he began his 25-year career in private practice as an associate in a Shreveport law firm. He subsequently founded his own law firm and developed an expertise in commercial and insurance-related litigation in State and Federal courts, including general aviation accidents, automobile accidents, contract liability, lender liability claims, construction disputes, intellectual property claims, and insurance coverage questions, as well as oil and gas accident and contamination claims. He also acquired a broad experience representing individuals on a wide variety of personal matters including estate planning, personal injury claims, contract negotiations, copyright issues, and general legal matters. All told, he has tried an estimated 150 cases to judgment, acting as sole or lead counsel in the vast majority of them. He has also devoted time in his legal career to pro bono work, including preparing wills for the elderly and working with adjudicated juveniles.

He is a member of the Louisiana State Bar, the American Bar Association, and the Shreveport Bar Association. I am confident that Mr. Hicks's extensive litigation experience will make him an excellent addition to the Federal bench.

Mr. LEAHY. Mr. President, the Senate has confirmed the nomination of Maurice Hicks to be a United States District Court Judge for the Western District of Louisiana. Maurice Hicks has spent 25 years as a litigator in Shreveport, LA, where he has appeared frequently in State and Federal courts. He comes to us with the support of his home State Senators. Mr. Hicks is the seventh nominee of President Bush to be confirmed to the Federal courts in Louisiana. Just this year, the Senate already confirmed Dee Drell and Patricia Minaldi to the United States District Court of the Western District of Louisiana. With these confirmations, there are no longer any current vacancies in the Federal courts in Louisiana.

Under my chairmanship last Congress, the Senate Judiciary Committee held the first hearing for a Fifth Circuit nominee in 7 years. Judge Edith Brown Clement of Louisiana was promptly given a hearing in October 2001 and confirmed in November 2001, despite the fact that three of President Clinton's judicial nominees had not received a hearing, including Alston Johnson of Louisiana. The Democrats turned the other cheek on past obstruction by the Republicans in order to move forward. In fact, with Democratic support, the Senate recently confirmed another nominee to the Fifth Circuit Court of Appeals, Judge Edward Prado, despite the fact that President Clinton's Hispanic nominees to that court, Enrique Moreno and J orge Rangel, never received a hearing or a vote.

With the confirmation of Mr. Hicks, the Senate will have confirmed 25 of President Bush's judicial nominees so far this year and 125 overall. So far this year we have confirmed more judicial nominees of President Bush than the Republican majority was willing to confirm in the entire 1996 session when President Clinton was in the White House. That entire year only 17 judges were confirmed all year and that included none to the circuit courts, not one. In contrast, already this session, 5 circuit court nominees, including several highly controversial nominees, have been confirmed among the 25 that have moved forward to the Senate.

Those confirmations— including two that had more negative votes than the required number to be filibustered but who were not filibustered never get acknowledged in partisan Republican talking points. We are also almost 6 months ahead of the pace the Republican majority set in 1999 when it considered President Clinton's judicial nominees. It was not until October that the Senate confirmed as many as 25 judicial nominees in 1999.

In the 17 months when I chaired the Judiciary Committee, we were able to confirm 100 judges and vastly reduce the judicial vacancies that Republicans had created all year and that have allowed scores of judicial nominees of President Clinton to be considered. We were able to do so despite the White House's refusal to work with Democrats on circuit court vacancies and many district court vacancies.

With Mr. Hicks' confirmation, the Senate will have succeeded in reducing the number of Federal judicial vacancies to the lowest level it has been in 13 years. The 110 vacancies that I inherited in the summer of 2001 have been more than cut in half. In the 17 months that I chaired the Judiciary Committee we not only kept up with attrition, but reduced those vacancies from 110 to 60 and with Mr. Hicks' confirmation we will fill 46 vacancies for the entire Federal judiciary. I congratulate Mr. Hicks and his family on his confirmation.

Republican talking points will likely focus on the impasse on 2 of the most extreme of the President's nominations rather than the 125 confirmations and the lowest judicial vacancy rate in 13 years. They will ignore their own recent filibusters against President Clinton's executive and judicial nominees, their own inaction in so doing and their own delays in considering confirmations of this President's judicial nominees.

I continue to be disappointed that the Republican leadership has not found time to proceed to the nomination of Judge Consuelo Callahan to the United States Court of Appeals for the Ninth Circuit. This is another of the judicial nominees that Senate Democrats have strongly supported and whose consideration we had expedited through the Judiciary Committee weeks ago.

Just as Senate Democrats cleared the nomination of Judge Edward Prado to the United States Court of Appeals for the Fifth Circuit without delay, so, too, the nomination of Judge Callahan, another Hispanic nominee to another circuit court, was cleared on the Democratic side. All Democratic Senators serving on the Judiciary Committee voted to report this nomination favorably. Democratic Senators had indicated that they are prepared to proceed to this nomination and, after a reasonable period of debate, vote on the nomination. I am confident this nomination will be confirmed by an extraordinary majority—maybe unanimously.

It is most unfortunate that so many partisans in this administration and on the other side of the aisle insist on bogging down consensus matters and consensus nominees in order to focus exclusively on the most divisive and controversial of this President's nominees as he continues his efforts to pack the courts. Democratic Senators have worked very hard to cooperate with the administration to fill judicial vacancies. What the other side seeks to obscure is that effort, that fairness and the progress we have been able to achieve without much help from the other side or the administration.

Judge Callahan's nomination has been delayed on the Senate Executive Calendar unnecessarily in my view. It is time to act on this nomination and make progress.
"(2) The screening and care authorized under paragraph (1) shall include screening and care under TRICARE, pursuant to eligibility under paragraph (3), and continuation of care under paragraph (4), described in subparagraph (A)." 

"(3)(A) Members of the Selected Reserve of the Ready Reserve and members of the Individual Ready Reserve described in section 1074(a) of this title are eligible, subject to subparagraph (I), to enroll in TRICARE. (B) A member eligible under subparagraph (A) may enroll for either of the following program options under this paragraph, included in the TRICARE program:

"(i) Self alone coverage. (ii) Self and family coverage.

"(4)(A) A member and the dependents of a member enrolled in the TRICARE program under this paragraph shall be entitled to the same benefits under this chapter as a member of the armed forces on active duty or a dependent of such a member, respectively. Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this paragraph. (B) The Secretary shall prescribe regulations for each of the TRICARE program options a premium for self alone coverage and a premium for self and family coverage. (C) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(5) The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subparagraph (A) may enroll in the TRICARE program or change or terminate an enrollment in the TRICARE program.

"(6) A member and the dependents of a member enrolled in the TRICARE program under this paragraph shall be entitled to the same benefits under this chapter as a member of the armed forces on active duty or a dependent of such a member, respectively. Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this paragraph.

"(7)(i) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this paragraph. The Secretary shall prescribe regulations for each of the TRICARE program options a premium for self alone coverage and a premium for self and family coverage.

"(ii) The monthly amount of the premium in effect for a month for a type of coverage under this paragraph shall be the amount equal to 28 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

"(iii) The premiums payable by a member under this subparagraph may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members entitled to such basic pay or compensation.

"(iv) Amounts collected as premiums under this subparagraph shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

"(v) A member who receives health care pursuant to an enrollment in a TRICARE program option under this paragraph, including a member who receives such health care, shall be subject to the same deductibles, co-payments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(vi) A member enrolled in the TRICARE program under this paragraph may terminate the enrollment only during an open enrollment period provided under subparagraph (D), except as provided in subparagraph (I).

"(vii) An enrollment for self and family under this paragraph shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subparagraph (A). The enrollment of a member under this paragraph may be terminated on the date on which the member pays the applicable premium charged the member under this paragraph.

"(viii) A member may not enroll in the TRICARE program under this paragraph for health care under subsection (a) of section 1445 of this title or while authorized to receive health care under subsection (c) of such section. A member who enrolls in the TRICARE program under this paragraph within 90 days after the date of the termination of the member’s entitlement or eligibility to receive health care under subsection (a) or (c) of section 1445 of this title may terminate the enrollment at any time within one year after the date of termination.

"(ix) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this paragraph.

"(x)(A) The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for an eligible member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subparagraph (D). (B) A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under this paragraph for a member under subparagraph (A) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 103(a)(13)(B) of this title during a war or national emergency declared by the President or Congress.

"(C) For the purposes of this paragraph, health benefits plan coverage for a member called or ordered to active duty is qualified health benefits plan coverage if—

"(i) the coverage was in force on the date on which the Secretary notified the member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order; and

"(ii) on such date, the coverage applied to the member and dependents of the member described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and

"(iii) the coverage was in force on the date of the call or order; and

"(D) The applicable premium payable under this paragraph for continuation of health benefits plan coverage in the case of a member is the premium payable by the member for the coverage of the member and dependents.

"(E) The total amount that may be paid for the applicable premium of a health benefits plan for a member under this paragraph in a fiscal year may not exceed the amount determined by the Secretary with regulations prescribed under subparagraph (A), and

"(i) the sum of one plus the number of the member’s dependents covered by the health benefits plan, by

"(ii) the per capita cost of providing TRICARE coverage and benefits for dependents under this chapter for such fiscal year, as determined by the Secretary of Defense.

"(F) The benefits coverage continuation period under this paragraph for qualified health benefits plan coverage in the case of a member called or ordered to active duty is the period that—

"(i) begins on the date of the call or order; and

"(ii) ends on the earlier of the date on which the member ceases to be eligible for continuation of health care under section 1445(a) of this title or while authorized to receive health care under section 1445(c) of this title.

"(G) Notwithstanding any other provision of law—

"(i) any period of coverage under a COBRA continuation provision (as defined in section 4980B(f)(2) of the Internal Revenue Code of 1986) for a member under this paragraph shall be deemed to be equal to the benefits coverage continuation period for such member under this paragraph;

"(ii) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(2) of such Code shall apply.

"(H) A dependent of a member who is eligible for benefits under qualified health benefits plan coverage under this paragraph is eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

"(I) A member who makes an election under subparagraph (A) may revoke the election. Upon such a revocation, the member’s dependents shall become eligible for benefits under the TRICARE program as provided for under this chapter.

"(J) The Secretary of Defense shall prescribe regulations for carrying out this paragraph. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.

"(K) For the purposes of this section, all members of the Ready Reserve who are to be called or ordered to active duty include all members of the Ready Reserve.

"(L) The Secretary concerned shall promptly notify all members of the Ready Reserve that they are eligible for screening and care under this section.

Mr. DASCHLE. Mr. President, this amendment would strengthen our National Guard, our Reserve force, and our Nation by offering these troops the option to receive year-round health coverage through TRICARE, the military health program. If approved, this would be the first fundamental change in Guard and Reserve benefits since the end of the Cold War.

This amendment not only honors the sacrifices that our Guard and Reserve troops have been making on our behalf for decades, but also recognizes that there has been a fundamental expansion in recent years in their roles and missions.

Since the fall of the Soviet Union, the military has increasingly relied on the skill and sacrifice of America’s Reserve forces. When I go home to South Dakota and talk to the citizens of my State, I see and hear first-hand the impact this increasing reliance has on our communities all across my State. Nearly 2,000 South Dakotan Guard and Reservists are currently on active duty serving their Nation. In addition to performing their traditional combat roles, Guard and Reserve personnel have assumed a large and ever-expanding share of the peacekeeping role in hot spots all around the world.

Since September 11, Guard and Reserve members have assisted in homeland security, including protecting our airports, and have provided force protection at bases and installations at home. According to a recent GAO study, Guard and Reservist mobilizations increased by 700 percent in the aftermath.
of the attacks on the Pentagon and World Trade Center.

So more frequently and for longer periods of time, Guard and Reserve personnel from South Dakota and all over the Nation have answered their Nation’s call to duty, leaving behind their families, their jobs, and their communities.

While the demands we place on Reservists have grown markedly, the Federal government’s commitment to this dedicated group of men and women has not kept pace. As a result, leaders of the National Guard and Reserves are finding it increasingly difficult to recruit and retain top-notch individuals. Guard leaders tell me that offering health coverage would be the single most powerful tool we could give them to help with recruiting and retention.

This proposal offers a moderate, targeted, affordable proposal that deserves the bipartisan support of the Senate.

This amendment is the result of 2 years of work by myself and a bipartisan group of my colleagues from the Senate Guard Caucus. In 2001, we introduced a bill for researching problems surrounding health coverage for the Guard and Reserve. For 2 years, we have been holding regular meetings with leaders from the guard and reserve community and soliciting grassroots input. We have made some modifications to reflect the experiences of reservists mobilized after September 11 and problems encountered by others mobilized for service in Bosnia and Iraq. Last fall, we received a helpful study on the issue from the General Accounting Office.

Incorporating the lessons from that report, last month we were able to introduce S. 852, the National Guard and Reserve Comprehensive Health Benefits Act of 2003, on which this amendment is based.

This amendment offers Reserve and National Guard members and their families the opportunity to participate in the same TRICARE program available to active duty service members and their families.

Reservists and their families will share the cost of premium payments with the Department of Defense, with the same cost distribution as used in the Federal Employees Health Benefit Plan.

The National Guard Association of the United States reports that the average cost of a family health care plan through a civilian HMO is $7,541 per year.

In contrast, the Guard Association estimates that the TRICARE cost per family is only $5,173 per year, even without government sharing any of the cost.

With government cost-sharing, this will be an attractively priced option for securing health coverage.

Beyond recruitment and retention, this amendment will improve readiness. More than 20 percent of the Ready Reserve—and as much as 40 percent of young enlisted personnel—do not currently have health insurance.

Providing access to quality health care during all phases of service can drastically reduce the chances that a unit is unable to deploy due to medical reasons.

Maintaining a healthy force is absolutely essential to maintaining a prepared force.

Our legislation will also address another problem that invariably occurs during mobilization.

When a reservist is called to active duty, he or she must leave their private-sector health plan and enter a wholly new plan, TRICARE. In March, I worked with the Secretary of Defense to end a nationwide problem among families of mobilized reservists. Simply put, they were being forced, unfairly and improperly, to join a more expensive TRICARE plan.

We did solve that problem, but many families spent weeks without knowing whether they should try to extend their private coverage or whether they could afford TRICARE. That is simply unacceptable.

At a time when a reservist is preparing for deployment to a war zone, the last thing they and their families have to worry about is health benefits.

This amendment is an affordable way to honor the commitment of our guard and reserve members. The bill before us provides the Defense Department with more than $300 million in FY 2004.

According to the Congressional Budget Office, my amendment costs about $300 million in that same period. For .7 months of a percent of the Pentagon budget, we can guarantee that all reservists have access to health care—either through civilian employers or TRICARE. We can ensure that this force is ready to fight at a moment’s notice.

We can improve the readiness of the current reserve force and improve our ability to recruit and retain the best and brightest men and women for the National Guard and Reserves.

The high rate of reservist mobilizations is indeed, one of the reasons why with ongoing needs in Iraq and the upsurge in homeland defense activities, reservists will probably continue to be mobilized at record levels.

By providing access to quality, affordable health care for reservists and their families, this legislation will ensure that when we need them, they will be there, healthy and ready to go.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I ask our distinguished colleague, the distinguished leader on the other side of the aisle, the cost implications.

Mr. DASCHLE. Mr. President, if I could respond briefly, first of all, I compliment the distinguished chair and ranking member for their efforts to produce a bill that once again, in producing a bill that passed out of committee, as I understand it, unanimously. That is a real tribute to their leadership and to the willingness that they continue to demonstrate to work in a bipartisan and constructive manner in committee. That is laudable. I congratulate the chair and ranking member for their ability to do it consistently—not just on this occasion.

First, I recognize, as the distinguished chair has noted, we have to be appreciative of our active-duty personnel. They make a commitment second to none. We saw yet again a demonstration of that commitment in the battle in Iraq.

I don’t know that an issue has been studied as much as this issue over the course of the last couple of years. I am happy to share the findings of many of the studies that he referenced. One study that attracted me in particular was a study done by the General Accounting Office.

I ask unanimous consent the summary of the study be printed in the Record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:
Reserve components participate in military conflicts and peacekeeping missions in areas such as Bosnia, Kosovo, and southwest Asia, and assist in homeland security. From fiscal year 1998 through fiscal year 2001, an average of about 11,000, or 1 percent, of the roughly 900,000 reservists were mobilized each year. The length of mobilization can be as long as 2 years with the mean length of mobilizations for the 6-year period we reviewed being 117 days. As of April 2002, about 80,000, or 8 percent, of reservists had been mobilized for 1 year for operations related to September 11, 2001. At the same time, additional reserve personnel continued to be deployed throughout the world on various peacekeeping and humanitarian missions.

Overall, the percentage of reservists with health care coverage when they are not mobilized is similar to that found in the general population—and, like the general population, most reservists have coverage through their employers. According to DOD’s 2000 Survey of Reserve Component Personnel, nearly 80 percent of reservists reported having health care coverage. In the general population, 60 percent of those over age 35 have health care coverage. Officers and senior enlisted personnel were more likely than junior enlisted personnel to have coverage. Of reserve officers, about 90 percent of whom are under age 35, had coverage—lower than the similarly aged group in the general population. Of reservists with dependents, about 86 percent reported having coverage. Of reservists without dependents, about 63 percent reported having coverage.

Mr. DASCHLE. The GAO noted since the attacks on the World Trade Center and the Pentagon, Guard and Reserve almost require that we look upon them as active-duty personnel. Mr. WARNER. Could you give the date of the publication?

Mr. DASCHLE. The date was September 2, 2002, just in the last 6 months.

The GAO study noted that since the attacks on the Pentagon and the World Trade Center, utilization, mobilization of the Guard and Reserve has gone up. We are not only seeing an increase in integration with Active-Duty personnel, but we are seeing a remarkable, continued mobilization of the Guard and Reserve for other roles having to do with the war on terror.

As these continued mobilizations arise, the disruption, the extraordinary pressures and demands put on the Guard and Reserve almost require that we look upon them as active-duty personnel because they play far more an active-duty role.

As I talk to the Guard and Reserve and to the brave men and women in South Dakota and throughout the country of their needs, I will urge my colleagues to take a good look at the report before he comes to any conclusions about the need. Mr. WARNER. Mr. President, I will do that. I value the wisdom and initiative of our distinguished leader. So I will do that. Mr. DASCHLE. If I could add one other—I apologize to the Senator from Vermont—I will just read from page 8 of the report.

Officers and enlisted personnel are more likely than junior personnel to have coverage. Only 60 percent of junior enlisted personnel, about 90 percent of whom are under age 35, had coverage. That means 40 percent of the junior personnel had no coverage at all. Of reservists and dependents, about 86 percent reported having coverage, but of reservists without dependents, only 63 percent reported having coverage. Again, about 40 percent have no coverage at all. Again, this becomes a recruiting, a retention, and, I believe, a fairness question that I hope this Senate will address this year with this bill.

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

I would just ask I be able to consult with the majority leader as to the time at which this vote should take place. He, of course, will consult with you. I thank the Chair.

Mr. LEVIN. Mr. President, if I might interject for a moment?

The distinguished chairman knows the great respect I have for what I many times refer to as my Senator away from home because I spend part of the week—seems to be the longer part of the week, with the hours we have been putting in around here lately—in Northern Virginia. Of course my dear friend, the senior Senator from South Dakota, knows my respect for him.

I think this is a good amendment. Senator DeWine of Ohio has taken a very active role in this, too. I hope the distinguished chairman would hold off making a snap judgment and see how he doesn't do that, in any event. But think about what the distinguished Senator from South Dakota has said.

The Senator from Ohio and I will speak on this matter at another time rather than hold the floor to do it. But there are a number—and the numbers are rather shocking—of those who are without health insurance, especially in the enlisted area. You have, so many times, this hiatus. They are leaving their job, getting called up, and being without it. It leaves families in this limbo.

I would rather, if they were being called up, they be concentrating on what they are to be doing, not on where they are, what their health care insurance. This is a matter we have raised with the health care committee.

I am a cochair of the National Guard caucus. We raised it within our caucus. We hear from Guard units all over the country of their needs. As the distinguished Democratic leader has said on the floor today, this is a case where we are asking they have the ability to pay into this and do this. So I hope maybe during the evening, before we come back in tomorrow, everybody might be able to look at it.

I know the distinguished Senator from Ohio, Mr. DeWine, will also want to be speaking on it. I will withhold my further comments. There are Senators on the floor waiting to speak on this bill.

I totally concur with the distinguished Democratic leader on what he has said. His experiences with the brave men and women in South Dakota are very similar to what I hear in Vermont. I suspect most States are hearing it also from their Guard. So maybe we will keep our powder dry until tomorrow. We will get some of these facts and figures and see where they go.

Mr. WARNER. Mr. President, I thank our colleague for his kind remarks.

Mr. LEVIN. If the Senator will yield for a minute?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I point out one other fact for the consideration of my good friend, the chairman. The chairman, of course, makes an important point about one fact that is clear: The difference between Active Duty and Reserve and there are certain benefits that people in Active Duty have which make it a little more attractive, perhaps, than it
I have some reservations and admire greatly. I thank them for their collegiality in the conduct of the committee in the preparation of this bill. They are two Senators I respect and the ranking member for their courtesy, for their thoughtfulness, and for their help and participation. This is, overall, a very good bill that meets the needs of our fighting men and women. I have some reservations which I will talk about tonight, and during the course of the week I will suggest some improvements in the bill. But overall, this represents a thorough and consistent and appropriate discharge of our responsibility to ensure that the men and women of our Armed Forces are prepared and best cared for in the world.

Let me also say this year I had the privilege and the opportunity to serve as the ranking member of the Emerging Threat and Capability Subcommittee. I have been involved with Senator Pat Roberts of Kansas. I also want to thank Senator Roberts for his courtesy and thoughtfulness and for his collegiality. He created a cooperative spirit on the committee which resulted in legislation that is both thoughtful and which I think is a vast improvement for the men and women of our military services.

The package supported and presented by the subcommittee dealt with a range of issues. The subcommittee itself was created 4 years ago to deal with new emerging threats and our response to these threats. The subcommittee looked at issues such as the proliferation of weapons of mass destruction, threats, and information warfare, and it also focused on ways in which we can respond to these threats.

One of the areas, for example, is the Defense Science and Technology Program—providing the research and the development of our forces the most technologically advanced in the world.

Another area we are concerned about is the Cooperative Threat Reduction Program. There is a rather simple and obvious point: If we can reduce the threats, that is a better way than to respond to those threats if they are poised against us. We are also concerned about our special operations forces. I think we have seen in the last few months how effective and how important these forces are. They really are the tip of the spear when it comes to our efforts on the war on terrorism.

Needless to say, the Emerging Threats Subcommittee is obviously involved in many issues that are of critical importance today. Let me speak just briefly about some of the issues as we approach the committee markup.

Science and technology is a critical component of our warfighting capability. This was brought home to me graphically in August of 2001. About 25 years ago, I commanded an infantry company—a parachute company—of the 82nd Airborne Division. And in August of 2001, I went back to Fort Bragg to watch a live fire demonstration by a division of the 82nd Airborne Division. I was, of course, very pleased with the toughness and skills of the paratroopers. But I was even more impressed with the technology. Each soldier had a night vision device, and each soldier had a laser-aiming device on their weapon. Twenty-five years ago, there was one star-light scope for the whole platoon. It was a bulky device which we carried around and used sparingly. There was no laser-aiming device on their weapons.

These are graphic examples of the importance of science and technology on our ability to fight. They have made our soldiers, marines, and airmen the most formidable in the world because when we couple this technology with their skills and spirit and their courage, they are unstoppable. This bill includes provisos that strengthen the coordination between the Science and Technology Program. We really want to ensure that we get the maximum value from our technological investment.

I am also very pleased the bill includes Senator Lieberman’s legislation which will increase research on technologies to help improve communications and networking and to help address our bandwidth crisis in the field. When members of our committee go out into the field, many of our forces do and visit troops and talk to commanding officers, one of their consistent complaints is, We just do not have enough bandwidth. We don’t have enough space on the spectrum to push out all the different types of information we have to all of our warfighters instantaneously.

So I think Senator Lieberman’s proposal will give us an added impetus to examine these issues of bandwidth and conductivity. It is literally the electronic backbone of our military forces. There are some issues of concern which I have with respect to science and technology. All of our experts looking at the appropriate level of funding for science and technology suggest that we should be investing about 3 percent of the defense budget in those programs. Secretary Rumsfeld has said the Quadrennial Defense Review made that point, and the Defense Science Board has endorsed this laudable goal of 3 percent expenditure on science and technology. However, last year the final defense budget did not reach 3 percent, and this year the President’s request was $1 billion below last year’s vital defense budget.

While I am pleased to note that this bill adds nearly $500 million to the Defense Science and Technology Program and supports significant investments in university research, advanced research to support special operations, and advanced underwater warfare technologies, the funding levels fall short of this 3 percent.

I think we have to maintain robust investment in our science and technology. We tried to close the gap, but now there is a gap, and in the next reauthorization—indeed in the conference—we can try to close this gap.

In the area of nonproliferation programs, we all understand that weapons...
of mass destruction is one of the key threats, particularly if they get into the hands of terrorists. One of the most cost-effective ways to deal with this issue of nonproliferation is to support the Threat Reduction Program. I am pleased to introduce a bill that this bill authorizes full funding of these threat reduction and nonproliferation programs, including the Nunn-Lugar program.

This full funding is critical if we are going to eliminate the proliferation threat and if we are going to lower the threat and if we are going to eliminate the proliferation threat. There are other issues I would like to comment upon in addition to those related to my responsibilities on the subcommittee.

There was, in the committee, a proposal to, in my view, change the McKinney-Vento Homeless Assistance Act. I thank my colleagues because, through collaboration with Senators Ensign, Allen, and others, we were able to do what we thought the committee wanted to do: to provide the opportunity to temporarily suspend these regulations if property is needed by a State for emergency purposes but not to undermine completely and irrevocably the responsibility to provide suitable excess Government facilities for homeless purposes. I am very pleased and proud the committee was so responsive and so cooperative in that regard.

I also included in the bill an amendment which again was adopted unanimously—I thank my colleagues—that would direct the Secretary of Defense to provide guidelines to the Defense Policy Board. This is an advisory board consisting of distinguished Americans who provide advice and insight, without compensation, to the Secretary of Defense. It is a very important board but recently it has come under some criticism. I think in order to dispel that criticism but also to convince and assure the public that access to information and access to key decisionmakers is not being used for profit-making purposes but is based on the patriotism of the individual members of the board, I ask that the Secretary of Defense provide guidelines. I hope these guidelines are forthcoming. I think they will be useful. I am pleased they are now included within the bill.

Let me turn to several other topics. One of the other aspects of the system that is proposed for deployment is a system of layering. The radar is a key aspect of any missile defense system.

Another issue, with respect to missile defense, is the decision to significantly reduce the number of tests. Ironically, it seems that one of the by-products of the President's decision to rapidly field a national missile defense is a concomitant reduction in the number of testing. It seems to me that is sort of the wrong way; that if you are going to accelerate deployment, you would accelerate testing also.

I believe if we are going to have confidence in a system that we field, we have to make the investment in testing now, and not just simply reply upon the faith in technology that has not yet been adequately tested.
Originally, 20 national missile defense tests had been scheduled to occur between mid-2002 and 2007, but after the President’s deployment decision, 9 of these 20 tests were canceled without explanation. Furthermore, the scheduled date to complete this new, very meaningful minimal test plan is now 2009 instead of 2007. That is 5 years after the advertised deployment of this system in 2004.

We have to recognize this Missile Defense Program is the largest single acquisition in the Department of Defense, with a budget request of more than $9 billion in fiscal year 2004 alone.

For perspective, this funding could buy 9 DDG-51-class destroyers, 45 F-22 Raptor fighter aircraft, or more than 2,800 Stryker armored vehicles. So the decisions we make are not without cost, not without opportunity costs.

The investment we make in missiles means, quite literally, we have to cancel the new destroyers; today we cannot buy more F-22 Raptor fighter aircraft; we cannot buy more Stryker armored vehicles. So again, I think we have to look very carefully at the deployment, at the test plan.

I think we are all committed to the notion of someday putting in place a missile defense system that will effectively defend the United States, but we cannot do it hastily, and we cannot do it simply on a wish that it works. I believe we have to prove it works before we deploy it or simply declare it is deployed.

Over the last several years, we have tried to put some structure, if you will, in the Missile Defense Program. For example, at the beginning of fiscal year 2002, Congress required that the Bush administration establish cost, schedule, testing, and performance goals for missile defense. Unfortunately, we directed the General Accounting Office to review whether progress was being made toward these established goals.

By the end of 2002, the Bush administration had not established any meaningful goals for missile defense. Consequently, in November 2002, the Director of Acquisition and Sourcing Management at the GAO wrote to the committee to say that since no goals had been established, GAO could not complete its review.

I think, at a minimum, there should be costs, there should be schedules, there should be goals, certainly at a level so the GAO can at least offer a preliminary assessment of whether these goals are being achieved or what effort must be expended to achieve these goals. That is something that has not been done.

I supported research and development and testing on national missile defense, but I think ultimately we all want to assure the American people that when we put something in the field, it will work, and that we know precisely what it will do when it is in the field. I don’t think that is too much to ask the administration.

Finally, let me cover a topic that will receive a great deal of attention over the next couple of days. That is the issue of nuclear policy. I have grave concerns over some of the provisions in the bill. Under the guise of maintaining flexibility and keeping all options open, this bill approves and encourages the Bush administration’s push to develop, test, deploy, and possibly use nuclear weapons. I heard my colleague Senator Levin earlier today referencing the quote by former Ambassador Brooks, the head of NSSA, who said his bias is to nothing that can be used. For many decades, our bias was against even thinking about the use of nuclear weapons if we could avoid it.

One of the consequences of the proposal for a low-yield nuclear weapon, for a robust nuclear earthen penetrator is, if not a fact, an observation that as you make weapons such that their collateral damage is minimal, there is a tendency to use them. We have to ask ourselves, is our recent conflict in Baghdad, would we have dropped dumb bombs in the middle of crowded neighborhoods in an attempt to attack the leadership of Iraq? It would have been a much harder call. But because we had conventional weapons with low collateral damage, as a result the call was much easier—a tough call, nevertheless, but easier.

I fear that as we move down this path for low-yield nuclear weapons, more usable nuclear weapons, the threshold, the inhibition against use will come down also. This is just not another tool in our tool kit. Nuclear weapons have been, since Hiroshima and Nagasaki, a weapon every nation has tried to avoid using in combat. I hope we can continue that effort, but I fear the language, the momentum, the incentives that have created these exceptions in the bill are driving us down the wrong path.

We should respond by amending the legislation to reflect the continuing desire to put nuclear weapons outside of use, to delegitimize their use in conflict. We will have opportunity over the next several days in much more detail the issue of nuclear weapons, the issue of missile defense.

I believe this legislation overall is sound. If we could make successful amendments to some of the provisions with respect to missile defense and particularly the provisions with respect to nuclear weapons, we can send to conference a bill of which we will all be very proud. I hope in the next few days we can do that.

I thank the chairman and ranking member for their thoughtful approach and for their continued efforts over the next few days.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the very valued member of the committee, Mr. Nelson from Nebraska. We are going to serve on active duty. I am not sure I would want to be in that company you commanded; pretty rough character. You are too modest.

You referenced the $500 million added to this bill for S&T, and it sort of came out of the subcommittee. You and Senator Roberts deserve a lot of credit for that. That is money well invested.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. LEVIN. I wonder if I could ask the Senator to yield for 30 seconds so I could add my thanks to the Senator from Rhode Island for his indispensable contribution to the Armed Services Committee. He mentioned a few issues where he had some very strong feelings. These issues are just a few of the many where he has made an extraordinary contribution by experience and by intellect. He is really in a position to add immeasurably to the work of our committee. We are all very much in his debt for it.

Mr. NELSON of Nebraska. Mr. President, I rise today to express my support for the Department of Defense Authorization Act for fiscal year 2004. I particularly thank Chairman Warner and ranking member Senator Levin for the extraordinary job they do each and every day to ensure our national security priorities are adequately addressed. I also appreciate the Senator continuing to work in a bipartisan way to ensure that decisions are made in the best interests of the country.

As the new ranking member for the Personnel Subcommittee, I have enjoyed working with the subcommittee chairman, Senator Chambliss. I hope the President will take note of the complimentary remarks I am going to make about the chairman. I congratulate him for the outstanding leadership of this subcommittee. Together we have kept our focus on doing what we can to improve the quality of life of our service members, Active and Reserve, their families, our retirees, and civilian employees. I particularly appreciate his personal attention and cooperation with me.

I am particularly pleased about several provisions in the subcommittee mark that reflect our appreciation for the sacrifices of our service members and our desire to see they are adequately compensated when placed in harm’s way. These include a minimum pay raise of 3.7 percent especially for the junior service members who have received less under the administration’s proposal; a change in the high PoPs GI Bill; the EMPO program allowing the actual put money in the pockets of our service members who deploy frequently; increases in imminent danger pay, family separation allowances and, as Senator Collins mentioned, the death gratuity; and authorization for full funding for replacement for lost or damaged household goods.

Our mark also includes provisions that address concerns and needs of our Reserve and National Guard service members in deploying so successfully. These include extending survivor benefit plan annuities to surviving spouses of reservists who died from an injury or illness incurred in the line of
duty during inactive duty training; a requirement for specially trained beneficiary counseling and assistance coordinators to help our National Guard and Reserve members and their families navigate the complex TRICARE health care system; and screening and care for Reserve component members as soon as they are alerted for deployment; and a requirement for the Secretary of Defense to report on the mobilization of the reserve that will give us the data we need to make needed changes in the force mix and use of our Guard and Reserve personnel.

I am also pleased the committee responded to legislation I introduced to provide a special pay incentive for Reservists, National Guard, and Active Duty service members who deploy for long durations. This incentive will help alleviate some of the hardships suffered by military families when their loved ones are called up for lengthy or numerous deployments. With the Armed Forces depending on military reserves for such a large percentage of troops, more and more sailors, soldiers, air personnel, and marines are facing long times away from their regular employment. These call-ups produce a severe financial hardship for the troops as their normal employment lives and incomes are disrupted, often for months, and in some cases, for up to 2 years.

Finally, I fully endorse the supplemental impact aid contained in our mark. We simply have to ensure the schools that educate our sons and daughters of our military personnel have adequate funding to provide for a quality education. Our service members will leave, and we will be unable to recruit if we don't provide this for their families.

I greatly appreciate the bipartisan manner in which the chairman, Senator Chambliss, has chaired the Personnel Subcommittee, and I believe we have worked as a team and with a common goal of improving the lives of our soldiers, sailors, air personnel, marines, DOD civilians, retirees, and the families of all these groups. I thank him for his excellent leadership, and also thank his staff, Dick Walsh and Mrs. Lewis, and Mr. Gary Leeling from the Democratic staff.

I again thank Chairman Warner and Senator Levin for their leadership.

I yield the floor.

Mr. WARNER. Mr. President, I thank the Senator for his work on the committee. We value much his contributions. He is very fair and open-minded in the manner in which he makes decisions.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, it is very appropriate that our Presiding Officer is the chairman of the Personnel Subcommittee. He and Senator Ben Nelson have worked closely together to give us a product of which we can be proud. We are very indebted to the two of you.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. Graham. Mr. President, I have an amendment to the pending amendment, and I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. Graham] proposes an amendment numbered 689 to amendment 800.

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

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

The amendment is as follows:

On page 157, line 8 and in lieu of the matter proposed to be inserted insert the following:

"(2) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care. This section shall become effective two days after enactment of the bill."

On page 157, line 29 in lieu of the matter to be inserted insert the following:

"(2) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care. This section shall become effective two days after enactment."

SEC. 6. EXPANDED ELIGIBILITY OF READY RESERVISTS FOR TRICARE.

(a) ELIGIBILITY.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1097b the following new section:

"§ 1097c. TRICARE program: Reserves not on active duty.

"(a) ELIGIBILITY.—A member of the Selected Reserve of the Ready Reserve that is not otherwise eligible for enrollment in the TRICARE program under paragraph (1) of subsection (b) of section 1074a of title 10, United States Code, shall be eligible for enrollment in the TRICARE program under this section if the member is a member of the armed forces enrolled in the TRICARE program under section 1074a(a) of title 10, United States Code, and if the member is required to provide a history of active duty service of not less than 20 years.

"(b) PREMIUMS.—(1) An enlisted member of the armed forces enrolled in the TRICARE program under this section shall pay an annual premium of $300 for self only coverage and $500 for self and family coverage for which enrolled under this section.

"(2) An officer of the armed forces who is eligible to enroll in the TRICARE program under this section shall pay an annual premium of $330 for self only coverage and $560 for self and family coverage for which enrolled under this section.

"(c) CLERICAL AMENDMENT.—The table of sections at the beginning of this chapter is amended by inserting after the item relating to section 1097b the following new item:

1097c. Section 1074a."

Mr. Graham. Mr. President, I ask unanimous consent that Senator Zell Miller be added as a cosponsor to my amendment.

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

Mr. Graham of South Carolina. Mr. President, I compliment Senator Daschle and the folks he worked with to try to come up with the solution to the retention problem we are going to have. It is inevitable because these forces are being utilized at such rates.

Senator Daschle put forward an amendment that would allow Guard and Reserve personnel the benefit of health care as a condition of membership. I congratulate him for doing that. I have an amendment that has a little bit different approach to it. It is cosponsored by similar cosponsors. The reason I am doing this is to get my amendment out so we can have two looks at the same problem and see if we can address the concerns that are growing in the country regarding the utilization rates of Guard and Reserve personnel.

The comment the chairman had about Senator Daschle's amendment he will have about this amendment. We need to look at it. There is no money in the budget resolution for it. But I think what we are trying to do, in a bipartisan fashion, is put something on the bill to try to get the country to digest, as well as the Senate, House, and Department of Defense, what it is going to be like 10 or 20 years from now if we keep using Guard and Reserve members at the level we are doing it.

The honest answer is, if you are in the Guard and Reserve, you are going to be called on more and more, less because the way you are going to on for a while. It is not anywhere near what we are saying has a chance for the Guard and Reserve. People are in Bosnia, and that is a Guard function. This amendment, along with what Senator Daschle is trying to do, puts some new programs on the table to make it more attractive to enlist in the Reserve or Guard and to stay.

Senator Warner's concerns are very legitimate. The force has changed. The utilization rates of Guard and Reserve forces have changed. In the last Gulf war, many of our units were Guard and Reserve. In this chapter for the same benefits as a member of the armed forces eligible under section 1074(a) of this title may enroll for self or for self family for the same benefits under this section.

(b) PREMIUMS.—(1) An enrolled member of the armed forces enrolled in the TRICARE program under this section shall pay an annual premium of $330 for self only coverage and $560 for self and family coverage for which enrolled under this section.

"(2) An officer of the armed forces enrolled in the TRICARE program under this section shall pay an annual premium of $380 for self only coverage and $610 for self and family coverage for which enrolled under this section."

"(c) CLERICAL AMENDMENT.—The table of sections at the beginning of this chapter is amended by inserting after the item relating to section 1097b the following new item:

1097c. Section 1074a."

Mr. Graham. Mr. President, I ask unanimous consent that Senator Zell Miller be added as a cosponsor to my amendment.

The PRESIDING OFFICER. The amendment is so ordered.
and provides an incentive that will make it more attractive to stay. If you are a small business owner, as a Guard or Reserve member, sometimes your business suffers greatly. As a lawyer, I was called to active duty for about 100 days, and it was hard to find someone to help me. If I had been a sole practitioner, it would have been tough. But that is what you sign up for—to help your country.

We are looking to create a benefit package that is more family friendly. This is the difference between our approach and that of the Active Forces, and one that is more user friendly. When a Guard or Reserve member is called to active duty, family counseling is not usually available at those bases. Some are at civilian airports. Military families have counseling available. They have many assets available on Air Force and Army bases that provide support for the families. Literally, the Guard and Reserve families have to work it up as they go.

Our Presiding Officer is a cosponsor of the bill. He has been a great advocate of the Guard and Reserve and Active Forces.

We have to understand this is one big family. The Guard and Reserve component serves in a unique way, but it is vital to the overall mission. What we are trying to do—Senator DASCHLE and myself and others, in a bipartisan fashion—is address the health care problem. Here is what happens. If you are called to active duty and you are in the civilian community, you have one set of doctors and health care network available to you. When you are activated, you have to change systems. So we are trying to create continuity of health care.

My main goal is to allow a Guard or Reserve member to access health care in a fashion that makes health care affordable. This has been scored at $1.4 billion per year. The package I am offering does that. It is a distinction that matters somewhat. But the point of both of these amendments is to provide health care to Guard and Reserve families that has a continuity component and that is affordable. It accomplishes this as a nation because you have given some numbers on the other side about how many Guard or Reserve families don’t have health care or adequate health care. Both bills take us in that direction. If I key differences is, under my proposal, it would work in a bipartisan fashion with Senator CLINTON and others. A Guard or Reserve family, or military person, would be in the TRICARE system like their active-duty component, giving a boost to TRICARE overall.

I wanted to bring this amendment to the floor. I congratulate Senator DASCHLE and all the Republicans and Democrats, of our colleagues from Georgia, Senators MILLER and CHAMBLISS. Senator CLINTON appeared at a news conference when we unveiled the bill. Let me tell you, she has been terrific to work with. We are all trying to move this in terms of political ideology most times, but to have her join this cause and help push this bill is a testament to the power of this bill and of this issue.

With that said, I offer the amendment. I know colleagues will look at what both amendments do. I hope colleagues will look seriously at this body trying to provide, as soon as possible in the future, in a responsible way, health care to the entire military family unit. That unit does include in a substantial way Guard and Reserve members, and they are part of the military family. We cannot do a mission without Guard and Reserve. We do not want to have a better benefits package. We want to have an attractive benefits package that will be good for retention and recruitment. That is the spirit in which this amendment is offered.

The chairman’s concerns are legitimate. This has been scored at $1.4 billion a year. Senator DASCHLE’s amendment is $1.2 billion a year, but they are not taking into account that under their proposal, many people would not go into TRICARE but ask for payments for their health care in the private sector.

I appreciate the opportunity to discuss this issue.

Mr. WARNER. Will the Senator yield?

Mr. DASCHLE of South Carolina. Absolutely.

Mr. WARNER. I feel obligated to be consistent, even though there is a very clear difference between Senator DASCHLE’s amendment and that of the distinguished Democratic leader. There is no offset; is that my understanding?

Mr. DASCHLE of South Carolina. That is correct. It is not paid for.

Mr. WARNER. The Senator clearly has indicated the first year may be $400 million to $500 million.

Mr. DASCHLE of South Carolina. Yes, $400 million.

Mr. WARNER. Mr. President, in the event this is carried by the Senate, goes to conference and survives, conferences will have to search within the confines of the bill to raise that money. My understanding is it is about $2 billion in the outyears per year; is that correct?

Mr. DASCHLE of South Carolina. I think it is $1.4 billion, and Senator DASCHLE’s amendment is $1.2 billion, but the points are well made.

Mr. WARNER. At this time, I have to indicate my opposition. Regrettably, I do that, but I wish to be consistent and fair to all Senators. I am fearful if we do not carefully evaluate the whole context of amendments that are likely to come forward to improve the benefits for the Guard and Reserve, we are going to end up with a bill that might go to conference.

I must say, though, I certainly share the Senator’s views that the Guard and Reserve have done wonderful service, together with their families. It is exceedingly hard for these families to let their loved ones go on these missions. We shall look at it on the morrow. I thank the Senator for his courtesies.

Mr. ENSIGN. Mr. President, I wish to point out that Senator DASCHLE has indicated the first year may be $400 million, but in the outyears per year; is that correct?

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Mr. GRAHAM of South Carolina. Yes, $2 billion.

Mr. DASCHLE. Mr. President, we are suggesting to create a benefit package more like that of the Active Forces, and one that is more user friendly. When a Guard or Reserve member is called to active duty and you are in the civilian community, you have one set of doctors and health care network available to you. When you are activated, you have to change systems. So we are trying to create continuity of health care.

My main goal is to allow a Guard or Reserve member to access health care in a fashion that makes health care affordable. This has been scored at $1.4 billion per year. The package I am offering does that. It is a distinction that matters somewhat. But the point of both of these amendments is to provide health care to Guard and Reserve families that has a continuity component and that is affordable. It accomplishes this as a nation because you have given some numbers on the other side about how many Guard or Reserve families don’t have health care or adequate health care. Both bills take us in that direction. If I key differences is, under my proposal, it would work in a bipartisan fashion with Senator CLINTON and others. A Guard or Reserve family, or military person, would be in the TRICARE system like their active-duty component, giving a boost to TRICARE overall.

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Mr. GRAHAM of South Carolina. Yes. 

Mr. DASCHLE. Perhaps we can get the numbers clarified overnight. Senator DASCHLE’s estimate, after the first few years, where, I guess, there is a phase-in of some kind, is $1.2 billion, as the Senator from South Carolina indicated. Trying to understand why that number might be lower than the number of the Senator from South Carolina, given the fact that under Senator DASCHLE’s approach, the service members could keep their private insurance and then have it reimbursed by the Defense Department, which would seem to be a better deal for the service member. The service member has an option to maintain his private insurance but, on the other hand, might have a larger cost to the Government. Would it be possible for the numbers of the two amendments come from the same place and looking at the same time.

Mr. DASCHLE of South Carolina. That is a very good question. Here is my understanding of how those numbers relate to each other.

The cost to the Government under Senator DASCHLE’s package is $1.2 billion per year. The package I am offering is $1.4 billion. So it is more costly to the Government with the way it is constructed at this point. To the military member, it is several hundred dollars a month and more advantageous with our proposal.
Senator Daschle's proposal takes a 78-percent participation rate that all of us pay in the Federal health care program. What I do is take the retiree contribution to TRICARE and add $100 for enlisted and $150 for officers. 

Mr. LEVIN. Is the Senator indicating the cost of maintaining the private care that is not included in the estimates that Senator Daschle received?

Mr. GRAHAM of South Carolina. It is not included in the true form. It has as a cost estimate using 80,000 reservists that, in reality, if this second option were offered, they would go from 80,000 to almost 350,000, and that has to be included.

Mr. LEVIN. So the Senator is suggesting that it's important to get those numbers straightened out overnight—that the cost to the Government of the second option that Senator Daschle offers, which is to maintain private insurance, that cost is not included in the estimate which was given to Senator Daschle?

Mr. GRAHAM of South Carolina. It is not included in the true form. It has as a cost estimate using 80,000 reservists when, in fact, they tell us the participation rates will be three times higher than that.

Mr. LEVIN. In which case the estimate would not be accurate.

Mr. GRAHAM of South Carolina. That is correct.

Mr. LEVIN. We are going to ask our staffs to take a look at this issue overnight. There is a real difference.

Mr. GRAHAM of South Carolina. I understand.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise in strong support of S. 1050, the National Defense Authorization Act for fiscal year 2004. Before talking about this bill, I wish to comment on what my colleague from South Carolina just talked about with respect to his amendment on health care.

I commend both he and Senator Daschle for their leadership on this particular issue. We are in some very difficult times in America from a military perspective. We are calling on our Guard and Reserve more and more every single day. We want to do more to provide the benefits to attract high-quality men and women into the Guard and Reserve and retain them once we get them there.

We are getting our fair share of America's finest into the Guard and Reserve, and anything we can do from the perspective of the Senate to continue to do that and to keep them there are issues we certainly need to look at.

I personally like the concept of Senator Graham's amendment to Senator Daschle's, although I am not in any way critical of Senator Daschle's amendment. What I like about Senator Graham's amendment is that we have a health care benefit within the active military that is called TRICARE. TRICARE is a fairly new health program which provides health care benefits to our active-duty personnel.

We have had some problems with TRICARE in getting it implemented, but for the people most on armed forces in TRICARE worked out. What Senator Graham's amendment will do versus Senator Daschle's amendment is to strengthen TRICARE, and I think anything we can do to strengthen the active-duty, as well as the Guard and Reserve, is an approach we ought to use.

I commend both Senators. Senator Graham has particularly taken a leadership role with regard to this issue. I certainly have enjoyed working with him on it.

As chairman of the Subcommittee on Personnel within the Armed Services Committee, it has been a distinct honor and privilege for this freshman Senator to work with Senator Warner and Senator Levin. They are two men during my 8 years in the House of Representatives for whom I came to have great respect and great admiration, not for the Senate, but not for the military services issues, but on other matters as well, and to have the opportunity to work with them in the very close way I have had the chance to do over the last several months since becoming a member of this Committee has been a distinct pleasure for me. They have certainly worked well together and worked in a bipartisan way within the committee to make sure we did produce a bipartisan bill.

America's defense is not a political issue. It is not a Republican issue or a Democratic issue. It is an American issue. These two gentlemen have provided the type of leadership America so desperately needs to see when it comes to any issue, but particularly with respect to defense issues.

I commend my ranking member, Senator Ben Nelson of Nebraska. First of all, Senator Nelson is a very gracious and hard American gentleman. The Senator from Nebraska has a number of military installations he represents, and to have the chance to visit with him on issues that are unique to Nebraska versus issues that are unique to Georgia has really been a delight for me.

What I have enjoyed doing most of all in working with Senator Nelson is talking about issues that are of concern to all of us and in the military with respect to quality of life, educating their children, paying them greater benefits, whether it is pay raises or health care benefits or whatever. I have truly enjoyed working with him and am very pleased we were able to craft a section of the Defense Authorization Act for 2004 together, and to do so in a very bipartisan way.

The committee recommended authorization of $92.2 billion for military personnel, an increase of $4.8 billion over the fiscal year 2003 authorization. It also approved several key provisions I will outline that will fulfill our committee's express goal of continuing our commendable process for increasing the quality of life for the men and women of the Armed Forces—active duty, Reserve, Guard, and Retired—and their families.

S. 1050 authorizes an across-the-board pay raise of 3.7 percent for all military personnel. Additionally, targeted pay raises ranging from 5.25 percent to 6.25 percent for military officers and the Service's most experienced noncommissioned officers. These pay raises, along with existing incentive pays and bonuses, will continue to make careers in the military more attractive and send the right message to the active and Reserve component personnel that their service in uniform is invaluable.

Following up on the initiative taken by the Senate in the Emergency War-time Supplemental Appropriations Act for fiscal year 2003, the committee recommended a uniform across-the-board increase in the family separation allowance, from $100 to $250 a month, and in hostile fire, imminent danger pay from $150 a month to $250 a month. The subcommittee also supported legislative changes to the deployment of the DOD that will require close tracking of individual deployments and appropriately compensate those members who are repeatedly called away from their homes for extended periods of time. These increases recognize the sacrifices made by military personnel and their loved ones who endure separations and the harsh realities of defending the Nation in the global war on terrorism.

The committee approved an incentive pay of $100 a month for military personnel stationed in Korea. Arduous working conditions, substantial housing, and tours of duty unaccompanied by family members are hallmarks of duty in Korea. As the Nation marks the fourth and final year of the United States' 50th Anniversary of the Korean War Commemoration, and as the need for continuing vigilance on the Korean Peninsula becomes ever clear, thus additional compensation for service members in Korea is fully justified.

The subcommittee members were very concerned about the welfare of...
survivors of all deceased military personnel—active duty, Reserve, and Retired. The committee accepted our recommendations to double the death gratuity from $6,000 to $12,000 retroactive to 9/11, 2001, and to extend automatic survivor benefit plan benefits to survivors of inactive duty Reservists who die while serving on active duty.

The committee responded to requests from the Department of Defense for assistance in force shaping by authorizing a new incentive pay for military personnel in overmanned ratings to encourage them to accept the challenge of converting to ratings and military occupational specialties that are experiencing shortages.

The committee responded to concerns about the operation of TRICARE standard, directing the Secretary of Defense to take necessary measures to ensure the adequacy of this TRICARE option.

The committee approved a proposal that will authorize unlimited use of military commissaries by qualifying members of the Ready Reserve. The “citizen soldiers” of the Guard and Reserve voluntarily answered the Nation’s call, before and after the attack of September 2001, deserve full access to this important benefit of service.

The committee authorized additional Army National Guard and Air National Guard full-time support personnel to assist in fielding 12 additional weapons of mass destruction civil support teams. Upon implementation, this will raise the total number of teams nationwide to 44.

The committee included a provision that will facilitate medical and dental screening and medical care for members of the Selected Reserve who are assigned to units that have been alerted for mobilization. The committee also included a provision that will ensure that Guard and Reserve leaders are eligible for command responsibility pay.

These are only a few highlights of S. 1050, which, I believe, indicate our sincere commitment to our troops and their families. As chairman of the Subcommittee on Personnel, I am proud to be a part of ensuring that we meet that commitment.

I will take a minute to commend our staff. As many hours as we put in—it is now 7:15 tonight and we will be going later than that—staff put in many more hours than we did. To my committee staffers, Dick Walsh and Patty Lewis, we say thank you for a great job and for all of your hard work and dedication to the men and women in uniform, and to Gary Leeling, who is the Democrat who has worked so closely with Dick and Patty.

This has been a joint effort on the part of all three of these staffers. The same way Senator Nelson and I have worked in a bipartisan way, these folks have worked in a bipartisan way.

Gary, we say thanks to you for a terrific job on behalf of all of our men and women.

Again, I thank Senator Nelson for his outstanding work and his cooperation. It has been a pleasure to work with him. We cannot say enough about the great leadership Senator Warner and Senator Levin, and their service to our country, particularly their service to the men and women who serve in uniform in every branch of our military. They are doing a terrific job of making sure the American military is second to no other military in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, before our distinguished colleague departs the floor, I appreciate his thoughtful comments, but I guarantee him—Senator Levin and I have been doing this now for 25 years, but we are no stronger than the members we have on the committee. When the Senator from Georgia and the Senator from Ohio stand up and say I intend to get that work product out of him 100 percent. I thank him for joining us, and for all he does on this committee and for the men and women in the Armed Forces.

Mr. CHAMBLISS. I thank the Senator.

Mr. WARNER. Mr. President, I thank the Members of the Senate who participated in the progress today. We have had good colloquies and strong statements. We have two pending amendments. I hope the respective leaders tomorrow can establish a time for voting on those, and myself and my colleague are going to be right here from roughly 10 a.m. on. I am hopeful that other amendments can be brought forward. We are anxious—and it is a bipartisan desire—to move this bill at its earliest time because we have important legislative measures that must be addressed this week prior to the recess that is scheduled.

One more of great significance is action on the debt limit. I am quite sure we are not going to leave town until that is in place.

Amendment No. 697

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I send an amendment to the desk and ask unanimous consent the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. Reid], for himself, Mr. Dodd, and Mr. Nelson of Florida, proposes an amendment numbered 697.

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:

(Purpose: To permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability)

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

SEC. 644. FULL PAYMENT OF BOTH RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) RESTORATION OF FULL RETIRED PAY BENEFITS.—Section 1414 of title 10, United States Code, is amended to read as follows:

§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

“(a) Payment of both retired pay and compensation.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

“(b) Special rule for chapter 61 career retirees.—The retired pay under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

“(c) Exception.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

“(d) Definitions.—In this section:

“(1) The term 'retired pay' includes retiree pay, emergency officers' retirement pay, and naval pension.

“(2) The term ‘veterans’ disability compensation’ has the meaning given the term ‘compensation’ in section 101(19) of title 38.

“(b) Repeal of special compensation programs.—Sections 1413 and 1413a of such title are repealed.

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1413, 1413a, and 1414 and inserting the following:

‘‘1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.’’.
We worked well with the two managers of the bill. This deals with concurrent receipts. This amendment is offered on my behalf and that of Senator DORGAN. I understand, with the strict rules we are working under this year, that this amendment may not be relevant according to the rule now before the Senate.

I ask the Chair to rule on whether or not this amendment is relevant.

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not relevant.

Mr. REID. I accept the ruling of the Chair. I am disappointed. This is a very important issue. As I say, Senator DORGAN and I feel very strongly about this, and the two managers of the bill have been most generous in their work in conference. In the past, we have gotten nothing in the House; everything we have done has been in the Senate.

I will look for another vehicle to move this forward in the future.

Mr. WARNER. I thank my distinguished leader. For many years now the Senator has taken strong leadership on this issue. At some point in time, the Senate and Congress as a whole will have to face this issue. I recognize that this is not a relevant amendment pursuant to the consent agreement and we cannot proceed.

Mr. LEVIN. Mr. President, let me add my thanks to the Senator from Nevada for two things: First, for his faithful commitment to this issue. Currently, we sit as an issue of the Senator from Nevada and the Senator from North Dakota and a number of other Senators who have joined to try to bring equity in this area. We made at least some progress; it is because of their energy we have made the progress we have.

Second, I thank him for his acceptance of the ruling of the Chair. It is very important he does that because all Members need to accept the rulings of the Chair in the absence, it seems to me, of some overwhelming unusual precedent that would allow us to try to overrule the Chair. The whip’s, the Democratic whip’s approach is one which I think reflects the best traditions and the best instincts of this body. I thank him.

It also helped Senator WARNER and I to complete this bill within the parameters of the unanimous consent agreement.

Mr. REID. I ask my amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 697) was withdrawn.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business.

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

CONTROLLING FEDERAL SPENDING

Mr. NICKLES. Mr. President, the FY 2004 budget resolution adopted last month includes a provision to uncover waste, fraud and abuse in Federal Government spending. Today marks the beginning of a new deliberative process that will be undertaken by Committees in the House and Senate to control Federal spending.

Specifically, the budget resolution requires the Chairman of the Committee with the House and Senate to place in the CONGRESSIONAL RECORD specified levels of savings for each authorizing committee. Chairman NUSSE and I have developed a joint set of savings that requests each authorizing committee to report back with recommended savings proposals amounting to 1 percent of the committee’s total mandatory spending. I will work with Senate committees to ensure that this joint set meaningfully represents the opportunities to find improvements in the programs under each committee’s jurisdiction.

Pursuant to section 301(b) of H. Con. Res. 95, I submit specified levels of savings for Senate Committees. Given these savings targets, the budget resolution further requires committees to submit, by September 2, 2003, to the Budget Committee their findings that identify changes in law and policy that would produce the specified savings. The reports submitted by committees will guide us in the preparation of future budget resolutions and will help us all improve programs.

It is my hope that the committees will enthusiastically join Chairman NUSSE and me in this effort to root out waste, fraud, and abuse. As trustees of taxpayer dollars, Members of Congress must insist that limited resources not be squandered. Federal spending has been growing at unsustainable levels. Congress cannot become lax in its duty to perform the necessary oversight on Federal spending.

Often we find that Federal programs—ignored over time—become susceptible to waste, fraud and abuse. For example, according to a General Accounting Office report released in January of this year, Medicaid has been added for the first time to the GAO’s high-risk list, "owing to the program’s size, growth, diversity, and fiscal management weaknesses."

Limited oversight has afforded States and health care providers the opportunity to increase Federal funding inappropriately. States are able to take advantage of funding schemes which supplant State Medicaid dollars with Federal Medicaid dollars by overpaying State-owned facilities and requiring the local government to transfer the excess back to the State. These dollars are then siphoned away from Medicaid patients and often are used for other purposes. Without proper oversight this and other program abuses can persist for years.

Other recent examples of abuse include a finding by the Inspector General of the Department of Education that nearly 23 percent of student loan recipients whose loans were discharged due to disability claims were gainfully employed. Additionally, the Office of Management and Budget has estimated that more than $8 billion in erroneous earned income tax payments are made each year. These situations are unacceptable. The work that the Senate and House will undertake will result in reform in these and other instances of misspent Federal resources.

Chairman NUSSE and I have put in place a project specifically designed to draw upon the knowledge and experience of Senate experts in these programs. The savings resulting from this effort will not be arbitrary; they will be developed through sound and thoughtful considerations by those who know the programs best. I look forward to working with all the committee chairmen who will be reporting their findings and I am committed to making this a success.

I ask unanimous consent that the above-mentioned spending levels be printed in the RECORD.

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

| SAVINGS FROM 1 PERCENTAGE POINT REDUCTION IN MANDATORY SPENDING BY AUTHORIZING COMMITTEE |
|-----------------------------------------------|-----------------|----------------|
| Agriculture, Nutrition and Forestry .......... | BA              | 0.603          | 3.162          | 6.568          |
| Armed Services ................................ | OT              | 0.563          | 2.982          | 6.251          |
| Banking, Housing, and Urban Affairs .......... | BA              | 0.139          | 0.719          | 1.436          |
| Commerce, Science, and Transportation ....... | BA              | 0.017          | 0.058          | 0.092          |
| Energy and Natural Resources .................. | BA              | 0.074          | 0.382          | 0.807          |
| Environment and Public Works ................. | BA              | 0.264          | 1.493          | 3.018          |
| Finance ....................................... | OT              | 0.023          | 0.106          | 0.195          |
| Foreign Relations ................................| BA              | 0.119          | 0.563          | 1.181          |
| Governmental Affairs ......................... | BA              | 0.831          | 4.518          | 10.042         |
| Health, Education, Labor and Pensions ....... | BA              | 0.080          | 0.471          | 1.016          |
| Judiciary ..................................... | BA              | 0.072          | 0.433          | 0.944          |
| Veterans’ Affairs ............................ | BA              | 0.085          | 0.324          | 0.621          |
| Total ......................................... | BA              | 10.706         | 59.362         | 131.945        |

Note.—Section 301(d) of H. Con. Res. 95 does not include Senate Select Committee on Indian Affairs, the Committee on Rules and Administration, the Committee on Intelligence, the Committee on Rules, and the Committee on Small Business.

UNFAIR RESTRICTIONS ON LEGAL SERVICES CORPORATION

Mr. KENNEDY. Mr. President, many of us are increasingly concerned about the unfair restrictions on non-profit legal services providers under current Federal law who receive both Federal funds and private funds.

In 1996, Congress severely weakened the ability of many legal service providers to represent needy clients.