President, I rise to express my support for the fiscal year 2002 Defense appropriations bill. I believe this bill reflects the difficult times we face, both in the bill's priorities and in the spirit of bipartisanship in which it was crafted. I want to commend the Chairman and Ranking Mem-

ber of the Defense Appropriations Subcommittee for their patience and hard work.

I believe this bill provides funding for the urgent needs of military personnel who are risking their lives every day in this war against terrorism. It provides for a 5 percent increase in basic pay for all service members and a targeted pay raise for midgrade officers and E-4 to E-9 enlisted personnel. It increases readiness accounts by \$9.6 billion to aid our soldiers and sailors carrying out Operation Enduring Freedom and Operation Noble Eagle. In addition, while taking care of immediate needs, this bill also considers the future, and provides funding for the services' transformation.

One major transformation effort funded by this bill is the Navy's SSGN program. The President's budget request included a proposal to begin converting two of the four Trident submarines that would otherwise be retired under the Defense Department's plan to reduce the Trident ballistic missile submarine force from the current level of eighteen boats to a new level of fourteen boats. This bill adds \$193 million to accelerate the program and preserve the option for converting all four boats.

These converted submarines will provide the Navy with next generation technology. In one scenario, the SSGN can be configured to carry as many as 154 tomahawk missiles, more missiles in one vessel than are now carried in an entire carrier battlegroup and almost as many tomahawks used in Operation Allied Force. During operations against Iraq and in Kosovo, several submarines and surface ships were dedicated solely for missile strikes. With the SSGN, one vessel would be dedicated for strike operations and the remaining platforms would be freed up for other missions. In addition, this strike capacity would remain hidden so it would retain the element of surprise and be relatively invulnerable to attack.

These converted submarines could also be configured to carry up to 66 special operations forces along with two advanced seal delivery systems or two drydock shelters. The ability to insert such a large number of special operations forces from a position of stealth would give the navy an unmatched capability to conduct covert operations or prepare for a larger landing force.

Operations in Afghanistan are revealing on a daily basis the need for the invaluable tools that the SSGN can provide. I am pleased that this bill is providing this funding.

Now, I would like to address an area of the bill where I have concerns. The recent events in Afghanistan and the reported attempts by Osama bin Laden to obtain chemical and biological weapons, and nuclear weapons materials and technology, including plutonium and highly enriched uranium, have increased the importance of the Nunn-Lugar programs at the Depart-

ment of Defense and the related programs at the Department of Energy. These programs account for, secure and destroy weapons of mass destruction and supporting materials in Russia and the states of the former Soviet Union. I believe there is general consensus that these programs should not only be accelerated but that they should also be expanded.

As a result, I was surprised and disappointed when I saw that the Nunn-Lugar Cooperative Threat Reduction program at the Department of Defense was cut in the Defense appropriations bill by \$46 million. This cut is particularly troublesome because the fiscal year 2002 budget request for this program had already been reduced by \$49 million by the administration. With this additional cut to Nunn-Lugar Cooperative Threat Reduction program the program is \$85 million below the fiscal year 2001 funding level. This is a 19 percent reduction in this important program, a program which after September 11, is even more important.

I want to note that the additional supplemental funding that has been proposed would increase the funding for the companion programs at the Department of Energy, which I fully support, but there is no additional money for the Nunn-Lugar Cooperative Threat Reduction Programs at the Department of Defense in the proposed supplemental funding.

I hope the funds for the Nunn-Lugar programs can be restored at least to the budget request level of \$403 million before deliberations on this bill are concluded.

I would also like to take a few minutes to discuss the funding for ballistic missile defense. Before September 11, ballistic missile defense was the administration's top priority. Today, despite weeks of evidence of other pressing needs and vulnerabilities that must be addressed, ballistic missile defense seems to still be the administration's top national security priority.

In its July budget submission, the administration requested a staggering \$8.3 billion for ballistic missile defense, a 57 percent increase from last year's funding level. The consensus of the Democratic members of the Senate Appropriations Committee was that of the \$8.3 billion proposed for missile defense, \$1.3 billion was ill-considered, and could best be spent elsewhere, for example on counter-terrorism programs. This is consistent with the report of the Senate Armed Services Committee, which also recommended a \$1.3 billion reduction for missile defense.

I find it interesting that today many of my colleagues opposed the homeland security provisions in this bill, stating there it was unwise to allocate additional funds despite the obvious needs. Yet, there is still support for a 57 percent increase in the ballistic missile defense accounts when the program addresses a remote threat and is in some respects overfunded.

Even if we had a working missile defense system, such a system could not have defended us from the attacks on the World Trade Center, nor the anthrax attacks, nor any of the other potential threats we face from worldwide terrorist networks.

The fact is that terrorist networks do not have ballistic missiles, let alone missiles capable of reaching the United States. A ballistic missile leaves an easily detectable "return address" against which the United States could immediately and devastatingly retaliate. Such a weapon is not appropriate for terrorists who operate in shadows and in caves, eluding and evading detection. Furthermore, what nation would allow a terrorist organization to launch a ballistic missile from its soil, knowing that it would mean certain destruction for that Nation?

Taking into account recent events, this appropriation bill places ballistic missile defense into a larger context and takes \$1.3 billion of the \$8.3 billion budgeted for missile defense and allocates it for missile defense and/or counterterrorism programs, whichever the President decides is in the best interest of national security. This provision is consistent with the fiscal year 2002 National Defense Authorization bill previously passed by the Senate.

Given the seriousness of the terrorist attacks on our country, and the continuing alerts of possible additional terrorist attacks, I urge President Bush to spend that \$1.3 billion on counterterrorism programs. In the months following September 11, the nation has come to recognize just how vulnerable we are to the scourge of terrorism, and now many resources are needed to bolster our security. By contrast, if President Bush chooses to spend the \$1.3 billion on missile defense, he will not be addressing the most likely and imminent threats we face, and he will not be furthering the cause of missile defense, either. That is because the \$1.3 billion reduction approved by the Appropriations Committee is for activities that are ill-considered and poorly justified.

Four simple principles ought to apply to missile defense programs, or any other development program for that matter.

First, avoid deploying equipment that has not been thoroughly tested. We should know the equipment works prior to giving it to our soldiers.

Second, do not fund activities that cannot be executed. This simply wastes scarce resources.

Third, avoid excessive funding for non-specific activities without a firm justification or plan of how to spend the funding.

And finally, avoid undue program growth rates—programs that have been moving along well should not be drastically accelerated without justification.

The administration proposed spending over \$200 million to procure 10 untested missiles and an untested radar

for the THAAD theater missile defense system. The administration also proposed spending another \$100 million to buy untested missiles for the Navy Theater-Wide system. These missiles would, if funded, permit the administration to claim "contingency deployments" for these systems by 2004, long before the systems are fully developed, tested and demonstrated to work effectively.

Deploying systems that are not fully developed and tested is not the best way to get an effective missile defense capability for our nation, nor is it a wise way to spend our defense dollars. To do this would be to invite what retired Air Force Chief of Staff General Larry Welch called a "rush to failure," which we have previously experienced in missile defense programs, most notably in the THAAD program a few short years ago. We should not head down that road again. It leads to delays, cost overruns and program failure.

The administration's desire for "contingency deployments" is particularly puzzling since the administration itself has spoken out on the risks of such deployments. Lieutenant General Ronald Kadish, the Director of the Ballistic Missile Defense Organization, stated in his testimony to the Senate Armed Services Committee that "emergency deployments are disruptive and can set back normal development programs by years." Deputy Secretary of Defense Paul Wolfowitz provided similar testimony to the committee.

The funding reductions for missile defense recommended by Senate Appropriations Committee would eliminate funding for "contingency deployments" of untested systems, freeing the funding for the fight against terrorism. I hope President Bush chooses to provide these funds for counterterrorism rather than for "contingency deployments" of unproven missile defense systems.

Hundreds of millions more dollars were in the administration's request to accelerate missile defense programs that are not yet fully designed, and for testing of programs that haven't even been fully conceived. For example, the budget request included \$50 million for development and testing of a sea-based boost program. However, the design of a sea-based boost system does not yet exist, and it is unreasonable to request funding to test a nonexistent system. The Appropriations Committee substantially reduced funding for this activity, to a level more appropriate to a program still in its conceptual stage. I strongly support this reduction.

The administration unduly accelerated a number of programs that are not ready for acceleration, thereby putting hundreds of millions of dollars at risk of being wasted on programs that will have to be reworked later. A prime example of this is the SBIRS-Low program, a very complex program of satellites intended to track missile targets by detecting the heat they emit

while in space. Not only is this a very challenging mission, but the program has undergone substantial cost growth recently—the current cost estimate for the program now stands at over \$20 billion. A few years ago the cost of three SBIRS-Low prototype satellites grew so high that the prototypes were canceled outright.

Substantial cost growth is indicative of programmatic problems which should be resolved before spending more on the program. Options to the current plan should be considered and weighed. Yet the administration has proposed over \$380 million for SBIRS-Low in 2002, a 60 percent increase over last year's funding level. Such a huge funding increase is not appropriate. The Appropriations Committee recommended a reduction of \$120 million for SBIRS-Low, and I think this reduction is very wise.

The Senate Appropriations Committee has given the President of the United States a very important choice to make. Following the lead of the Senate Armed Services Committee, the Appropriations Committee has recommended \$1.3 billion of funding reductions for missile defense. These reductions are not based on ideology or partisanship. They are based on an objective technical assessment of each missile defense program, and are consistent with the four principles I outlined earlier.

Even with these reductions, the administration would still receive \$7.0 billion for missile defense, 40 percent more funding than last year. By comparison, the Department of Defense only proposed \$650 million for research in chemical and biological defense, a mere 16 percent more than last year.

The President can choose to spend the \$1.3 billion the Senate Appropriations Committee has offered him on the real threats the nation is facing today—on combating terrorism. Or he can choose instead to spend that money on unwise, ill-justified ballistic missile defense programs that will not increase our Nation's security. I urge him to choose counterterrorism.

This bill was drafted in trying times. It had to be immensely difficult to discern which of the innumerable pressing needs should receive scarce resources. I believe this appropriations bill strikes the proper balance and will provide our fighting men and women with what they need for victory. I urge my colleagues to support this bill.

Mr. DAYTON. Mr. President, displaced workers in Minnesota and throughout America need assistance now. The Nation's unemployment rate took another big leap upward in November, to 5.7 percent, the highest level in 6 years. An additional 331,000 Americans lost their jobs last month.

For these families, there is no time to waste. As many of us worry about what to buy our loved ones for the holidays, unemployed workers are worrying about how to provide for their families. Unemployment benefits are

running out and savings are being depleted. Laid-off workers are left worrying about how they will pay for the basic necessities of life; housing, clothing, food, and health insurance for their families.

In Minnesota, the Department of Economic Security reported the number of applications for unemployment benefits increased nearly 24 percent this November compared to November of last year. Today there are 55,000 workers receiving unemployment assistance in Minnesota, with an additional 55,000 unemployed who receive no unemployment assistance.

As the State of Minnesota faces a budget deficit of almost \$2 billion, the problem is only getting worse. Today, Minneapolis-based Sun Country Airlines announced that it will immediately lay off 900 employees. This underscores the immediate need for Congress to help America's financially pressed unemployed now.

We must extend unemployment insurance for laid-off workers, putting money into the hands of dislocated workers and their families. These are the people most likely to immediately spend any additional funds they receive. This spending on necessary goods and services will not only help these families make it through tough times, they will help spur our economy. Workers need assistance now.

Mr. KENNEDY. Mr. President, I commend my colleagues, Senator BYRD, Senator STEVENS, and Senator INOUE, for their leadership on this important proposal. In particular, their proposal provides the resources that are urgently needed to begin to address the challenge of bioterrorism.

Our public health and medical professionals at the State and local levels will be on the joint lines in any bioterrorist attack. The legislation that Senator FRIST and I introduced recognizes the importance of strengthening preparedness at the State and local levels. The Byrd-Stevens-Inouye proposal provides over \$1 billion to begin to prepare our health defenses against bioterrorism.

The proposal provides the resources needed to enhance the ability of CDC to respond effectively to bioterrorism. By investing \$165 million in new laboratories at CDC, the proposal will allow the disease detectives at CDC to identify dangerous pathogens accurately and rapidly.

The proposal will expand stockpiles of pharmaceuticals and medical supplies that will be needed to protect Americans in a bioterrorist attack. It will allow work to begin immediately on production of new smallpox vaccine.

The bipartisan proposal will enhance the safety of the food supply by providing the resources needed to train more food inspectors and conduct research on biological threats against American agriculture.

The Byrd-Stevens-Inouye proposal takes the first important steps in preparing the nation for bioterrorism. We

should support this proposal and do all we can to see that our national investment in bioterrorism preparedness is sustained in the years to come.

Mr. DASCHLE. Mr. President, I thank Senator BYRD for his extraordinary leadership in putting together a plan that addresses America's most urgent homeland defense needs. I also thank him for his tremendous eloquence, which has helped all of us, and all of America, understand the critical importance of strengthening our homeland security.

I also thank Senator INOUE and Senator STEVENS for their persistence in making sure we didn't leave here before we acted to protect Americans at home and abroad. Thanks to our colleagues, Senators SCHUMER and CLINTON, for making sure this agreement helps keep commitment we made to stand with the people of New York as they recover from September 11. And, as always, I thank my friend, the assistant majority leader. Once again, HARRY REID's patience and his mastery of politics, policy, and process have enabled us to find a principled, bipartisan compromise.

Sixty years ago, America was attacked at Pearl Harbor. After Pearl Harbor, Americans instantly and instinctively came together to protect our nation. Together, we defeated a mighty enemy. Nearly 3 months ago, America was again attacked on our soil by a foreign enemy. It was the first time since Pearl Harbor.

Now we must decide. Will we do what that earlier generation did? Are we willing, in this Congress, to put aside our party's agendas, and perhaps our personal agendas, and do what it takes to protect our Nation.

It had seemed that the answer to that question was clear. After September 11, Congress and the President worked together to respond quickly to the terrorist attacks and the ongoing threat. We expressed our strong support for the President's leadership in the war on terrorism, and authorized the use of force in the war. We worked together to keep the airlines flying, and to make America's airports safer. We made a commitment to the Pentagon, and to the people of New York and Pennsylvania, that we would help them rebuild and recover from the horrific attacks of September 11. We did all of those things with strong, bipartisan agreement. We had hoped that support for strengthening America's homeland security would be just as broad.

Clearly, the need is just as urgent. Yesterday, we learned that the President is preparing his own homeland security package that he intends to send Congress next year. The President's plan reportedly will cost \$20 billion—nearly three times what is our plan. We also know that, after Congress authorized \$20 billion to strengthen homeland security and help communities recover from the terrorist attacks, the President's own agencies submitted to the

White House requests totaling more than \$200 billion for homeland security alone. The President's own Cabinet members identified \$200 billion in domestic security needs they said urgently needed to be addressed to prevent future terrorist attacks.

So we all understand that the need is great, and urgent. We also understand, on our side, that the Senate can only act when there is broad support. So, we will support this bipartisan agreement. The amount is different than our plan, but the priorities are the same.

We said there must be more money to fight bioterrorism. This agreement includes more money for bioterrorism. We said there has to be more money to prevent terrorists from acquiring nuclear weapons or the materials to build them. This agreement includes more money to do just that. We said we must keep our word to New York. This package does that. It doesn't meet all of America's homeland security needs. It doesn't even meet all of our most urgent homeland security needs. But it is better than the inadequate proposal we started out with. It is a downpayment on a stronger, more secure America. In that regard, it is at least a partial victory for the American people. For that reason, I intend to support it, and I hope my colleagues will as well.

When this debate began, Democrats proposed a \$20 billion homeland security package as part of a larger economic recovery plan. We believe strongly that that was the right thing to do. After all, if we want people to get back on planes, and go on with their business and their lives, they need to know they are safe. But our Republican colleagues refused to even talk about homeland security as long as it was part of an economic recovery plan. So we agreed to take homeland security out of our economic plan. Then, the other side said \$20 billion is too much for homeland security. So we cut \$5 billion from our proposal. They said even that was too much. So we cut our proposal in half—to \$7.5 billion.

Again and again, we have made principled compromises in an effort to reach a bipartisan solution. Now we are accepting even further reductions in size of the package—in exchange for a commitment from our Republican friends that they will support more money for bioterrorism and other urgent homeland security needs. We want to caution our friends, however. We will not compromise our principles. We will not compromise the safety of the American people. We expect to see these commitments in the final conference report. We do not want a plan that sells our homeland security short.

Sixty years ago today, more than 4,000 American sailors and soldiers were killed at Pearl Harbor. Three months ago next week, more than 4,000 innocent civilians were killed in New York, at the Pentagon, and in Pennsylvania. The attacks of September 11 revealed, in a horrific way, some of the gaps in our homeland defense. With

this vote, we are taking an important first step toward closing some of the most dangerous gaps.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 3338), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

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

Mr. STEVENS. 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 Hawaii.

Mr. INOUE. Mr. President, on the behalf of the leader, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action or debate.

There being no objection, the Presiding Officer appointed Mr. INOUE, Mr. HOLLINGS, Mr. BYRD, Mr. LEAHY, Mr. HARKIN, Mr. DORGAN, Mr. DURBIN, Mr. REID, Mrs. FEINSTEIN, Mr. KOHL, Mr. STEVENS, Mr. COCHRAN, Mr. SPENCER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, and Mrs. HUTCHISON conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank my good friend from Hawaii and congratulate him and his staff for doing such a marvelous job on a very complex bill in such a short period of time. It is a pleasure to work with him. I also include in that thanks to Steve Cortese, our chief of staff, and the staff working with him. It is a very complex bill. It is my hope we will bring this bill back to the Senate by early next week for final passage.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, this has been a long day. I wish to thank all of my colleagues for their patience and their cooperation. The measure that we have just adopted, I have been told, is the most expensive appropriations bill ever adopted by the U.S. Senate.

I wish to thank the staff, Mr. Charles Houy and his team. Without Mr. Houy and Mr. Steve Cortese, we would not be here at this moment. We thank them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I want everyone to know, Senator DASCHLE said

we would finish the bill today, and we did it, with a minute's grace.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators allowed to speak therein for up to 5 minutes each.

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

AMERICAN AGRICULTURE'S VULNERABILITY TO BIOTERRORISM

Mr. AKAKA. Mr. President, I rise today to address the issue of detecting biological agents that could be used in malicious attacks against our Nation's agricultural industry.

Last month, I introduced S. 1560, the Biological Agent-Environmental Detection Act of 2001, which calls for the development of new technologies to detect disease agents that can be used as terrorist weapons against humans.

I am drafting legislation to address concerns about agricultural security that will complement the provisions in S. 1715, the Bioterrorism Preparedness Act of 2001, which I have cosponsored.

We have heard testimony in hearings before the Governmental Affairs Subcommittee on International Security, Proliferation and Federal Services illustrating the vulnerability of American agriculture to acts of biological terrorism directed against livestock and crops, commonly known as "agroterrorism."

Any agroterrorist attacks could have a profound effect on the overall American economy. The combined cash receipts for crops, livestock, and poultry in the United States reached nearly \$200 billion last year, or 2 percent of our gross domestic product. An agroterrorist attack would also create a ripple effect on businesses that rely on American agricultural products, especially grocery stores and restaurants.

For example, agroterrorist attacks could reach across the agricultural industry of Hawaii, which had \$521 million in revenues last year. Our livestock could be attacked with viral agents such as foot and mouth disease. In Hawaii, this would affect the price and availability of beef, pork, and dairy products. 51,000 cattle and 26,000 hogs were brought to market and slaughtered in Hawaii last year, while 90 million gallons of milk were produced by the Hawaiian dairy industry. Our \$100 million pineapple industry could be attacked with a nematode

pest that causes an estimated 40-percent loss of crop in the first year of infection, and 80- to 100-percent losses in subsequent crops. Hawaii's growing agricultural tourism industry was worth \$26 million in 2000, and any attacks on Hawaiian agriculture would also impact those revenues.

However, the impact of terrorist attacks against American agriculture would not be measured in economic terms alone. A significant loss of agricultural production would also affect the health and welfare of our nation's citizens, not to mention hundreds of millions of men, women, and children around the globe who depend on American agricultural production for some part of their daily meals.

My colleagues are aware of the recent completion of the Human Genome Project to map the basic genetic information contained in human chromosomes. This vast undertaking involved the sequencing of over three billion base pairs of genetic information.

The diseases that attack crops and livestock are caused primarily by bacteria, fungi, and viruses. Each of these microorganisms has its own miniature genome that can be sequenced with a fraction of the effort involved in the Human Genome Project. For example, only last month, scientists at the Department of Energy's Joint Genome Institute sequenced the genomes of 15 bacterial species, including plant and human pathogens.

In many cases, we still seek to understand the most rudimentary features of disease-causing microorganisms, regardless of whether they infect humans, livestock, or plants. By sequencing the DNA of select agricultural diseases agents, we can develop diagnostic tests to rapidly identify agricultural diseases; we gain fundamental information about how each disease is caused; and we learn how to mitigate or prevent the negative effects of diseases that infect crops and livestock.

By preparing to detect the intentional spread of disease through bioterrorist attacks on America's agriculture, we are also protecting American crops and livestock from the accidental or natural spread of diseases. With rapid diagnostic tests based on genomic information, we can avoid the spread of such diseases as the papaya ringspot virus, which is carried by aphids throughout infected orchards in Hawaii. However, Hawaii's agricultural system clearly is not the only industry that would benefit from pathogen detection systems. The fungal pathogen *Fusarium*, which infects many Hawaiian crops, including sugarcane, ginger, and banana, also attacks watermelons in Texas, potatoes in Idaho, and tomatoes in Ohio.

I commend my colleagues for their efforts to protect our urban areas from further bioterrorist attacks. However, let's not forget agricultural America. We must support the development of rapid detection methods that are based on genomic information from disease