

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, I have been following the proceedings over the last day or so with increasing concern. As we said last week, we all know that this legislation has to be completed this week. I had hoped, because of the agreement we were able to reach among leadership last week, that we would table nonrelevant amendments, that we would be able to move expeditiously with amendments on those issues for which there was an interest, and that we would accommodate these amendments in a way that would allow us to move the consideration of this bill along successfully. I guess I was overly optimistic.

Frankly, I am very disappointed, in spite of that agreement, in spite of the efforts we have made to encourage Senators to come to the floor, and in spite of the fact that we know there is so much that still needs to be done, that we are at a procedural impasse.

I, frankly, know of no other recourse but to file cloture. That is the only way we can be absolutely certain we will complete our work before the end of this week. I have indicated that lament to the Republican leader.

I have noted with some concern to our managers that unless we do, I see no really practical way we can complete our work and perhaps accommodate other issues and other needs legislatively before the end of this week and before the Fourth of July recess.

Frankly, I don't know what the impasse is now. I thought we had reached an agreement on one of the amendments. At the very last minute, it appeared that in spite of that agreement there was opposition on the other side. And that precluded the opportunity to move forward on at least one of these issues.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion have been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 2514, the Defense authorization bill:

Harry Reid, Jon Corzine, Richard Durbin, Tom Harkin, Carl Levin, Mary Landrieu, Tom Carper, Ben Nelson, Ron Wyden, Daniel Akaka, Debbie Stabenow, Evan Bayh, Maria Cantwell, Herb Kohl, John Edwards, Jeff Bingaman, Joseph Lieberman.

Mr. DASCHLE. Mr. President, I will indicate to all colleagues that we will not leave this week until this bill has been voted on and final passage. I hope that won't be the last piece of legislative work we do. I hope we will even be

able to work on a couple of the nominations. There are a number of issues on the Executive Calendar that could be addressed. But we can't do anything until we have completed our work here.

Senators should be aware that there will be a cloture vote on Thursday morning. That will then trigger a 30-hour period within which this work must be completed so that we have a guarantee that at least before Friday afternoon the legislative time will have run out and we will have an opportunity to vote on final passage. I regret that I have to do this, but I see no other recourse.

I yield the floor. 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. LOTT. 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. LOTT. Mr. President, I yield myself time under leader time to respond to the action just taken by Senator DASCHLE. Having been in his position, I certainly understand why he is doing that. I think it is the right thing to do in this case.

We clearly need to move this Defense authorization bill forward, as we did the supplemental. We need to get an agreement on that and provide additional funds for defense and homeland security.

We also need to get completion of the Defense authorization bill before we leave for the Fourth of July recess. How could we celebrate the freedom of the country without having done our work on the Defense bill in view of all that we are dealing with at home and abroad?

So I think the majority leader was in his rights, and I would plan to support his cloture motion unless we can come up with some agreement that would allow us to save time by vitiating that. But I pledge my continued support to try to get this bill done in an orderly fashion at a reasonable hour, hopefully Thursday afternoon or early or late Thursday evening.

I just want to be on record that I understand why he is doing it, and I think it is the right thing, all things considered, at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, in light of this development, it is safe to announce there will be no more rollcall votes for the remainder of the day.

I yield the floor. And if no none is seeking the floor, 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. SESSIONS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. SESSIONS. Mr. President, I will give a few remarks. If anyone needs the floor, I will be glad to yield.

I think it is important for us to recognize, as we go forward with this new national missile defense system, that we are moving into a new era.

We had the ABM Treaty in 1972 that was the cornerstone of a mutual assured destruction strategy between the United States and the Soviet Union. We both agreed we would not launch missiles against one another and we would not, under the treaty, explicitly build an antimissile defense system. Not one of us would, leaving each other vulnerable to one another.

The treaty only has six or seven pages. It is in the appendix of this book that I have in the Chamber. The reason I want to share it is because a lot of people wondered why, 6 months ago, President Bush chose to get out of the treaty. And that took effect just a few days ago when the 6 months ran from the notice he gave in December.

This treaty really kept us from defending ourselves. In the first article it says:

Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region. . . .

We basically said we could not deploy one. It says that again in several places here.

Article V says—and this was the conflict we were having, the problems we were having:

Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

Much of our new scientific development in recent years indicates that sea-based, air-based, space-based has the capacity to help us protect our homeland from missile attack.

Earlier this afternoon I read some quotes from the vice admiral in charge of the Defense Intelligence Agency in which he said China was developing a mobile-based ABM system. China was not party to the treaty; neither was Korea, neither was Iran, Iraq, and North Korea. They were not a party to the treaty. All those countries are striving to develop a missile system.

China, according to the intelligence report, is, in fact, developing a mobile land-based system. According to this treaty we had with the Soviet Union—a country that no longer exists—that treaty prohibited us from doing that or having a sea-based or an air-based system. This was getting really out of

control. In other words, we had a treaty in 1972 that made sense, when we had no other nations, virtually, except the Soviet Union with a ballistic missile system.

We are moving into an age where 16 countries have a missile system. Some of those are virulent rogue nations that desire us harm. We had this treaty that kept us from preparing a defense to that.

Some people forgot, also, that under the treaty there were some exceptions. We chose one route and the Soviet Union chose another one, which was to build a national missile defense around Moscow. They, in fact, deployed a missile defense system, under their option, around Moscow. But we were prohibited from doing that.

President Bush took a lot of grief. You remember it. They said he was acting unilaterally. And the Socialist left in Europe went up in arms that the United States should not get out of this treaty. Some in Russia said it was a mistake, and they objected. But the truth is, I think they were just negotiating with us for a good deal.

President Bush was steadfast. He stayed the course. The National Security Adviser, Condoleezza Rice, was consistent; she never backed off. They made clear that at this point in history the mutual assured destruction that existed between us and the Soviet Union was out of date. We now hope to have in Russia a friend, not an enemy. It was an entirely different nation. What our threat was—and we learned on September 11 just how real this was—was from rogue nations. And we ought to be able to begin to prepare as to how to defend ourselves from that.

In 1999, Secretary of Defense Rumsfeld chaired a commission to study the threat posed to the United States from ballistic missile attack. That was a bipartisan commission. And they studied the issue intensely. The commission unanimously voted that the United States was facing a threat from missile attack by other nations. They unanimously agreed that the threat was coming much quicker than had been predicted earlier, and that by the year 2005 we could be subject to missile attack from other nations.

So that is why the Nation decided, in 1999, to go forward. It was a dramatic vote in this Senate when we voted 97 to 3, with Senator THAD COCHRAN, who spoke earlier this afternoon, being the prime proponent of the legislation. But in addition to Senator COCHRAN, one of his prime cosponsors was Senator LIEBERMAN, the Democratic Vice Presidential candidate last year, and one of the leading senior members of the Armed Services Committee. They proposed the language that, in 1999, stated we would deploy a national missile defense system as soon as technologically feasible.

We made that decision. We funded it. President Clinton proposed a \$5.3 billion budget for national missile defense to carry out that objective.

President Bush, during the campaign, said he believed we ought to be moving more aggressively, that the threat was more real than some thought. He wanted to step up the pace, and he did do that. He proposed an increase when he became President of about \$2.5 billion over the \$5.3 billion, making it a \$7.7 billion national missile defense budget. That was passed by this body. We had a dispute in committee, and on a party-line vote the increase was not backed in the committee. But when we got to the floor, the full amount was affirmed on voting.

So this year the President asked for a little bit less. He asked for a \$7.6 billion or so expenditure for national missile defense. He did not ask for an increase over last year but actually asked for a small reduction as compared to last year's expenditure. But, again, that was one issue that we disputed in the Armed Services Committee, and on a straight—unfortunately, I thought—party-line vote, \$800 million was taken out of the national missile defense fund.

It was taken out in a way that General Kadish, who has managed this program with integrity and skill and determination, said would damage the program significantly.

I don't believe we ought to allow that to stand. I believe the full Senate needs to review it and replace that money. Let's do what the President asked. Let's give him the money he requested. Let's keep this plan to build a national missile defense that will include sea-based, mobile land-based, multiple land-based, and space-based, if appropriate, capabilities that will allow us to hit the incoming missiles in their launch phase, midphase, and in the terminal phase, all of which we have the capability to do.

The tests that have been running have been successful. We have been able to have head-to-head collision, bullet-hitting-bullet, high-over-the-ocean, smashing and destroying missiles. We are going to continue to test it under the most rigorous conditions. I believe this process we are undergoing will be successful, and we will prove that we have the capability to destroy incoming missiles even with decoys, even under the most hostile conditions. That is what we ought to do.

The total price of it, the \$7.6 billion the President asked, out of a \$386 billion defense budget that we are putting up this year, is reasonable and appropriate. It represents not a step to cold war but a step to a new, positive relationship, away from mutually assured destruction, away from the hostility we had with the Soviet Union for so long, to a new open day in which we are actively engaged in the world, but a day in which we don't have rogue nations being able to intimidate us, being able to intimidate the President, being able to threaten our country with attack that would have to cause him to pause. It would have to affect our de-

fense policy, if that were to be the case.

I believe this will move us away from it, give us freedom to act in our just national interest. I urge the Senate to move forward with approval of our President's budget and the Warner amendment.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Nevada.

Mr. REID. Madam President, I know my friend from Nebraska, the distinguished Senator, is here. I ask unanimous consent that the Senator from Nebraska, Mr. HAGEL, be allowed to make a statement on the underlying bill, that during that period of time there would be no amendments offered to the bill; following the statement of the Senator from Nebraska, the Senate then proceed to a period of morning business for the rest of the evening.

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

The Senator from Nebraska.

Mr. HAGEL. I thank my distinguished colleague and friend, the senior Senator from Nevada.

I rise today in support of the Warner amendment, an amendment that will restore the \$814 million cut from the President's request for missile defense funding. Last December, President Bush made the decision to withdraw the United States from the constraints of the Anti-Ballistic Missile Treaty of 1972, the ABM Treaty. That treaty went out of existence on June 13. The United States is no longer constrained by cold-war-era treaty requirements.

I supported President Bush's actions to withdraw the United States from the ABM Treaty, which I believe demonstrates his commitment to America's defense. The ABM Treaty was an important treaty. It defined the strategic policy of our Nation and defined the strategic nuclear policy of an era because at that time in 1972, the ABM Treaty was signed by two countries: the Soviet Union and the United States, the only two countries that had the capacity to launch all out nuclear war.

The world has changed—the world is dynamic—since the ABM Treaty was signed, and the policy of mutually assured destruction that formed the cornerstone of our nuclear deterrent policy is gone.

Now, as September 11 has made brutally clear, we face varied threats from terrorists, individuals, nations, organizations, and those that support them. These threats, these challenges come in many forms. Currently, 12 nations have nuclear weapons programs; 28 nations have ballistic missiles; 13 nations have biological weapons; and 16 nations have chemical weapons.

These new realities mean we must place a greater emphasis on defense—all forms of defense. Unfortunately, the defense authorization bill reported out of the Senate Armed Services Committee takes a step backwards with regard to missile defense.

The \$814 million cut will have a profound effect on U.S. efforts to continue research and important development and eventually deploy an effective missile defense system.

In addition to the proposed cuts in research and testing, nearly 70 percent of the Missile Defense Agency's civilian jobs and related costs could be eliminated if the current legislation we are debating is enacted. These cuts would severely hamper the Missile Defense Agency's ability to conduct day-to-day business. That means tests. That means research. That means development. That means a better understanding of the integration of these new defense capabilities into our overall national security system.

This is very important. It isn't one test. It is not one program. It is not one system. It is an integration of all these strategic balances that now become the dynamic of our national security system: Offensive weapons, now defensive capabilities to guard against not just ballistic missiles but tactical missiles, nuclear, biological, weapons that can be delivered and delivered anywhere in this country.

We seek a broad array of research, development, and testing activities to yield a system as soon as feasible, not any system but a relevant, realistic system that in fact has the capability to defend this country and our allies. This is not one monolithic umbrella over just this country. Our deployed forces overseas, large groupings of our deployed forces all over the globe, must be protected. Our friends and allies rely on the United States. This is a large, profound, critically important project. It cannot be accomplished, defined in a year or 2 years. But in the interest of our country and its future security, it is quite clear that we need a national missile defense system.

The Armed Services Committee's actions in the bill they reported out of committee would hamper this objective. If the current Senate version of the missile defense budget were to stand, Secretary Rumsfeld would recommend that the President veto this legislation.

It is important to note how missile defense interconnects with our broader security and strategic policies. In February, I visited the U.S. Strategic Command in Bellevue, NB, the headquarters of our military nuclear strategy.

At 1 o'clock tomorrow afternoon, Secretary Rumsfeld will announce that Offutt Air Force Base in Nebraska will become the new headquarters for a merged SPACECOM and STRATCOM facility with new responsibilities to face the new challenges and threats of our day.

Missile defense will be part of that new merged command and will bring Space Command and Strategic Command together. When I was at Offutt Air Force Base earlier this year, I was briefed on how defense policy was moving beyond the cold war nuclear triad of missiles, bombers, and submarines.

One leg of the new triad would consist of our old nuclear capability, but it would be supplemented with both conventional military superiority and an effective missile defense system—integrating the systems. In forging this new triad, the United States could significantly reduce our nuclear arsenal, while at the same time protecting our country, our troops abroad, and our allies from limited missile threats and possible missile blackmail from rogue regimes, terrorists, and other nations.

Today's New York Times ran a story discussing a course that this transformation could take. It described a possible new Unified Combatant Command that could "combine the military network that warns of missile attacks with its force that can fire nuclear and nonnuclear weapons at suspected nuclear, chemical, and biological weapons sites around the world."

We are in the process of making this new strategic framework a reality. It is our highest responsibility—the security of this Nation, the security of our men and women around the world, whose only objective is the security of this Nation. We have a responsibility to our allies. We must recognize that the threats facing our Nation are changing, and we must restructure, reorganize, and adapt to these new dangerous threats.

Missile defense will play a significant role in protecting our country, our allies, and our deployed forces. I might say, isn't it interesting that under President Putin, the Russians are working closely with our defense establishment to work through these new mutually beneficial strategies and finding ways to cooperate in both of our interests.

The threats to the United States are not unique to the United States. These threats are threats to Russia and to nations all over the world. A missile defense system for the United States and our allies is not mutually exclusive from the interests and benefits of Russia. With President Bush's recent trip to Russia, that was formalized in two very important documents that were signed by Presidents Bush and Putin.

So it is not a matter of a unilateral course of action for the United States to pursue missile defense. It is in the interest across the globe of all peoples who wish to make the world safer, more secure, more prosperous, more peaceful. And why is that? It is as much about defining opportunities and hope for the world as any one part of this equation or this debate. What we are facing in the Middle East, Afghanistan, Central Asia, Indonesia, the Philippines, and South Asia cannot be disconnected from this total development of policy that makes the world safer and more secure and more stable for the benefit of all people. These are factors that are not often pointed out in this debate about missile defense.

Madam President, I urge my colleagues to take a close look at Senator WARNER's amendment to put this fund-

ing into this Defense authorization bill—maybe as important a Defense authorization bill as we have seen in this country in many years. I hope my colleagues will read through what the amendment does. It is very simple: putting the money back in.

I want my colleagues to take it the next few steps and ask themselves the consequences for slowing down missile defense development in this country.

We, too often, get disconnected from the objective of the debate in Congress because we get snagged in the underbrush of the nuance, or the amendment at the time, or the argument at the time, or the newspaper headline tomorrow, or defending an amendment to an amendment; and we lose sight of the horizon, where do we go, why, and what is the point, and what is the bigger picture, the wider lens that is required? This is such an amendment. This is a wider lens amendment.

I hope Senator WARNER, when he introduces his amendment, will get a vote on that amendment. I hope this Senate will come forward with the votes to support Senator WARNER's amendment because it is not just about how much damage we would do to the security interests of this country; it is about more than just that strategic and military dynamic. It is about the future course of our foreign policy, the enhancement of our relationships, and the ability to help bring peace and stability and prosperity to the world. This is what we debate.

Defense is not just defense. Defense is about allowing a nation not just to defend itself but to prosper and reach out to help other nations and make the world safer. That is the big picture. That is what we pray for—not the amendment.

So, again, I urge my colleagues to take some time to understand what this is about and the consequences of their vote. I am a cosponsor of Senator WARNER's amendment. I have believed for some time that it is a responsible and relevant approach as part of our larger framework of interests and, certainly, strategic defense policy for our future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Madam President, I rise in opposition to the Warner amendment, and I wish to take as much time as I may consume.

The PRESIDING OFFICER. The Senator may proceed.

Ms. LANDRIEU. I thank the Chair.

Madam President, I rise, as I said, in opposition to the Warner amendment. The Warner amendment calls for the elimination of about \$814 million in the

underlying bill that has been directed to much-needed investments in the Department of Defense to ward off the many threats that are facing our Nation today in a very responsible manner, I wish to add.

I thank Chairman LEVIN, the Senator from Michigan, for his outstanding work on pulling together this underlying bill. I particularly thank our subcommittee chairman, Senator JACK REED, who has worked very hard on this particular provision. I acknowledge their good work in this area.

I rise in opposition to this amendment as a supporter of missile defense—not as one of its critics, not as a detractor for the missile defense system.

The Warner amendment is unwise and unnecessary for two reasons, and I wish to comment about both reasons.

First, the thrust of the amendment rests on very shaky fiscal parameters. Senator CONRAD has spoken very well and clearly on this subject, but one of the problems—not substantive but technical problems—with this amendment is that it basically taps into revenues that do not exist. There is no “real offset” for this amendment. There is a claim of an offset, but it is going to be very difficult, if not impossible, to materialize that offset because of the thrust of this amendment.

It says basically that this money is going to be found by anticipating fluctuations in the inflation rate, assuming that the inflation rate is going down when it is probably rising. Nonetheless, this money is not a real offset. It is based on very shaky fiscal principles, and that is one of the reasons I do not think we should support this amendment.

The second reason, however, is a stronger argument, and it is more important, although the first argument is something to consider because if we do not consider it, then any Member of the Senate could offer any amendment to add \$100 million, \$50 million, \$400 million, \$600 million and say we are going to find an offset because we think inflation is going to move one way or the other, and so we are going to guess that the money may be available. It is a very bad precedent when we are talking about this much money in a time of tightening budgets and greater demands on the Federal budget, both domestic spending as well as military spending. I think it is a strong argument.

The stronger argument is that it is wholly unnecessary to restore this amendment and claim that it in any way enhances or pushes forward and strengthens missile defense, because it does not. I would argue in some ways it will weaken our overall Defense bill, which is why I oppose it.

Why do I say that? In the underlying bill, without the Warner amendment, we are spending 25 percent more for missile defense than we did 2 years ago, up to \$6.8 billion, up from \$5.1 billion when President Clinton was in his last

year in office. Let me repeat, in the underlying bill, without the Warner amendment, there is a 25-percent increase in the Missile Defense Program.

Democrats and Republicans on the committee, and Democrats in particular on this amendment, have supported a robust development of missile defense. We want to support the President in a strong Defense bill. We have met and exceeded the dollars he has asked for, but what we are saying and what I am suggesting is that the committee work has rewarded success in this program of missile defense. It acknowledges that it is important to develop a missile defense program for the United States, not undermining it, not cutting it, not trying to bury it, but to support it. That is what the underlying bill does: It rewards success, cutting out its redundancies and demanding the appropriate oversight that the American taxpayers deserve.

This, after all, is a \$7 billion program—not million; \$7 billion. I have observed in my time in Congress—Madam President, perhaps you have observed this, too—that sometimes we give more scrutiny to a \$164 welfare check or a \$1,000 credit card charge or a \$2,000 rebate that a small business might get from a subsidy, and we go over that with a fine-tooth comb to make sure that welfare mother, that small business owner, or that person just “doesn’t get away with murder” with spending or mishandling \$164 or the \$2,000. Yet with a \$7 billion program, we want to say: Let’s not look at the details; this is what the President asked for; let’s just do it that way exactly; they couldn’t possibly be wrong even by a percentage point; they couldn’t be off 1 penny. I think that is very hard, if not impossible, to accept as realistic.

This bill looks carefully at the \$7 billion program—and we did this in every program in the Defense bill—again, not undercutting it at all, matching the President’s dollars, but shifting things around to make sure we can have a very good missile defense program.

We could also address some immediate threats that everyone now in America, if they did not know it before September 11, knows now, and we all know as each week unfolds more and more clearly the other immediate threats, chemical, biological, nuclear threats, weapons of mass destruction, potentially poised against our Nation.

The challenge is before our military to invest in their readiness, in their equipment, in their mobility, and in their restructuring. We know that we are not fighting the cold war anymore and we will not fight the cold war ever again, but we will be fighting this asymmetrical threat and so we want to have a strong military budget, a robust military budget, and allocate these funds accordingly.

The underlying bill did that. It took a very small percentage of the overall missile defense, and as Senator REED has so eloquently pointed out and let

me restate, we reward success in the underlying bill. The Patriot Advanced Capability-3 system has tested well against multiple targets. That is part of the Missile Defense Program. It does not pass every test.

Sometimes the critics of missile defense will point out, no, we cannot have it; this test failed. Well, in every success there are failures. We will fail a time or two, but if we continue to invest, continue to be wise and spend our money well, watching our budgets carefully but not undercutting this program, we can develop an effective missile defense system not only for ourselves but our allies and protect America in the future.

The Patriot Advanced Capability-3 system has not passed every test, but its future to protect our allies and soldiers looks bright. Accordingly, the committee fully funds this part of the missile defense system, bringing it closer to deployment.

Another part of the missile defense is the research program that we are doing in conjunction with Israel and others, but primarily Israel, the Arab program. It is a theater-wide missile defense system that we are developing. It has fared very well to date. Threats against Israel and U.S. forces in the Mideast certainly are real. Our committee increased funding for this project, again rewarding success, identifying what parts of the Missile Defense Program are successful and moving forward, using the money wisely and having success. We are supporting that.

The subcommittee made some very smart recommendations. It looked at the whole \$7 billion and it found in one instance—this is only one example—that the administration had asked for \$371 million versus \$202 million last year for systems engineering and integration. The request is more than the Pentagon can spend on system engineering. In committee, in a public hearing, DOD was unable to justify the request. Still, the committee added \$29 million for a 13-percent increase to systems engineering and design, giving the benefit of the doubt but thought that would be a good place to move some money into some other important things in defense, which is our job as Members of Congress.

I am proud we met the President’s target on defense. I argued, let us not give one dollar less. If we can, let us give more. Some people have a different view, but I believe we need to support our defense in every way possible.

I think moving this money to fund other activities in the Defense bill is not only wise, it sharpens our Missile Defense Program and sharpens our overall Defense bill and our budget. There are numerous examples like the one I gave about engineering and integration, which is what this committee did.

The Warner amendment is unwise in a fiscal way. It is irresponsible to claim revenues that do not exist, to hope

they materialize, and then, if they do not, the budget situation is made much worse.

But on a deeper level and a more important level, the amendment is unwarranted and unjustified because there is a robust budget for missile defense in this Defense bill. We have shifted some of the money, and I will talk about why we have tried to shift the \$814 million that we identified as unnecessary, redundant, or unjustified to other programs in the military because there are, in addition to the threat from a missile that might come to this country from Iran or Iraq or North Korea or one of the other rogue nations, there are real and immediate threats and, I would argue, more present threats.

Not that I do not believe missile defense is a threat. I do. Not everyone in Congress does, but I do believe it could be a threat and we need to deploy a system that will be cost effective to the taxpayer as well as technologically effective.

In moving the \$814 million to sharpen our Missile Defense Program and to sharpen our overall budget, we invested \$124 million into hardening nuclear facilities against terrorist attacks. We have many nuclear facilities in this Nation. We have labs committed to the development and exploration of nuclear materials. DOE asked for it in the budget submission, but it was turned down.

We have all seen reports of threats against our nuclear facilities. We know that whether one is in New York, in Louisiana, in Arkansas, or in some other place where nuclear facilities are present, the community is concerned, as they should be.

Is our Government doing everything it can to protect us, to harden these facilities against attack? I think every Member of this Senate would like to be able to say we have added over \$120 million to our nuclear facilities to provide tougher perimeters and systems that will protect from a terror attack.

We have heard testimony not just before my Emerging Threats Subcommittee but many of our subcommittees about the importance of that. We took part of the savings that we identified and redirected it to shipbuilding. Shipbuilding is important to Louisiana. It is not just important to Mississippi because Ingall's Shipyard is there. It is not just important to Maine because of our colleagues, Senator SNOWE and Senator COLLINS. Shipbuilding, ship procurement, and the sustaining and maintenance of at least a 310-ship Navy is very important to our military strategy. There has not been one committee that I have attended since I have been on the Armed Services Committee, whether we are talking about the Pacific, the Atlantic, the Caribbean, or other places in the world, that the admirals and the generals, the men and women in uniform, representing and protecting our Nation, have testified to anything other

than a 310-ship Navy as an absolute minimum.

There was a point in our history we had 900 ships. Now maybe we cannot afford 900 ships. Maybe we do not need 900 ships, but in this new world of asymmetrical threats, where we cannot wait for the enemy to come to us; we need to go to them, there are only two ways basically to get there: either by water or by air. We have to have both. We cannot rely only on our Air Force capabilities. We have to have a strong, robust Navy to fight on these battlefields wherever they might be, to transport our troops, to do it effectively, to do it safely.

There is not a Member, I do not think, and particularly Senator WARNER from Virginia, who comes from a huge Navy State, to argue that this was a poor or not thought-through reallocation of this money. Without it, we cannot build and continue to carry out our LPD-17s and other important shipbuilding and procurement that is underway right now with the Navy.

Four thousand sorties have been flown from Navy ships in the Arabian Gulf. Our surveillance airplanes, our fighters, and our bombers get a lot of attention, but many of those sorties begin by lifting off from our aircraft carriers and from places that are bringing this equipment and these platforms and giving them a place to take off, refuel and take off again, to protect us from the threats of terrorism and other threats around the world.

As we have seen in Afghanistan, we are in an age of war, fighting where we cannot forward-deploy our Armed Forces land-based near the theater. We are blocked by unfriendly nations from being able to fly over or to land at bases. Our Navy provides those places of security, those places for our armed men and women, our forces to regroup to get ready and take off for battle.

At a time when the Navy is so vital to our war effort, the Navy could in this budget fall below 300 ships. This \$690 million readjustment, or additional investment, taken from a program, while important, is not in the least bit delayed or undermined and will go a long way to strengthen our Navy.

We add money for other counterterrorism priorities in this budget. We have moved some money—a good bit of money, but a very small percentage of the overall funding—from missiles to other parts of the budget that are crying out to be addressed: Our shortage of ships in the Navy, our need to secure our nuclear facilities, and there have been several other investments in counterterrorism.

That was a wise decision. I was proud to support it in the committee. I urge my colleagues to reject the Warner amendment and to support Senator LEVIN and Senator REID in this effort.

I quote Gen. Henry Shelton, former Chairman of the Joint Chiefs of Staff, on his view of threats posed by military ballistic missiles and weapons of

mass destruction. General Shelton is a very decorated leader of our armed services. His reputation is without question. He said within this last year there are other serious threats out there in addition to that posed by ballistic missiles. We know, for example, there are adversaries with chemical and biological weapons that can attack the United States today. They can do it with a briefcase, by infiltrating our territory across our shores or through our airports.

This underlying bill is attempting to address this real, broad, and asymmetrical effect. It can come from missiles, it can come from a briefcase, it can come from a container through one of our ports, it can come through a bomb planted in the back of a U-haul pickup truck, against any number of targets. This city, Washington, DC, our Capital, is rich with targets, but so are all the cities, including the home State of Washington of the Presiding Officer and my State of Louisiana.

The taxpayers want us to make sure we are not just spending a lot of money on defense but we are spending it wisely, in the right places, and we are not overspending in one area and leaving ourselves vulnerable in another. Protecting our nuclear powerplants and supporting missile defense we can do. Investing in counterterrorism and supporting missile defense we can do. Building a strong Navy and supporting missile defense we can do. But we have to be smart about it and not just with some political slogan that looks good at election time. I am afraid that is what this is all about.

Let's have a strong Defense bill, a smart Defense bill, a bill that matches the President more than dollar for dollar but makes good and wise choices about how we are spending those dollars.

As a supporter of missile defense, I argue strongly against the Warner amendment and urge my colleagues to support what the committee did. This will be a very important vote, along with some other tough votes we will have to take regarding transportation and setting good priorities in our Defense bill.

As the article on the secrecy shield in the Washington Post suggests, if we are going to spend \$7 billion—and I support building the program—let's do it in the right way and make sure there is full public disclosure. There could be some aspects we do not want on the front page of every newspaper, but give the taxpayers the best missile defense system. Spend their money wisely. By putting up a secrecy shield, which is what this article based on a recent report that has come out is claiming, I believe as we move forward with our missile defense system, it needs to be done with full disclosure, without jeopardizing those features that might have to be kept in a classified position, so the taxpayers can be sure we are spending their money wisely.

In the words of General Shelton, there are many threats facing our Nation. The bill we are debating today is about preparing ourselves for all of those threats, allocating our resources wisely by making very good decisions. Lives depend on it. The strength of this Nation depends on it. Our future and the future of our allies depend on the decisions we make in the next few days on this very important bill. This is one of those decisions.

Let's say we are going to shift money, strengthen missile defense, sharpen it, but also strengthen our other defenses so we can protect the people. They sent us here to do no less.

Mr. MCCAIN. Madam President, less than 2 weeks ago America marked the historic demise of the ABM Treaty. We did so in accordance with the treaty's terms, and with the consent of Russia, acknowledging that the strategic rivalry that dominated our relationship for three decades is a thing of the past, in word and in deed. I find it remarkable that removal of the legal and diplomatic constraints formerly placed on the development of America's missile defenses has been replaced by political constraints imposed by members of the Armed Services Committee.

As my colleagues know, the committee bill slashed the President's budget request for missile defense programs by \$812 million. I appreciate that missile defense was a controversial issue when it was viewed by some as a threat to United States-Russia relations. These critics argued that the strategic stability we enjoyed from the cold war-era "balance of terror" would be put at grave risk by President Bush's support for missile defense development unconstrained by treaty limitations.

These critics were wrong. I did not then agree with them, but I understood their position. Today, however, we live in a post-ABM Treaty world, forged with the cooperation and explicit consent of the Russian Government.

No longer does this arms control agreement regulate our development of anti-missile systems. No longer does America's diplomatic relationship with Russia require us to pay allegiance to an arms control relic of an adversarial past. The President has consistently stated that the development of effective missile defenses is a priority of his administration, and a requirement in an age of proliferation. Most Americans support the construction of missile defenses, especially if it is done in a way that doesn't violate our treaty commitments. Rather than alienate our friends overseas, America's missile defense development, some of which will be coordinated with the Russians and our allies, will one day help protect allies in Europe and Asia from missile assault. If properly managed, our international alliances will be strengthened, not weakened, by these systems. I believe they will enhance, not undermine, strategic stability.

It is troubling that the committee bill would deny the administration the

resources and flexibility to aggressively pursue a range of missile defense programs, at a time when diplomatic and treaty constraints on that development no longer restrict our freedom of action. One motivation of missile defense critics is their belief that effective missile defenses are no more than a Reagan-era fantasy, a political project that disregards daunting technological obstacles to achievement. But by slashing nearly a billion dollars from missile defense development in the coming fiscal year alone, critics create a self-fulfilling prophecy. By definition, their denial of requested resources makes it nearly impossible for the administration to meet its objective to deploy missile defenses as soon as possible. I would remind my colleagues that only 3 years ago, 97 United States Senators voted to deploy "as soon as technologically possible an effective National Missile Defense System capable of defending the territory of the United States against limited ballistic missile attack."

Expert studies show that political and funding constraints have in fact impeded progress on developing and deploying missile defenses. Of the many missile defense programs, one of the most cost-effective and, if properly executed, most readily deployable would be a sea-based program using the Navy's existing Aegis fleet air defense assets. If accorded the proper priority and resources, populated areas along America's coasts, forward-deployed U.S. forces, and U.S. allies could begin to come under a limited missile defense umbrella before the end of the President's first term. Indeed, had the advice of many defense experts been followed since 1995, when a blue-ribbon commission first called for withdrawal from the ABM Treaty and pursuit of Aegis-evolved missile defenses, such protection would likely have been put into place before now.

We are a nation at war. The administration is seriously contemplating a military campaign against Iraq, a nation armed with short-range ballistic missiles that took their toll on American troops and Israeli civilians during the Persian Gulf war. Saddam Hussein is also known to be pursuing more sophisticated missile systems. In any military campaign, our forces and our allies would be at risk from Iraqi warheads containing biological or chemical agents. Iran is pursuing an ICBM program and could test it within 3 years, according to our intelligence community's consensus estimate. Iran is also aggressively pursuing a nuclear capability. Our intelligence community assesses that North Korea today possesses the capability to hit the United States with a nuclear weapon-sized payload. Many experts believe the North Koreans already possess enough weapons-grade plutonium for several nuclear weapons.

America faces the risk of strategic blackmail from nations such as these whose possession of sophisticated mis-

sile technology puts them in a position to restrict our flexibility to deploy military forces where and when they are needed. Much of the missile defense debate has focused on defense of the U.S. homeland, and this is important. But development of effective missile defenses is critical not only to protect America, but to preserve our military options overseas, by allowing us to meet threats to our interests around the world. Effective missile defenses will allow American forces the flexibility to operate in regions where the presence of a dangerous regime armed with ballistic missiles would otherwise unacceptably constrain American military operations.

America's defenselessness to missile attack, and the vulnerability of our overseas forces and our allies to rogue regimes with advanced missile capabilities, are the Achilles' heel of American foreign policy. Preserving our ability to deploy military forces across the globe requires us to protect against threats of missile attack that, left unmet, could one day cause us to acquiesce to acts of aggression overseas in order not to expose ourselves to attack. Missile defenses will reduce the possibility of strategic blackmail by rogue regimes.

The threats are real. The diplomatic foundation has been laid. The potential of missile defense technology is clear. The implications of rendering America defenseless as a strategic choice are morally troubling. The case for missile defense is compelling. The threat of terrorism is grave, but the rise of this clear and present danger does not diminish the menace that rogue regimes that cavort with terror and aggressively pursue weapons of mass destruction pose to America. I urge my colleagues to support the Warner amendment to restore the President's requested funding for missile defense programs.

Mr. SMITH of New Hampshire. Madam President, I rise in strong support of the amendment offered by my friend and colleague, Senator WARNER, to restore funding for missile defense.

The cuts made during markup, while amounting to "only" 10 to 11 percent of the overall missile defense budget, are targeted to decapitate the program and destine it to failure. President Bush will likely veto the Defense authorization bill if we do not restore funding to missile defense.

I have long been a strong proponent of missile defense. We must take the appropriate steps to protect our homeland against all threats. An effective missile defense is a key element in homeland security. There are those who discount the threat. However, a recent national intelligence estimate (NIE) warned that a rogue nation, other than China or Russia, will be capable of a ballistic missile attack against the United States before 2015.

I believe we will face the threat in the near term, well before 2015. The threat is real, and it is now, not in the

distant future. If this body turns a blind eye to this ominous threat, History will condemn us for our lack of action, and question why we sat idle while the threat grew. It is important to note that the public overwhelmingly supports missile defense. However, the vast majority of Americans do not realize that our Nation currently can do nothing to stop a ballistic missile attack against the United States. In fact, a majority of Americans expressed surprise, disbelief, and anger, when told that the United States has no defense against ballistic missiles.

We need to get serious about developing and fielding a missile defense system. We can't wait for another September 11-like event to spur us into action. Complacency is our enemy. For the sake of our children and our grandchildren, I hope that reason will prevail and that we will vote to pass this amendment.

I commend President Bush for withdrawing from the ABM Treaty. The ABM Treaty was a cold war relic that deserved to be discarded. I also applaud the Bush administration for its new approach toward missile defense. Approaching missile defense as an integrated "system of systems," with layered defense in phases—boost, mid-course, and terminal—is the right thing to do. Unfortunately, the cuts during markup targeted the critically important systems engineering and command and control elements of missile defense.

In effect, the cuts removed the "system of systems" architecture that is important to the new approach to missile defense. The national intelligence estimate was clear. North Korea, Iraq, Iran, and others actively seeking to acquire weapons of mass destruction and longer range ballistic missiles. China already has ICBMs capable of hitting the United States and has threatened to use them if the United States interceded in a conflict with Taiwan. Effective missile defense is one of the most complex technical problems to face our Nation, and one that requires innovative solutions.

I applaud the new approach for the development and rapid fielding of missile defense. It is the right approach given the unique challenges of the program and the looming threat. There has been much unwarranted confusion over the non-traditional approach to defining requirements for missile defense, and the review and oversight process. Some allege that the Missile Defense Agency (MDA) has been given cart blanche to spend taxpayer money on outlandish technologies with no oversight.

These allegations are totally unfounded, and are largely intended by ideological opponents of missile defense to alarm and confuse the public. Developing a missile defense system is, as Pete Aldridge, the Deputy Secretary of Defense for Acquisition, Technology, and Logistics said, like operating in "uncharted waters."

In order to define the requirements for the system in the face of maturing technologies and the unpredictable future threat, the Missile Defense Agency will use an evolutionary or "spiral" development approach. In most complex programs like missile defense, it is extremely difficult in the early stages of development to define in sufficient detail what the fielded system will look like, how it will perform, and what its functional characteristics will be. These items are normally described in operational requirements documents, or ORDs. However, far too often, the services, with the best of intentions, write the operational requirements documents (ORDs) too early in development with their "best guess" on what the parameters should be, and then spend huge amounts of money trying to drive programs to meet those requirements.

In missile defense, these final requirements at this point are impossible to determine. Using "spiral" development. In other words, developing the system in increments and fielding capabilities as soon as they are ready will allow the Department of Defense to field an effective missile defense as rapidly as possible. Some argue that this program will not receive the proper amount of oversight both within the Department of Defense and from the Congress. The truth is that this program will have more oversight than any other program in the DOD, and I am confident that the Armed Services Committee will continue its diligent oversight role as well.

I would like to say a few words about the level of DOD oversight on missile defense so the record is clear. A group of senior Defense officials, including Deputy Secretary Paul Wolfowitz, Pete Aldridge, and the service Secretaries will act as a "board of directors" for missile defense and will review the missile defense program on a periodic basis. In fact, this group has already reviewed the program multiple times in the last few months and will continue to do so in the future. Keep in mind that the average DOD acquisition program does not have this level of oversight.

In addition, a second oversight group, the Missile Defense Support Group, also has been created to review missile defense. This group resembles the Defense Acquisition Board, which on traditional acquisition programs only reviews the program at key milestones. However, the Missile Defense Support Group will review the program on a quarterly basis. Furthermore, the oversight panel is supported by a staff that will conduct day-to-day oversight to ensure that the program remains on track. Of course, the Congress will continue its oversight role as before. Nothing has changed in that regard.

The concerns about a lack of oversight are unfounded. I would like to conclude by once again applauding the Bush administration for revamping the Missile Defense Program into one that

has the highest probability for success. Let's get on with the task. Our Nation's security and the safety of millions of Americans depend on us.

I would also like to thank Senator WARNER for his leadership on this issue, and would encourage all my colleagues to vote for this amendment.

Mr. BAUCUS. Madam President, I rise today to briefly comment on my vote against Senator KENNEDY's amendment to the Defense authorization bill.

This amendment would have resulted in a fundamental change in the way the Department of Defense is structured. It mandated a new policy for every new, modified, or renewed contract for all noninherently governmental services within the Department of Defense. The consequences of such a change at this point in time would not, in my estimation, serve the best interests of my State or of this Nation.

Small businesses are an integral part of Montana's economy. Small businesses meet the diverse, everyday needs of Montana's citizens; many Montana small businesses also successfully compete for federal contracts. The provisions of this amendment would have priced many small businesses out of Federal contract competitions. In light of Montana's struggling economy, I could not vote for an amendment that would have increased small business costs while creating an insurmountable hurdle that need not exist.

I am also keenly aware of the human capital crunch that the Federal Government currently faces. The Department of Defense faces particular challenges as they seek to maintain readiness while adjusting to post-cold war and post-September 11 realities. This amendment would have resulted in increased personnel costs for the Department of Defense, but, more importantly, it would have delayed contract awards and adversely affected mission effectiveness. This is not in the best interest of our nation's security or economic needs.

I am a strong supporter of labor standards in both the private and public sectors. Upholding labor standards for all Montanans is a top priority for me. I also firmly believe that the Federal Government needs to secure the best services, whether public or private, for the taxpayer dollars it expends. In examining this amendment, I felt that it did not uphold these standards. Instead, the amendment held the potential to harm Montana's small business viability and exacerbate the public-sector federal human capital shortage.

MEDICAL TECHNOLOGY AND RESEARCH

Ms. COLLINS. Madam. President, I rise today to discuss medical research aimed at preserving blood products, human organs, and other wound-repairing tissues. As the chairman may recall, last year I discussed with Chairman LEVIN the fact that this research could dramatically impact our ability

to overcome current medical challenges involved in blood and tissue preservation.

Recent U.S. military actions have resulted in stationing troops in harsh climates and conditions, such as those experienced in Afghanistan. Current locations and missions require new capabilities in combat casualty care, and these capabilities would include stable blood products, organs, and wound repairing tissues that will enhance human survivability under conditions of trauma, shock, anoxia, and other extreme conditions, including extreme environment. The Department of Defense needs to develop tissues with a long shelf life to support combat casualty care. Research in this area could develop stress-tolerant biosystems or tissues that selectively control critical metabolic processes by exploiting an enhanced understanding of differential gene expression in bio-organisms and systems exposed to extreme environments.

Ms. LANDRIEU. The Senator from Maine is quite correct in her observation and assessment that medical treatment, and specifically combat casualty care, particularly in a time of war, should not be overlooked. Further, the Department of Defense must consider all initiatives that could provide our military physicians and medical staff the tools necessary to save the lives of men and women whose service to our Nation puts them at risk of severe injury.

Ms. COLLINS. I am hopeful that as our bill moves through floor consideration and conference with the House, we can work to ensure that this type of research is adequately funded within the Department of Defense.

There are many aspects to consider in taking care of our soldiers, sailors, airmen and marines who are sent into harm's way. In times like these, preserving the well-being of our men and men in uniform should be given the investment necessary to see that research like this gets to the field.

Ms. LANDRIEU. I thank the distinguished Senator from Maine for highlighting the critical nature of this research. I recognize her interest in this particular area and that this research clearly has potential for saving lives, both military and civilian. I look forward to working with her on this issue as the Fiscal Year 2003 National Defense Authorization bill moves forward.

Ms. COLLINS. I thank the distinguished chairman for her commitment to support investments in the well-being of a most precious national asset—our men and women in uniform. And I look forward to working with her on this important issue. The support of the chairman of the Emerging Threats and Capabilities Subcommittee will be critical, and welcomed, to see that leading edge medical research is not only explored, but deployed in the days ahead.

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 the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. REID. It is my understanding the Senate is now in morning business; is that right?

The PRESIDING OFFICER. That is correct.

SUPREME COURT DECISION IN ATKINS V. VIRGINIA

Mr. BIDEN. Madam President, last week the Supreme Court ruled, in a case called *Atkins v. Virginia*, that the execution of mentally retarded persons violates the eighth amendment's prohibition of cruel and unusual punishment. The Court thereby reversed its 1989 holding in *Penry v. Lynaugh*, which it decided at a time when only two States with death penalty laws forbade the execution of the mentally retarded. In *Atkins*, the Court noted that in the 13 years following *Penry*, 16 additional States have enacted laws banning such executions. In addition, 12 States do not have the death penalty at all, meaning that a total of 30 States do not permit the execution of the mentally retarded. Therefore, the Court concluded that a "national consensus" has emerged against the execution of the mentally retarded. Because the Court interprets the eighth amendment in accordance with "evolving standards of decency that mark the progress of a maturing society," the Court concluded that the emergence of this national consensus rendered such executions unconstitutional.

I applaud the Supreme Court's decision. And I do so not from the perspective of one who opposes the death penalty in all its applications. Rather, I am a supporter of the death penalty. I believe that, when used appropriately, it is an effective crime-fighting tool and a deterrent. Indeed, I am the author of two major Federal crime laws that extended the availability of the death penalty. I authored the Anti-Drug Abuse Act of 1988, which extended the death penalty to drug kingpins. And I authored the Violent Crime Control and Law Enforcement Act of 1994, which extended the death penalty to roughly 60 crimes, including—just to name a few—terrorist homicides, murder of Federal law enforcement officers, large-scale drug trafficking, and sexual abuse resulting in death.

But I believe that when we apply this ultimate sanction—which is, of course, irrevocable—we must do so consistent with the values that we stand for as a nation and as a civilized people. We must be as reasonable, as fair, and as judicious as we possibly can be. And we

must ensure that we reserve the death penalty only for monstrous people who have committed monstrous acts. In short, we must apply the death penalty in a way that is worthy of us as Americans.

That is why I have led the fight to make sure that the Federal death penalty—which I strongly support—does not apply to the mentally retarded. Just as we would not execute a 12-year-old who commits a crime, even though that 12-year-old knows the difference between right and wrong, so we should not execute a mentally retarded person. To be mentally retarded is to be deprived of the ability to comport oneself in a normal way, not because of anything that one did, but because of an accident of birth. We all know families into which children are born who do not have a high enough intelligence quotient to justly and fairly measure their actions against every other person in society. I cannot imagine strapping in a chair someone with an I.Q. of less than 70, with the mental capacity of a 12-year-old—at most—and telling him that he must die for his crimes.

Let me be clear: I do not believe that a mentally retarded criminal is blameless. Far from it. A mentally retarded person, like a child, may well know the difference between right and wrong, and may be able to control his actions. Therefore, I must be clear about one further point. This is not about choosing between executing mentally retarded criminals or letting them roam the streets. That is a false choice. Under the Federal laws that I have authored, as well as under State statutes, we provide for every possible penalty short of death for the mentally retarded, including life imprisonment without possibility of parole.

That was true last week, and it remains true today. The Supreme Court decision does not alter that fact one bit. It remains within our ability—and it remains our duty—to ensure that dangerous mentally retarded criminals are kept far away from law-abiding citizens. We have a host of penalties available to us to ensure that we are able to do so. And we have been doing so effectively. Since the 1989 *Penry* decision, only five States have resorted to executing mentally retarded persons. The remaining States, as well as the Federal Government, have effectively confined and deterred mentally retarded criminals by means of incarceration.

Some people have argued that we must allow executions of the mentally retarded because it is often extremely difficult to define and determine mental retardation. I disagree. That has not been the experience of the States in recent years. More importantly, whether something is difficult to do has no bearing on whether it is the right thing to do. Sparing the lives of mentally retarded criminals is manifestly the right thing to do, regardless of whether it is difficult on the margins. We ask judges and juries to make