

SEC. 8124. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to \$5,000,000 may be used for materials joining for Army weapon systems.

AMENDMENT NO. 4381

(Purpose: To make available from amounts available to the Army for other procurement \$500,000 for PRC-117F SATCOM backpack radios)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by III under the heading "OTHER PROCUREMENT, ARMY", up to \$500,000 may be available for PRC-117F SATCOM backpack radios.

AMENDMENT NO. 4382

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the total amount appropriated by this division for Operation and Maintenance, Army, up to \$5,000,000 may be used for Expandable Light Air Mobility Shelters (ELAMS).

AMENDMENT NO. 4383

(Purpose: To set aside from amounts available for the Navy for research, development, test, and evaluation for Extended Range Anti-Air Warfare)

At the appropriate place in the bill, add the following:

SEC. . Of the amounts appropriated by Title IV under the heading "Research, Development, Test, and Evaluation, Navy", up to \$10,000,000 may be made available for extended range anti-air warfare.

AMENDMENT NO. 4384

(Purpose: To set aside from amounts available for the Army Reserve for operation and maintenance \$3,000,000 for Land Forces Readiness for Information Operations Sustainment)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title II under the heading "Operation and Maintenance, Army Reserve", up to \$3,000,000 may be available for Land Forces Readiness for Information Operations Sustainment.

AMENDMENT NO. 4385

(Purpose: To set aside from amounts available for the Air Force for research, development, test, and evaluation \$1,000,000 for Space and Missile Operations for the Civil Reserve Space Service (CRSS) initiative)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading "Research, Development, Test, and Evaluation, Air Force", up to \$1,000,000 may be available for Space and Missile Operations for the Civil Reserve Space Service (CRSS) initiative.

AMENDMENT NO. 4386

(Purpose: To set aside funding under RDT&E, Air Force, for the Viable Combat Avionics Initiative of the Air Force)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading "Research, Development, Test, and Evaluation, Air Force", \$2,000,000 may be used for the Viable Combat Avionics Initiative of the Air Force.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

RECESS

Mr. REID. Mr. President, the staff of Senator INOUE and Senator STEVENS are working on amendments that have been submitted to them. We have nothing that is imminent on which the committee can work.

I ask unanimous consent that the Senate stand in recess until 3:30 p.m.

There being no objection, the Senate, at 2:52 p.m., recessed until 3:30 p.m. and reassembled when called to order by the Presiding Officer (Mrs. MURRAY).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Madam President, I ask unanimous consent that I be permitted to speak as in morning business.

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

(The remarks of Mr. DODD are printed in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NOS. 4400 THROUGH 4411, EN BLOC

Mr. INOUE. Madam President, I will be sending to the desk shortly a set of amendments. None of these amendments would add any money to the bill. They are either earmarks or technical amendments. All of these amendments have been cleared by both managers.

I will explain these amendments before I send the amendments to the desk. First, the Bingaman amendment is earmarking \$2.5 million for the Maglev upgrade program. An amendment for Senator DORGAN is earmarking \$10 million for the Chameleon miniaturized wireless systems; An amendment for Senator MURRAY is earmarking \$7 million for short pulse laser development; An amendment for Sen-

ator REID is earmarking \$4 million for clean-bio consequence management; An amendment for Senator WARNER is earmarking \$5 million for study of a roadway at Fort Belvoir; An amendment for Senator DODD is earmarking \$5 million for microfuel cell research; An amendment for Senator NICKLES is earmarking \$3 million for supercritical water systems explosive demilitarization technology; An amendment for Senator ROBERTS is earmarking \$1 million for agroterrorism research; An amendment for myself is for making a technical correction to the emergency supplemental to correct an editorial mistake; An amendment for Senator COLLINS makes a technical correction to the emergency supplemental; An amendment for Senator CARPER is earmarking \$8 million for biological warfare training; An amendment for Senator BIDEN is earmarking \$5 million for multifuel auxiliary power units.

I send to the desk these amendments and ask unanimous consent they be agreed to, en bloc.

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

The amendments (Nos. 4400 through 4411) were agreed to en bloc as follows:

AMENDMENT NO. 4400

(Purpose: To set aside from amounts available for the Air Force for research, development, test, and evaluation for Major T&E Investment (PE0604759F), \$2,500,000 for the Maglev upgrade program)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE" and available for Major T&E Investment up to \$2,500,000 may be available for the Maglev upgrade program.

AMENDMENT NO. 4401

(Purpose: To provide funds for the Chameleon Miniaturized Wireless System)

At the appropriate place in the bill, insert the following:

"Of the funds appropriated under the heading 'RDT&E, Defense Wide', \$10,000,000 may be made available for the Chameleon Miniaturized Wireless System."

AMENDMENT NO. 4402

(Purpose: To make available from amounts available for the Army for research, development, test, and evaluation, \$9,000,000 for continuing design and fabrication of the industrial short pulse laser development-femtosecond laser)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. (a) AVAILABILITY OF AMOUNT FOR INDUSTRIAL SHORT PULSE LASER DEVELOPMENT.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to \$7,000,000 may be available for continuing design and fabrication of the industrial short pulse laser development-femtosecond laser.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the purpose specified in that subsection is in addition to any other amounts available under this Act for that purpose.

## AMENDMENT NO. 4403

(Purpose: To make available from amounts available to the Navy for research, development, test, and evaluation \$4,000,000 for Marine Corps program wide support (PE0605873M) for chemical and biological consequence management for continuing biological and chemical decontamination technology research for the United States Marine Corps Systems Command on a biological decontamination technology that uses electro-chemically activated solution (ECASOL))

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. (a) Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to \$4,000,000 may be available for Marine Corps program wide support for chemical and biological consequence management for continuing biological and chemical decontamination technology research for the United States Marine Corps Systems Command on a biological decontamination technology that uses electro-chemically activated solution (ECASOL).

(b) The amount available under subsection (a) for the program element and purpose set forth in that subsection is in addition to any other amounts available under this Act for that program element and purpose.

## AMENDMENT NO. 4404

(Purpose: To require a preliminary engineering study and environmental analysis of establishing a connector road between United States Route 1 and Telegraph Road in the vicinity of Fort Belvoir, Virginia, and to earmark \$5,000,000 for the Army for operation and maintenance for that preliminary study and analysis)

At the end of title VIII, add the following:

SEC. 8124. (a) PRELIMINARY STUDY AND ANALYSIS REQUIRED.—The Secretary of the Army shall carry out a preliminary engineering study and environmental analysis regarding the establishment of a connector road between United States Route 1 and Telegraph Road in the vicinity of Fort Belvoir, Virginia.

(b) FUNDING.—Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY", up to \$5,000,000 may be available for the preliminary study and analysis required by subsection (a).

## AMENDMENT NO. 4405

(Purpose: To make available from amounts available for the Army for research, development, test, and evaluation \$5,000,000 for research on miniature and micro fuel cell systems)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to \$5,000,000 may be available for research on miniature and micro fuel cell systems.

## AMENDMENT NO. 4406

At the appropriate place in the bill, insert the following:

Of the funds appropriated in the Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" up to \$3,000,000 may be made available for the Supercritical Water Systems Explosives Demilitarization Technology.

## AMENDMENT NO. 4407

(Purpose: To appropriate, with an offset, \$1,000,000 for research, analysis, and assessment of federal, state, and local efforts to counter potential agroterrorist attacks)

At the end of Title IV, Research, Development, Test & Evaluation, Defense Wide, add the following:

## SEC. AGROTERRORIST ATTACK RESPONSE.

(a) AVAILABILITY.—(1) Of the amount appropriated under Title IV for research, development, test, and evaluation, defense-wide, the amount available for basic research, line 8, the Chemical and Biological Defense Program (PE 0601384BP) is hereby increased by \$1,000,000, with the amount of such increase to be available for research, analysis, and assessment of federal, state, and local efforts to counter potential agroterrorist attacks.

(2) The amount available under paragraph (1) for research, analysis, and assessment described in that paragraph is in addition to any other amounts available in this Act for such research, analysis, and assessment.

(b) OFFSET.—Of the amount appropriated under Title IV for research, development, test, and evaluation, Defense-wide, the amount available for Agroterror prediction and risk assessment, line 37, Chemical and Biological Defense Program (PE 0603384BO), is hereby reduced by \$1,000,000.

## AMENDMENT NO. 4408

(Purpose: To make a technical correction to the supplemental appropriation for fiscal year 2002)

On page 223, between lines 20 and 21, insert the following:

Effective upon the enactment of the Act entitled "An Act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes", section 309 of such Act is amended by striking "of" after the word "instead".

## AMENDMENT NO. 4409

(Purpose: To provide for the transition of the naval base on Schoodic Peninsula, Maine, to utilization as a research and education center for Acadia National Park)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. The Secretary of Defense may modify the grant made to the State of Maine pursuant to section 310 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107— ) such that the modified grant is for purposes of supporting community adjustment activities relating to the closure of the Naval Security Group Activity, Winter Harbor, Maine (the naval base on Schoodic Point, within Acadia National Park), and the reuse of such Activity, including reuse as a research and education center the activities of which may be consistent with the purposes of Acadia National Park, as determined by the Secretary of the Interior. The grant may be so modified not later than 60 days after the date of the enactment of this Act.

## AMENDMENT NO. 4410

(Purpose: To make available from amounts available for the Navy for research, development, test, and evaluation \$8,000,000 for the Integrated Biological Warfare Technology Platform)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading "RESEARCH, DE-

VELOPMENT, TEST, AND EVALUATION, NAVY", up to \$8,000,000 may be available for the Integrated Biological Warfare Technology Platform.

## AMENDMENT NO. 4411

(Purpose: To make available from amounts available for the Army for research, development, test, and evaluation \$5,000,000 for the Rotary, Multi-Fuel, Auxiliary Power Unit)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to \$5,000,000 may be available for the Rotary, Multi-Fuel, Auxiliary Power Unit.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

## AMENDMENT NO. 4364

Mr. WELLSTONE. Madam President, I am not going to call up the amendment yet, unless the managers are ready to do so. If they are, I will. I call up amendment No. 4364.

Madam President, I have spoken on this amendment and I wait for other Senators to come to the floor. It is a very simple amendment. What it would do is bar the funds in this bill from being used to enter into contracts with U.S. companies who incorporate overseas to avoid U.S. taxes. Madam President, I went over this amendment before.

Let me add a couple of points so my colleagues know what my thinking is.

As I said, I wanted to keep it very simple. I want to keep it very basic and very straightforward, and I think very fair.

I think there are two issues here. One of them has to do with tax fairness or tax unfairness. I think it is absolutely maddening when people in our country see U.S. corporations using creative paperwork and then transforming themselves into Bermuda corporations so they do not have to pay their fair share of U.S. taxes.

What I am saying is if these companies, post-December 31, 2001, have engaged in such a practice, and they no longer call themselves U.S. citizens, then they are not beneficiaries of U.S. defense contracts. My thinking about this is as follows: I am thinking to myself, we are all aware of 9/11 and what it meant to our country. I have given companies time to respond in the positive to 9/11 and be the best of good corporate citizens, be the best of good, patriotic corporate citizens. I even allowed some lag time after 9/11. But what I am saying is starting the beginning of this year, if any of these companies have engaged in the same sham practices so they do not have to pay U.S. taxes, they are not going to be the

beneficiary of the public contracts. It really is that simple.

We all make sacrifices. God knows, many Americans are making sacrifices today. The only sacrifice this amendment asks of Federal contractors is they pay their fair share of taxes like everybody else, and at the very minimum, given 9/11 and how strongly our country feels, no corporation from the beginning of the year on, engage in this kind of deceitful practice.

This is a narrowly tailored amendment; this is not a tax bill. Not in the spirit of bragging but I will just say it, I know at least the first piece of legislation that eliminated this tax loophole I wrote, and we sent it to the Finance Committee. They did good work. The have done great work. They reported out a bill that basically eliminates this egregious loophole.

But what I am saying is until that loophole is eliminated, and no company is able to engage in this practice, what a great message for the Senate to send.

When the homeland defense bill comes to the floor, I will join forces with other colleagues—I am sure Senator LIEBERMAN and others—and we will do something parallel to what was done, to my understanding, in the House of Representatives. But right now on this appropriations bill, knowing full well the House did not take any action, I am trying to be a legislator here. I thought to myself: I will narrowly tailor it. I will have it speak specifically to this 1-year appropriations bill. It will send a very unmistakable message. And I believe this amendment will command widespread support.

I do not know whether we will have unanimous consent. The distinguished chair of the Defense Appropriations Committee tells me there is some opposition, in which case I am pleased to have the debate. Then we will have a vote after the debate.

Again, this is the second time I have come to the floor. I want to be clear what this amendment is about and what it is not about. I hope there will be very strong support on both sides of the aisle for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Madam President, in order to expedite the consideration of this amendment, a call has been placed for Senators interested in this matter to report to the floor to carry out the debate.

May I ask a question of the sponsor of this measure? By "tax haven country," does the Senator mean countries such as Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Liechtenstein, the Principality of Monaco, the Republic of Seychelles, and any other country that the Secretary of the Treasury determines is used as a site of incorporation, pri-

marily for the purpose of avoiding U.S. taxation?

Mr. WELLSTONE. I say to the chairman, that is correct. I make it clear the Secretary of the Treasury, in addition to listing those countries, if there is another country that he determines is using this site of incorporation primarily to avoid U.S. taxation, that is included.

Mr. INOUE. The Senator's amendment also provides if the President of the United States should consider that the interests of national security would require it, notwithstanding this designation, they may do business?

Mr. WELLSTONE. That is correct. I thank the chairman.

Mr. INOUE. How many companies are involved?

Mr. WELLSTONE. I say to the distinguished chair, I do not really know. Since I am talking about from the beginning of this year on, I do not know how many companies are actually going to be affected by this. I do not reach back. I just simply say, post beginning of this year, it is completely inappropriate, given 9/11, given how everybody feels in the country. I don't know how many companies are affected. I want to put every company on notice if they continue in this practice they are not going to get the contracts.

Mr. INOUE. May I ask another question.

Mr. WELLSTONE. Please.

Mr. INOUE. Am I correct, in the last fiscal year, approximately \$2 billion worth of contracts were awarded to companies incorporated in these countries?

Mr. WELLSTONE. The Senator is correct.

Mr. INOUE. I thank the Senator.

Mr. WELLSTONE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? At the moment there is not.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, it is my understanding that the Senate is considering the Wellstone amendment. Is that true?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 4412 TO AMENDMENT NO. 4364

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 4412 to amendment No. 4364.

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

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

The amendment is as follows:

AMENDMENT NO. 4412

(Purpose: To prohibit the use of funds made available in this Act for payment on any new contract to any corporate expatriate)

Strike all after the first word:

SEC. 8124. CORPORATE EXPATRIATES. (a) LIMITATION.—None of the funds made available in this Act may be obligated for payment on any new contract to a subsidiary of a publicly traded corporation if the corporation is incorporated after December 31, 2002 in a tax haven country but the United States is the principal market for the public trading of the corporation's stock.

(b) DEFINITION.—For purposes of subsection (a), the term "tax haven country" means each of the following: Barbados, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of the Bahamas, Cyprus, Gibraltar, Isle of Man, the Principality of Liechtenstein, the Principality of Monaco, the Republic of the Seychelles, and any other country that the Secretary of the Treasury determines is used as a site of incorporation primarily for the purpose of avoiding United States taxation.

(c) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to the Appropriations Committees of the House of Representatives and the Senate that the waiver is required in the interest of national security.

(d) Effective one day after enactment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, there are colleagues who may very well have some technical suggestions that don't change the import of this amendment one bit. I certainly invite their consultation and their support which would help strengthen the amendment.

My understanding is that there may eventually be a vote to table the amendment. I do not know. If so, I want to make sure one more time that I am crystal clear about what this amendment does and what it doesn't do.

It is a simple amendment. It bars any funds in this bill from being used to enter into contracts with U.S. companies that incorporate overseas to avoid U.S. taxes. It is really simple.

Former U.S. companies that have renounced their citizenship—and Senator INOUE asked me about this—currently hold at least \$2 billion worth of contracts with the Federal Government.

It seems to me the companies that play by the rules and that pay their fair share of taxes should not be forced to compete with the bad actors that undercut the bids through a tax loophole. I am saying, put on notice all U.S. companies post-January 1: If you engage in this egregious practice post-9/11 and you set up some sham business

in Bermuda, et al, and therefore you don't pay any U.S. taxes, you don't get any defense contracts.

I do not know. Maybe Senators want to vote against this proposition. But I will tell you that this is pretty simple and it is pretty straightforward.

These companies—and we know all about it—transform themselves into Bermuda companies, which are basically shell corporations. They don't have any staff. They don't have any offices. They don't have any business activity. They exist for the sole purpose of shielding income from the IRS.

What these bad corporate former citizens do is exploit a specific loophole in current law so that the company is treated as a foreign company for tax purposes, and therefore they do not pay any U.S. taxes on the foreign income. This loophole gives tens of millions of dollars in tax breaks to major multinational companies with significant non-U.S. business.

It also puts other companies that play by the rules at a complete disadvantage. No American company, colleagues, should be penalized by staying put. For now on—reaching back to the beginning of this year—no American company should be penalized for staying put in our country while others decide they are going to renounce U.S. citizenship for a tax break. It is just simply unacceptable.

I said it before, and I will say it again, there are a heck of a lot of businesses in Minnesota—small businesses and otherwise—that, No. 1, wouldn't do it even if they could; and, No. 2, surely they do not have all of the lawyers and accountants to show them how to do their books Enron-style and get away with not paying their fair share of taxes. So the only price all the good corporate citizens pay—of which there are many—is a higher tax bill.

I think we should close this loophole this year. I think we should close the tax loophole this year. As I said before, I wrote a piece of legislation to do that. I have worked with the Finance Committee. The Finance Committee, through the bipartisan work of Senator BAUCUS and Senator GRASSLEY, has reported out a good piece of legislation. And assuming it passes, this tax loophole will be gone.

But it seems to me, while this piece of legislation is on the floor, for this 1 year, what a powerful and positive message for us to send which is, again, post-December 31, 2001—I don't even reach back—I give companies enough time to respond to 9/11, and say: Wait a minute, this is not the right thing to do or patriotic thing to do. But I will tell you something, post-December 31st of last year, if a U.S. company has set up a sham corporation, so it does not have to pay part of its fair share of taxes, it is not going to be eligible for defense contracts. It is really that simple.

So, again, I don't see colleagues out here to debate this. I understand there is opposition. I say to both of my col-

leagues, Senator INOUE and Senator STEVENS, I am certainly not trying to delay the passage of this overall Defense appropriations bill.

I think I have a good amendment on the floor, and I look forward to debate or I would look forward to constructive suggestions from other Senators if they think there is a way to strengthen this amendment.

I am not backing off on the basic proposition here. I am not backing off on the basic proposition. And the basic proposition, again—and I think we are going to do the same thing on the homeland defense bill. It was done in the House. In fact, it was broader, more sweeping on the House side on homeland defense.

This is 1 year. This is Department of Defense appropriations. This is not a tax amendment that I have offered to this piece of legislation. That would not be appropriate. But I do think it is appropriate to put every single U.S. corporation on notice, forthwith, reaching back to the beginning of this year, given the unfairness of this, given the obviousness of the ways in which companies are not paying their fair share of taxes, and, more importantly, given all that has happened to our country post 9/11: You are not going to be able to do this any longer. And if you do, you are not going to then be able to come to the U.S. Department of Defense and get defense contracts.

That is what this amendment says. It is simple. It is straightforward. I am, frankly, at a loss to understand the opposition.

Senator INOUE asked me an important question. He wanted to go over some of the countries, some of the tax-haven countries that were listed here. And we went through them.

But there is also additional language that says there could be other countries that the Secretary of Treasury determines have been used as a site of a corporation primarily for the purpose of avoiding U.S. taxation. So we really write it the right way.

Then, of course, there is the waiver where the President may waive this with respect to any specific contract if the President certifies to the Appropriations Committees of the House and the Senate that the waiver is required in the interest of national security.

I will tell you something: This is very straightforward. I thank my colleague from Hawaii for asking me these questions. I would love to adopt this on a 100-to-0 vote or to have a debate if colleagues want to come out here and speak against this amendment.

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

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

Mr. REID. Mr. President, I would like to ask some questions to my friend, the distinguished Senator from Minnesota.

Are you aware of some of the Federal contracts that corporate runaways now hold? Let me give an example. Are you aware that Foster Wheeler, who was reincorporated in Bermuda about a year ago, has Federal contracts amounting to \$286,253,000?

Mr. WELLSTONE. Mr. President, I would say to the whip that I have here a list of corporate runaways, and I am aware of this one of many egregious examples.

Mr. REID. To run through some of these to kind of get a picture of the substance of the Senator's amendment, is the Senator aware that Tyco Company reincorporated in Bermuda and has Federal contracts of \$224 million-plus in Fiscal Year 2001 alone?

Mr. WELLSTONE. I am aware of that.

Mr. REID. Is the Senator aware that PricewaterhouseCoopers Monday, who spun off of PricewaterhouseCoopers of New York and incorporated in Bermuda a couple of months ago, has Fiscal Year 2001 Federal contracts of almost \$221 million? Is the Senator aware of that?

Mr. WELLSTONE. I say to my colleague, unfortunately, I have the same list with many egregious examples.

Mr. REID. I would like the Senator to acknowledge if we have the same list; for example, Ingersoll-Rand, which reincorporated 6, 7 months ago in Bermuda, has Fiscal Year 2001 Federal contracts of over \$40 million?

Mr. WELLSTONE. I am aware of this. Could I just add, I am aware of this, but more importantly, the American citizens are aware of this, and people don't like it one bit. People feel as if, first of all, it is just outrageous in terms of tax evasion. And, second of all, it is a loophole that should not be about. People say, look, boy, this is the opposite of the right and patriotic thing to do.

Mr. REID. I will not go through the entire list because the Senator and I both have the same list. It was compiled by the Federal Procurement and Data Center off their Web site. The amounts are over \$1 billion, just on this short list we have, of companies that go to Bermuda and avoid paying taxes like other companies that are incorporated in the United States and work hard and pay their fair share of taxes. I certainly applaud the Senator's amendment. I hope we can dispose of this quickly. I think the debate has been good and directly to the point. I would really think it would be hard to oppose this amendment.

Mr. WELLSTONE. I say to my colleague and whip that I appreciate his questions. If there is going to be agreement, we are going to pass this amendment on the floor of the Senate. I say great. The summary of this amendment is that it is appropriate for the Senate, Democrats and Republicans, to say today that if a U.S. company wants

to bid for a contract for U.S. defense work, then it should not renounce its U.S. citizenship for a tax break. It is that simple. We are just putting everybody on notice: You are no longer going to be able to do that. You will not be able to make a bid for a contract for U.S. defense work if you are going to go out and renounce your citizenship for the purposes of getting a tax break. It couldn't be simpler.

I am going to stay on the floor of the Senate or stand on the floor of the Senate and keep talking about this until we get a vote or until we get acceptance of this amendment.

I ask unanimous consent to print in the RECORD a list of corporate runaways and fiscal year 2001 Federal contracts.

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

#### CORPORATE RUNAWAYS AND FY2001 FEDERAL CONTRACTS

Foster Wheeler: Clinton, N.J. engineering, environmental and construction company reincorporated in Bermuda on May 25, 2001.

Total FY2001 Federal Contracts: \$286,253,000.

Defense and Homeland Security related: \$248,835,000.

accenture: Consulting firm spun off of Arthur Anderson of Chicago and incorporated in Bermuda in July, 2001.

Total FY2001 Federal Contracts: \$281,904,000.

Defense and Homeland Security related: \$144,834,000.

tyco: Exeter, N.H. electronics, security, healthcare and engineering conglomerate reincorporated in Bermuda in March, 1997.

Total FY2001 Federal Contracts: \$224,171,000.

Defense and Homeland Security related: \$182,453,000.

PricewaterhouseCoopers Monday: Consulting firm spun off of PricewaterhouseCoopers of New York and incorporated in Bermuda on March 27, 2002.

Total FY2001 Federal Contracts: \$220,801,000.

Defense and Homeland Security related: \$129,073,000.

Ingersoll-Rand: Woodcliff Lake, N.J. industrial equipment, construction and security company reincorporated in Bermuda on December 31, 2001.

Total FY2001 Federal Contracts: \$40,289,000.

Defense and Homeland Security related: \$39,328,000.

apw: Waukesha, Wisconsin electronics and technology products reincorporated in Bermuda in July 2000.

Total FY2001 Federal Contracts: \$7,077,000.

Defense and Homeland Security related: \$4,912,000.

Cooper Industries: Houston electrical equipment tool and hardware company reincorporated in Bermuda on May 21, 2002.

Total FY2001 Federal Contracts: \$6,357,000.

Defense and Homeland Security related: \$5,954,000.

Stanley: New Britain, Connecticut tool maker voted to reincorporate in Bermuda on May 9, 2002. The vote was disputed and the Stanley Board of Directors has authorized a re-vote.

Total FY 2001 Federal Contracts: \$5,660,000.

Defense and Homeland Security related: \$5,298,000.

Fruit of the Loom: Bowling Green, Kentucky apparel company reincorporated in Bermuda on March 4, 1999.

Total FY 2001 Federal Contracts: \$2,389,000.

Weatherford: Houston drilling, oil and gas technology and services company reincorporated in Bermuda on June 26, 2002.

Total FY 2001 Federal Contracts: \$234,000.

Defense and Homeland Security related: \$234,000.

Noble: Sugar Land, Texas drilling contractor reincorporated in the Cayman Islands on May 1, 2002.

Total FY 2001 Federal Contracts: \$50,000.

Defense and Homeland Security related: \$0.

Total Value—known FY2001 Federal contracts to corporate runaways: \$1,075,185,000.

Defense and Homeland Security related: \$763,310,000.

Mr. WELLSTONE. I thank the Senator.

Mr. NICKLES. Will my colleague and friend yield for a question?

Mr. WELLSTONE. I am pleased to.

Mr. NICKLES. Mr. President, I haven't seen a list. I am trying to figure out what companies would be impacted by that. Do you have a copy that maybe you might share with other Senators?

Mr. WELLSTONE. Let me say to my colleague that there are two parts to this equation. The first part is the definition of "tax haven countries." There is Barbados, Bermuda, British Virgin Islands, Cayman Islands, British Commonwealth of the Bahamas, Cyprus, Gibraltar, and so on. Then the additional language where, because we want to have flexibility, we also say: or any other country that the Secretary of Treasury—these countries listed in the amendment—are the main tax haven countries.

In addition, the Secretary of the Treasury could determine that there is another country that has been used at the site of incorporation for the purpose of avoiding U.S. taxation. That is No. 1.

The second part of this—to give the operational definition—is that this would be any U.S. company that set up this phony citizenship post—actually, December 31.

Mr. NICKLES. If the Senator will yield, I am asking for a list of companies—not countries—that have done this egregious deed of reincorporating in some other country.

Mr. WELLSTONE. I sent the list over to you. I think you have a list that lists some of the companies that would be affected by this.

Mr. NICKLES. Let me get that in question—

Mr. WELLSTONE. These are the countries that reincorporated.

Mr. NICKLES. Accenture reincorporated in July of 2001. Your deadline is January 1, so it would not apply.

Mr. WELLSTONE. It would apply to only those companies—what I am trying to do—

Mr. NICKLES. I found one. PricewaterhouseCoopers evidently reincorporated in Bermuda on March 27, 2002; is that correct, according to your sheet?

Mr. WELLSTONE. That is correct.

Mr. NICKLES. They do defense contracts of \$220 million and total Federal

contracts in defense and homeland security-related, \$129 million; is that correct?

Mr. WELLSTONE. I am trying to follow the list and where the Senator is.

Mr. NICKLES. I got this from you.

Mr. WELLSTONE. That is right. You mentioned it, but I have to go down and find it in the column.

Mr. NICKLES. I am trying to figure out who we are trying to punish here.

Mr. WELLSTONE. I say to my colleague, if I could, since he asked the question—let me say this and be real clear about it. I wrote probably the first legislation here eliminating this action and that is moving through the Finance Committee and it will come to the floor. I hope in the future all these companies will be covered, period.

Second, if you want to reach back, you can do so and that would be just fine with me. My thinking is that I took a look at—I am thinking of two issues. No. 1, just sort of this loophole and, No. 2, I think of 9/11 and I say, look, given 9/11, you can give companies some flexibility to understand that it doesn't seem very patriotic to continue to do this.

For God's sake, from the beginning of this year on, all companies—anybody that does this in the future is in trouble.

Mr. NICKLES. If the Senator will yield further, I found a guilty party—PricewaterhouseCoopers. I will say I had no idea—I have read in the paper, and I heard about Stanley and Ingersoll-Rand. I didn't find somebody—

Mr. WELLSTONE. You will find a number of them.

Mr. NICKLES.—guilty as under your provision. PricewaterhouseCoopers is a \$220 million contractor. That is pretty significant.

Let me ask you a question. PricewaterhouseCoopers does a lot of business, evidently, with the Department of Defense, homeland security, and other Federal contractors. They would be banned from all Federal contracts—or only Federal contracts dealing with Department of Defense?

Mr. WELLSTONE. Department of Defense.

Mr. NICKLES. So now we are down to \$129 million worth of contracts. If they do those contracts with U.S. employees, do they pay taxes on their U.S. contracts if they make income—I mean, if they make income, don't they pay corporate income tax on the contracts they have in the United States?

Mr. WELLSTONE. That is correct.

Mr. NICKLES. So they do pay income tax?

Mr. WELLSTONE. That is right. But there is a portion of the tax that they are deliberately evading. That is unacceptable. If that is their practice—and that is what this amendment does—don't expect to be getting these contracts any longer.

Mr. NICKLES. Let me make sure I understand. So this company, which does a lot of work—they do software,

management, and a lot of different things—is doing \$129 million worth of defense-related contracts, they would be banned from any of those contracts; is that correct?

Mr. WELLSTONE. That is correct.

Mr. NICKLES. Under the Senator's amendment.

Mr. WELLSTONE. That is correct if, but only if, after all we have been through as a country, they basically renounce their citizenship and set up some sham/dummy corporation in Bermuda to avoid taxes—only if they do that.

Mr. NICKLES. Whoa, whoa.

Mr. WELLSTONE. They are welcome to come back home, in which case they are eligible for all of this.

Mr. NICKLES. Correct me if I am wrong, but don't they pay U.S. income taxes on every penny of the contract they have with the Department of Defense?

Mr. WELLSTONE. That is correct.

Mr. NICKLES. They do. So if they incorporate in Bermuda, or Barbados, or someplace else, they might try to not pay U.S. taxes on foreign income, but they are already required, under present law, to pay U.S. taxes on U.S. income; isn't that correct?

Mr. WELLSTONE. I am told—I say to my colleague, I am not a tax expert—they may not actually pay all their taxes on U.S. contracts. But, in addition, what is egregious about this—and I say to my colleague from Oklahoma, if he wants to vote no, he can vote no. This is a pretty simple proposition, which is, if you are going to renounce your U.S. citizenship so you can locate in some other country where you don't do business so you can avoid paying part of the taxes you should be paying so that other businesses and other companies and other Americans have to pay those taxes, you renounce your citizenship and you will not be eligible for these defense contracts. It is that simple.

Mr. NICKLES. There are 200-some-odd-million-dollars' worth of contracts. There is no prohibition right now that I know of that would keep a foreign company from doing the same work that PricewaterhouseCoopers is doing, or some other company, so a French company or a German company could pick up this contract that we are going to foreclose from PricewaterhouseCoopers, or somebody else and, correct me if I am wrong, under the Senator's amendment a German company could do it, and 100 percent of those employees could be in Germany and do 100 percent of this work and there would be no U.S. income tax—I take that back. I will rephrase this. This is a \$129 million PricewaterhouseCoopers contract and they would be barred, so now those contracts would be open. There is nothing to prohibit a Swiss company, a German company, a French company, Israeli company, or any other company worldwide from doing that work, and those jobs might be domiciled some-

place else in the U.S.; isn't that correct?

Mr. WELLSTONE. That is correct.

But I say to my colleague, this is about American companies. I am going to be clear about that. This is about an egregious practice. This is about good corporate citizenship. This is about being patriotic and about saying to these companies, in all due respect, you can come back home. You don't need to renounce your citizenship, in which case you are eligible. But if you continue to exploit this egregious tax loophole, then you are not going to be eligible. It is that simple.

Mr. NICKLES. Mr. President, I want to make a couple of comments on the legislation. My colleague mentioned that he is not on the Finance Committee. This is an item that has jurisdiction in the Finance Committee. Of late, I think maybe we don't use the committees anymore. I am kind of shocked that the chairman and ranking member of the Finance Committee are not here saying, wait a minute, we are dealing with this issue. Actually, I believe an amendment has been reported out on this issue, but it is a different amendment.

We are dealing with taxation issues. My colleague from Minnesota already admitted—and it happens to be factual—if you do business in the United States and you are a U.S. company, at 100 percent you pay taxes on that contract, period. And if you are domiciled in Bermuda and you do a U.S. contract, you pay 100-percent corporate taxes. What we are talking about is a differential of taxes of international taxation of foreign source income, not U.S. contracts.

We are using U.S. contracts and threatening thousands of U.S. jobs that, if this amendment is adopted—and I hope it is not—these jobs may be done elsewhere because there is nothing in this amendment that says other companies in other countries need not apply. They are not going to be prohibited.

We may well have a situation, as absurd as it sounds, of: Oh, we are sorry, you do not pay enough in foreign taxes on foreign source income; therefore, we are going to deny you U.S. contracts. And now we are going to export U.S. jobs.

I am not sure that makes sense. Let me be very clear. My colleague from Minnesota agreed with me, U.S. companies, whether domiciled in Bermuda or not, if they do U.S. contracts with the Department of Defense or any U.S. contracts, they pay U.S. corporate income taxes, period. They pay U.S. taxes, period. There would be U.S. taxes paid on every dime of this contract.

We are really dealing with foreign international taxes, a very complicated issue, one that should be dealt with appropriately in the taxation committee, not on the Department of Defense appropriations bill, not where people do not know what we are talking about when we talk about foreign source income.

On occasion, this Senate should rise and say this is not the way to legislate. I understand the beautiful demagoguery that somebody is able to say—and I have read in the papers—look at those companies, they are leaving the country, turning their backs. I do not know I agree with that statement.

I will give an example. I do not know that much about Stanley. It is a Connecticut-based toolmaker. They took a lot of flack. Stanley decided they got enough pressure, and they rescinded their corporate move, or they were contemplating going to Bermuda, and they rescinded it. PR-wise, this is bad news if a company tries to reincorporate in Bermuda or anyplace else—I do not know why my colleague included Cyprus. I never considered Cyprus a tax haven.

Stanley decided not to reincorporate in Bermuda. I do know that if they did incorporate in Bermuda, for every contract they had with the Department of Defense, they would pay 100 percent U.S. corporate income taxes—100 percent. They would pay as much as Nickles Machine Corporation would.

This is an easy issue to demagog, but it is a complicated issue in tax policy. The Finance Committee, of which I happen to be a member, and Senator GRASSLEY and Senator BAUCUS have worked on a bill. It is not perfect, but it is a much better approach than what we have before the Senate today.

To say you cannot get the jobs—I do not know, I am sure PricewaterhouseCoopers has thousands of employees. I am sure they have some employees my State. I am not sure they have employees in every State, but they have a lot of employees, and those are employees in the United States. They pay U.S. taxes.

Should we say they should be denied any Federal contract or any Department of Defense contract? I am not ready to say that. They may well be providing goods and services—\$129 million to DOD or \$220 million—that are very much needed. As a matter of fact, they are probably doing jobs that Arthur Andersen used to do. So we need more accounting consulting companies.

Should they be totally debarred? That is a pretty serious penalty. Debarment is usually a penalty for pretty egregious conduct such as fraud or criminal liability, not necessarily moving a headquarters.

I know a lot of companies incorporate in the State of Delaware. All across the country companies incorporate in the State of Delaware. There must be some advantage in incorporating in the State of Delaware. I am amazed at the number of corporate headquarters in Delaware. Is that for income tax evasion? I do not know. I do not think so. But should we deny them contracts? I am not sure. I darn sure question the wisdom of saying all Government contracts will be banned.

Maybe there should be a penalty if people reincorporate in Bermuda to

avoid foreign taxes. Should that penalty be taxation? Right now this penalty is total debarment from Federal contracts. I question that penalty. I am not sure that is the right penalty. Maybe there should be a better way. Maybe we should reconsider foreign taxation and make sure we are competitive.

I know in some countries they are growing, and growing dramatically because their international taxation picture is much better than ours. Take, for example, Ireland. They have reduced their international taxation, and they happen to be growing. There are other countries that have done quite well because they have a low tax structure. God bless them. I am proud of them.

Should we say that anybody who happens to have a headquarters in those facilities, but also has a branch in the United States, should be denied any business in the United States and automatically export those jobs to other countries? I do not think so. I just question the wisdom of the amendment.

I know the amendment is well intended. I know it is populist. I know it is very comfortable to beat these companies up, and maybe some rightfully so. But I am not sure that total debarment from any Federal contract of those employees who work for those companies and are going to find themselves unemployed because we just said they cannot do Government work, when they pay taxes on that Government work, I am not so sure that is the right penalty.

I have serious reservations about my colleague's amendment. I am not so sure that we should adopt it. I am sure it does not belong on this bill. If we are going to deal with taxation issues, I think it should come out of the Finance Committee and be dealt with on a tax bill, not on a Federal procurement bill.

The amendment reaches pretty far. I hope people will start taking a look at it. I am trying to see who is covered by this. Let me find another company. I do not want to mention just one company.

Ingersoll-Rand, I noticed, incorporated in Bermuda on December 31. That happens to fall on the Senator's date. I read his language.

Mr. WELLSTONE. I say to my colleague, maybe they should be, but they are not. It is after December 31.

Mr. NICKLES. They made it by 1 day.

Mr. WELLSTONE. If the Senator wants to make it tougher, we will make it tougher.

Mr. NICKLES. I am trying to figure out what we are doing. Let's take Ingersoll-Rand. Ingersoll-Rand will not be covered. They would not be debarred. This is very interesting. Ingersoll-Rand makes heavy industrial equipment. I know that because I used to be in the heavy industrial equipment business. Actually, I was a com-

petitor with Ingersoll-Rand at one time.

Ingersoll-Rand does about \$40 million worth of contracts. They have a lot of employees in the United States. They have employees in my State of Oklahoma. Ingersoll-Rand has a plant in Tulsa, OK. They would be debarred from doing any work with the Federal Government. No, they would not because they incorporated on December 31. Cooper Industries competes with Ingersoll-Rand. They reincorporated in Bermuda on May 21. They probably did it because Ingersoll-Rand did it. They compete. They are competitors. So one company got in and will not be affected by debarment; they would not lose \$40 million worth of contracts.

Cooper Industries, on the other hand, is doing about \$6 million worth of contracts. They would be debarred because they reincorporated on May 21. So here we have two competing industries, one of which made it in under the wire, and so they are not denied \$40 million worth of contracts, but their competitor—I believe their principal competitor—would be debarred for \$6 million.

That is a little troublesome. Both have a lot of employees in the United States. I notice Cooper Industries—I know my colleague from Texas is here—is headquartered in Texas. I know they have thousands of employees in the United States. I know they pay Federal income taxes on every single dime of these contracts.

I guess that is what bothers me. I believe there is a misunderstanding that if somebody reincorporates in Bermuda they will not pay U.S. taxes on U.S. contracts, and that is false. They will pay U.S. taxes on U.S. contracts. To have a penalty that says if they reincorporate in Bermuda because they want to avoid taxation on foreign source income and we are going to debar them from U.S. contracts and maybe cost thousands of jobs domestically, that is very shortsighted and probably not the right solution.

Maybe the right solution would be we would work through the appropriate committees and try to discourage people from relocating in Bermuda. Maybe we can make our tax structure more competitive internationally.

I have been on the Finance Committee for a long time. Those of us who have looked at it for years have said we need to relook at international taxation.

We are not competitive internationally. We encourage jobs to go overseas because of our international posture. If we do not fix it, we are going to continue encouraging people to relocate. The amendment of my colleague from Minnesota is going to exacerbate that problem. He will, in effect, be denying contracts to a lot of U.S. firms that have jobs in the United States that pay taxes on these contracts.

I am afraid the net result is competitors from other countries, with employees in other countries, are going to be competitive and win these con-

tracts, and the net loss is we are not only not going to get U.S. taxes on these contracts, we are going to have employees go overseas.

The amendment may be very well intended politically, and my compliments to my colleague from Minnesota. It is a very popular amendment. It looks good, it is populist, but I think it is bad tax policy. I think tax policy should be done in the Finance Committee, not on the floor of the Senate on a Department of Defense bill.

I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. The deputy majority leader.

Mr. REID. Mr. President, I say to the Senator from Minnesota that this amendment is a good amendment. U.S. corporations have to pay corporate taxes on what they earn here in the United States and on what they earn in other countries. But foreign corporations only have to pay taxes on what they earn in the U.S. So a lot of U.S. companies figured out that if they move their corporate papers overseas but leave their operations and employees and everything else here in the United States, they can get off the hook for most of their taxes.

Tyco did that. It incorporated in Bermuda in 1997 and saved \$400 million a year in taxes. Just by going across the water to file reincorporation papers. Stanley Works did the same thing and saved \$30 million annually; Cooper Industries, \$55 million, Ingersoll Rand, \$440 million annually.

These companies get all the benefits of being U.S. corporations, and their stocks are mostly traded on the New York Stock Exchange, but they are escaping U.S. taxes. That means that you and I have to make up the difference. I think the Senator from Minnesota is on the right track.

To show this is not some bizarre, ridiculous amendment, look at what the State of California did. The State of California is usually on the cutting edge of what is going on in this country because they are almost a country unto themselves. Thirty-five million people live in California. The State of California announced last week that corporate expatriates are no longer eligible to hold State government contracts. That is California, where over 10 percent of the people in this country live. It is one State, and that State recognizes what is being done is wrong.

Also, in the House of Representatives, which is evenly divided basically between the Republicans and Democrats, 318 Members voted for an amendment that is substantially similar to Senator WELLSTONE's amendment.

Another thing. This amendment does not absolutely bar these companies from holding government contracts, as my very good friend from Oklahoma said. These companies can change this in a matter of a couple of hours. All they have to do is come back to the U.S., where they came from, and reincorporate again in America. That is

the patriotic thing to do. That is the right thing to do. They cannot have it both ways.

Why do they do this?

Mr. NICKLES. Will the Senator yield?

Mr. REID. I will yield in a little bit.

They do it because turning their back on their country in their country's hour of need makes their profit margins look better. The process they use is complicated. As I said before, the foreign corporations, the expatriates, only owe taxes on their U.S. income. But companies that never left the U.S. owe taxes on both their U.S. income and their foreign income. Although the U.S. government does give them a tax credit in the amount of any foreign tax on the profits, which prevents double taxation. So incorporating outside the United States eases—and I have gone through the list of how it eases—a corporation's tax liability.

Expatriates also often engage in earnings stripping, it is called. Earnings stripping occurs when a foreign corporation legally funnels its U.S. earnings outside the United States without paying taxes in the United States. The two main avenues they do this with are: First, a U.S. subsidiary can borrow a substantial amount of money from the foreign parent corporation and make large interest payments to the foreign parent. The interest is considered a business expense and is then not taxable under the United States Code.

What else can they do? The U.S. subsidiary may make other payments to the foreign corporation for royalties or intellectual property payments or for other purposes. These payments many times seem grossly out of proportion to the service that foreign corporation actually renders.

For instance, the U.S. branch of one expatriate company paid its parent company royalties in an amount of about 4 percent of its total revenue just for the right to use the company's name. That is a little out of line, I would think. The payment got routed through the Swiss branch of the company's Luxembourg holding corporation, which is a wholly-owned subsidiary of the Bermuda parent company. All to ensure that the company takes advantage of every conceivable tax break possible. Under the current Tax Code, that is a business expense and is nontaxable under the United States Code. And because of an existing tax treaty between the United States and Switzerland, the payments are not subject to Swiss taxes either. So they got to move that 4 percent of their total revenues out of the U.S. without incurring any U.S. corporate taxes on it. That's a relatively tame example of how earnings stripping works.

So I say to my friend from Minnesota, these companies that run offshore to tax havens get all the benefits of doing business in the United States, and they do not have to pay like other corporations.

I also say that every time a bill comes up, they say it should be under the jurisdiction of the Finance Committee. We should have a committee of the whole, and we should all become members of the Finance Committee. It seems, they say, everything should be taken through that.

I do not believe that is proper. The jurisdiction of the Finance Committee is fairly well restricted. I say to anyone within the sound of my voice, we have a committee system and we do our very best to follow it, but there are certain things that come up as we do legislation that demand not a lot of committee hearings. This is one of those instances.

The Senator from Minnesota is on the cutting edge of what we should be doing legislatively. It is important we are doing this. And the talk about how it's too bad that we're barring this poor company from holding government contracts. If it is so bad for them, let them come back to the United States and reincorporate, and they will have all the benefits they did before. But they cannot have it both ways. They cannot have all of these—I refer to them as shady deals. I have gone over a couple that I pinpointed, and I think they are significant.

I also say to those who were listening to the prior debate, they are really feeling bad about the consulting branch of PricewaterhouseCoopers. They shouldn't worry. PwC announced today that it was being sold to IBM, which is a U.S. corporation. IBM, the new parent company, is a U.S. corporation. That takes care of the problem, as far as I understand it. I think that solves the big problem there.

So we have, as far as I am concerned, a very valid amendment. I understand my friend from Oklahoma. He is someone for whom I have the deepest respect, and he is always in tune with the business community's needs and wants. And I do not say that in any negative way. He was a businessman before he came to the Senate, and he has not lost that. I understand how he believes they should always be given a fair shot, and I believe they are in this instance. The business community is being given a fair shot. In fact, I think this is a gunshot across their bow that they should come back to this country again. This is what they should do, and I think they should plug these tax loopholes and end these tax havens. If the Finance Committee wants to do more, let them do more.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will take 10 seconds because I know the Senator from Texas wants to speak, and then I will respond later before the vote. I first want to thank the whip and make a technical point.

Actually, contracts are not—

Mr. REID. Will the Senator yield for a brief question without his losing the floor?

Mr. WELLSTONE. I would be pleased to.

Mr. REID. Would the Senator agree that these monies that they are not paying, avoiding taxes in this country, are going in many instances to line the pockets of its fat cat corporate executives?

Mr. WELLSTONE. I would say to the whip, I am trying to be a moderate today. I do not know whether I want to respond to that question, but it sounds to me as if the question is going in the right direction.

I point out that I do not really think this is a big issue, but technically—I have already thanked about four or five times both Senator BAUCUS and Senator GRASSLEY for moving this bill. I introduced the bill that says we ought to eliminate this egregious tax loophole. Technically, the Finance Committee does not have jurisdiction over contracts. Let me make that clear.

Second, let me also make one other thing clear: That to the people in the coffee shops in Minnesota and the coffee shops in all of our States, American citizens, this whole jurisdictional battle is not really all that important to them. They believe if these companies are going to renounce their citizenship, go abroad, set up these dummy corporations—and by the way, quite often they use those new structures to shift earnings from the U.S. branch to the foreign branch so they do not have to pay their fair share of taxes—and that could include earnings from Government contracts—that they do not pay their fair share of taxes. Frankly, most people in the country say: Come home, declare your American citizenship, then you are eligible. If not, you are not. It is that simple.

I hope this amendment will have a strong vote. I can talk a lot more about it, but I know my colleague from Texas is in the Chamber, and I always look forward to what he has to say.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Texas.

Mr. GRAMM. Mr. President, if you are trying to get cheers in coffee shops, this is an excellent amendment. If you are trying to make law in the greatest capitalistic country in the history of the world, a country that more than any other country on Earth has had companies operating in other countries, come to America and gradually move the bulk of their business to our country over the years in order to benefit from the fact we have better laws and lower tax rates, then this is a very bad amendment.

Let me make it clear. I don't have any sympathy for people who are transferring where their company is domiciled to try to get a tax advantage. But I would make the following points. Whether a company is domiciled in Barbados, Germany, Ireland, or Saudi Arabia, the IRS Code is very clear on one thing. Section 881 of the IRS Code says any income effectively connected with the United States is taxed in the United States of America.

When companies are relocating—and I noticed Ireland is not listed here even

though Ireland is a major relocation center for companies all over America because they have very low tax rates on business, and I congratulate them for being smart enough to do that—we double tax dividend income, we double tax the income on corporate America. It is not an enlightened policy, and in my opinion, we should not do it.

This is the point. Under section 881 of the IRS Code, if you earn income in America, you are taxed here. Companies are seeking jurisdictions where they get more favorable overall tax treatment, including tax treatment on their foreign earnings. I don't have sympathy for companies that do this, but the plain truth is they are doing it. The plain truth is by affecting Government procurement, this amendment is GATT illegal and violates GATT.

Also, it is astounding to me that we would want to give one individual, the Secretary of the Treasury, the power to unilaterally disbar any company that is domiciled in a foreign country. Under this amendment, we outline all these countries that we are saying are tax havens, and then we add any other country that the Secretary of the Treasury determines is used as a site of a corporation primarily for the purpose of avoiding U.S. taxation.

As I pointed out, you do not avoid U.S. tax by changing where your company is domiciled because the IRS Code requires income earned in the United States is taxed here.

What companies do, however, is they get a more favorable environment. What we should be doing is looking at our corporate tax structure and trying to become more competitive.

The amendment gives the Secretary of the Treasury unilateral power to disbar any company that is domiciled in a foreign country from selling goods to the Defense Department.

I understand politics. I once was engaged in it. I have now given it up. But I understand it is very good politics to basically attack people who are operating in foreign countries that have low tax rates, that we choose to call tax havens. I long for America to be a tax haven. I long for us to get back to the situation we once had where companies were moving out of Germany, Italy, and Britain to domicile in the United States of America because we had favorable tax treatment. I don't remember us thinking it was a bad deal then. We thought it was a good deal.

I had not heard the business about giving up your citizenship. This thing has nothing to do with citizenship. If Stanley Works changes their domicile, the people who own Stanley Works do not change their citizenship. The people that run Stanley Works do not change their citizenship. I don't know from where that comes from. That has nothing to do with this debate.

Now, we had a debate once where people were giving up their American citizenship to avoid death taxes. Fortunately, we have passed a tax cut that eliminates death taxes and some of us

want to make that elimination permanent. You can be guaranteed that will never happen again if our elimination of the death tax becomes permanent.

Now, I conclude by saying I don't have any doubt about the fact that if this is brought to a vote it will pass. We are in an environment where slapping businesses around is good politics. Talking about denying procurement opportunities to companies domiciled in other countries is always popular until you remember that we sell more military equipment to foreign countries than any other country in the world—and more than every other country in the world combined.

Under the IRS Code, you have to pay American income taxes on income earned in America. If you are domiciled somewhere else, you do not have to pay American taxes on income earned in another country.

This amendment is not good public policy. I hope we can find a way of dealing with this. I am very reluctant to see this amendment pass. On the other hand, if this amendment had to be clotured, we would be talking about 2 days before we would have an opportunity to do it. I hope people who are managing the bill can find some way out of this. I don't think anyone really believes this issue belongs on this Defense bill. I think this is something we ought to be discussing at the authorization level. This is an appropriations bill.

Our goal as taxpayers is to procure the best stuff we can for military use at the lowest possible price. I know that is not a popular view, but it is a rational view, whether it is popular or not.

This amendment is GATT illegal. It will be subject to retaliation if it actually becomes law. I don't know that anyone here is serious about it becoming law.

In any case, if you want to pick a debating point for the local high school and you get to pick which side you will be on, you want to pick this topic, and you want to pick Senator WELLSTONE's side.

But in terms of public policy, this is an amendment that is bad public policy. While it is easy to attack companies that are domiciled in other countries, especially countries with low tax rates, the bottom line is, for most of the 220-odd-year history of America, we have been the tax haven. We have had companies move from other countries to America seeking lower taxes and better opportunity.

How much better our time would be spent if we were debating ways to make America more competitive rather than trying to build walls around our country to try to keep capital in. What a far cry this is from the basic American approach, which has been to have an environment that is so favorable to investment and capital creation and wealth that other countries have to try to build walls around themselves to keep their capital in. Now we are

talking about building walls around America to keep people from taking capital out.

I understand it is easy for us to say: Look, we think you should not use your money in a way that you view as most efficient. We know more about your money than you do. We did not invest it, we did not save it, we did not risk it, but we are perfectly capable of telling you how to do it.

I think, again, if we are debating this in terms of popular hoorah, we are basically saying that in a free country someone who owns wealth cannot take that wealth out of the country and invest it and still have the right to engage in commerce—which we grant to companies in Germany and Ireland and Czechoslovakia. We are going to take that position because right now slapping around people who are trying to engage in business is popular. It may be popular, but I do not think it is good public policy. We should be debating how we can change our laws so that no company would ever want to move out of the United States. But if they want to move out of the United States, you either believe in freedom or you do not—and I do.

So I wish they did not find it desirable to do it. I wish Stanley Works would keep their headquarters in America. But I have to say I am not an investor in Stanley Works. Now TIAA-CREF, my teacher retirement, may invest in Stanley Works. But so far as I know, I do not own any Stanley Works stock. So who am I to be trying to tell them where they put their money? I may not like how they do it, just like I do not like it when people waste their money. I have never understood why people buy lottery tickets. But I know it sends some people to college and it is a free country. If they want to do it, let them do it.

I never understood why people go out and spend their money buying a lot of different things that I do not value. People might not understand why I want to own a whole bunch of shotguns, more than I will ever pull the trigger on, but it is a free country and you either believe in freedom or you do not.

Now, some freedom is not popular. Here today on the floor of the Senate, the freedom to take your wealth that you created and put at risk and invest it in any one of the following countries—Gibraltar, Cyprus, and others. I don't know why we are picking on Cyprus. I thought we were trying to make peace there. I thought we were trying to create jobs for both the Greeks and the Turks. But it is popular to say, today: It is your money, you earned it, you put it at risk, but you can't invest it in Cyprus and have the freedom to engage in international commerce and sell to the U.S. Government.

I know that is popular today, but the question is, Is it right? What if it were our money, if we owned these companies as public companies, and if this were really a socialistic country? I

know some dream of it being that, but it is not. Thank God. Thank you, sweet Jesus, it is not. The commanding heights of the world are dominated by capitalism. The Berlin Wall has collapsed. Tears are still shed about it, not just in East Germany, either.

But freedom is tested when it is unpopular, not when it is popular. Standing up and cheering for the team that wins the Super Bowl is an exercise in freedom of speech, but that is not where you measure freedom of speech. You measure it when somebody is saying something you do not agree with, something that is not popular. I would say that I do not own any Stanley Works stock. I did not invest in Stanley Works. Who am I to be telling them they can't have the rights that we give to every other company in the world that is domiciled in Germany or in Taiwan or Korea or the Philippines or Morocco or wherever? They can produce things and sell to the Defense Department, but Stanley Works, domiciled in Cyprus or elsewhere, they are not going to sell to the United States.

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

Mr. GRAMM. I am happy to yield.

Mr. GREGG. You made some excellent points. The point that the company that invests overseas, if it is a foreign company, it has the right to do that, but under this rule, if it is an American company, it would not have that right if it were domiciled outside the United States—

Mr. GRAMM. That is exactly right. Had they invested their money in a company domiciled in Germany, which competes with Stanley Works, they could have sold products to the Defense Department. But under this amendment, a company operating in Germany, making drills that might be bought by the Defense Department, having not one American employee, can sell to the Defense Department. Under this amendment, Stanley Works, which may have 40 percent of its employees in this country, many of them in the Northeast, as the Senator is aware, is not allowed to sell in this country if they choose to domicile in Cyprus or Gibraltar.

Mr. GREGG. Will the Senator yield for another question on that point. Aren't we talking about aftertax dollars? I mean basically what we are saying is if an American company generates American revenues, it has to pay taxes on those American revenues. When an international company generates American revenues, it has to pay taxes on those revenues. The United States Treasury has taken in dollars from American-generated income from an American or international company.

Mr. GRAMM. As I said earlier, every penny of American income is taxed under IRS code 881. But the point you are making is, the money they are investing abroad is after tax money, which belongs to them.

Mr. GREGG. Right.

Mr. GRAMM. Which gets back to my point: You either believe in freedom or you do not. If you believe in freedom, you have to believe if it is somebody's money—they have earned it, they pay taxes on it—and if they want to invest it in Cyprus. You may not like it, and you might get big cheers at the local coffee bar by saying we are not going to let people invest in Cyprus and sell to the United States. That is just wildly popular, but the point is it violates our basic precept of the right of people to use their own money for their own purposes, to promote their own goals.

Mr. GREGG. After they pay taxes on them.

Mr. GRAMM. And they pay taxes on that money. And it may not be the goal of the Members of the United States Senate, but the point is this: In a very real sense, when you cut through all the ability to make this a popular issue—when you cut through to the bottom line, it is about freedom; freedom to do something that is very unpopular. It is very unpopular. We all hate it. When there is a company operating in our State and they decide it is to their advantage to move their corporate headquarters to Ireland, we decide we do not want them to do it. We hate them doing it. They do it, not because it changes their taxes on their American-earned income but because it changes their taxes on money they make in Europe and Asia and because they can have a better business climate. We hate that they do it, but it is their money and they have a right to do it. They have a right to do what we think is wrong.

Now to come in through the back door and try to limit their right because they are doing something we do not like, we are saying: You can't do the same thing that a German company that never invested in America and that has no employees in America can do. So it is popular, it gets you applause, but it is fundamentally wrong.

I yield to the Senator.

Mr. NICKLES. Mr. President, I tell my friend and colleague that one Oklahoma-headquartered company relocated in Texas called Phillips Petroleum. I wasn't very happy about that, but they had the right to do that.

Let me make it clear. My friend and colleague from Texas read the statute that says you pay taxes on all American-source income. Isn't that correct?

Mr. GRAMM. That is correct.

Mr. NICKLES. Corporate income tax—not just payroll tax.

Mr. GRAMM. Section 881 of the IRS Code.

Mr. NICKLES. Really, the difference we are talking about is income generated in other countries.

Mr. GRAMM. And the greater flexibility they have in their tax treatment in those countries. But they still have to pay American taxes on American income. In fact, the language of art is "any income effectively connected with the United States."

Mr. NICKLES. Any contract with the Department of Defense—and any com-

pany doing that has to pay U.S. corporate income taxes if they generate income off those contracts.

Mr. GRAMM. That is right.

Mr. NICKLES. I appreciate the clarification.

Mr. GRAMM. I conclude by noting that with the adoption of this amendment, it will say to companies that pay half of their employees in America that we are not going to let you sell to the American Government, but to foreign companies that have no employees in America and have never invested a penny in America, we are going to let you sell to the U.S. Government.

Again, it is popular. It will get you a big hurrah anywhere in the country, but it is not good public policy.

Mr. NICKLES. Will the Senator yield for an additional question?

Mr. GRAMM. Yes.

Mr. NICKLES. There is a major automotive company called Chrysler that recently merged—or you could say was acquired by Daimler, a German company. They are headquartered now in Germany and domiciled in Bermuda. I am guessing; I don't know. If my memory serves me correctly, Chrysler used to make tanks, or used to make military equipment. They wouldn't be covered by this because the effective date is beginning January 1. But the theory is, if the effective date was earlier, they would be prohibited from making tanks or providing goods and services that maybe they provided for a long time. In other words, they might be providing an essential component to our national defense, and those thousands of employees who might be employed making products for national defense would find themselves unemployed.

Mr. GRAMM. They would be in Detroit, MI. That is the point.

We basically come down to the question as to whether or not this is good public policy. It is popular policy. It will always get applause. But the question is, Is it good public policy? I would answer no.

Should we be building walls around America? Can you imagine the United States of America trying to penalize people who want to transfer their wealth somewhere else? We are the country where people from all over the world send wealth here. This is a role reversal, if I have ever seen it. These are games that other countries play.

This is GATT-illegal. This has no redeeming virtue, other than it is momentarily popular and it will get you a rousing applause.

I yield the floor.

Mr. GRASSLEY. Mr. President, I want to make a few comments about Senator WELLSTONE's amendment.

Ironically, I agree with Senator WELLSTONE's amendment, but also agree with some of the points made by my distinguished friends from Oklahoma and Texas.

First of all, I want to be clear that I agree with Senator WELLSTONE's purpose. As I have said repeatedly in public, companies should have their hearts

in America. If they don't have their hearts in America, they ought to get their rear ends out of America. In my mind, this notion applies especially to Government contracts.

Mr. President, when the Finance Committee marked up legislation to shutdown corporate expatriation, I considered adding this Government contracting ban to the tax legislation. However, out of deference to the Governmental Affairs Committee, the committee with jurisdiction over Government contracts, I withheld. So, let's be clear that this matter is not a Finance Committee matter. Chairman BAUCUS and I moved legislation on this matter out of committee. If Government contracting were within Finance Committee jurisdiction, we would've addressed it.

Now, let me say that my friends from Oklahoma and Texas are correct in one respect. That is, the problem of corporate expatriation springs from our flawed international tax code. It needs to be reformed. I am committed to reform. In the meantime, we need to stop the bleeding of the U.S. tax base and not reward expatriate companies with Government contracts.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Illinois, Mr. DURBIN, be recognized for up to 15 minutes; following that, Senator WELLSTONE be recognized for up to 4 minutes, and, following that, this matter be voted on. And we will do that by voice. We will announce that to the Members.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. Mr. President, thank you very much.

I will probably not take the entire 15 minutes.

I do concede the point made by the Senator from Texas that many of us come to this debate with a level of emotion. I am not happy to read in the newspaper that a company such as Stanley Tools has decided, for tax reasons, they are going to forsake their American citizenship and move to Bermuda. I will guarantee you, I will never knowingly buy one of their products again.

I honestly believe the American corporations—proud to be in this country, proud to be part of this country, accepting their obligation to support this country, and paying taxes here—deserve my business before the folks at Stanley who decided it is much more

fashionable to wear Bermuda shorts than to wear the red, white, blue.

Let me address three specific elements that came out in debate.

I have read, over the course of my education and my service in Congress, a lot of things relative to rights. I have read a great deal about the rights of individuals and the rights of others.

We all know about the rights of life, liberty, and the pursuit of happiness. We have heard about those, and some trace them back to Plato and Aristotle. They go through all the great Renaissance thinkers, and certainly to the Founding Fathers and Mothers of America, who came to these concepts and fought for them.

But I never read about the inalienable, immutable, nontransferable right of a business, wherever it is located, to bid on contracts at the U.S. Department of Defense. That does not exist. That is a creature of law and policy.

We, in the United States, decide who will bid on Government contracts. We establish standards. We establish qualifications. And we establish disqualifications.

Should Saddam Hussein's agent show up at the Pentagon tomorrow and suggest that the Iraqi National Business Corporation wants to start bidding on American defense contracts, you can imagine, we will laugh him out of town. We decide who will bid on our defense contracts, in the name of our national values and our national defense.

What the Senator from Minnesota brings before us is a very basic challenge: If it is not an inalienable right to bid on contracts at the Department of Defense, are we going to offer that right to bid to a company which has forsaken and denounced its American citizenship in order to avoid paying taxes in the United States?

I will go back to the point made earlier by the Senator from Texas. I do not think there is any right to that. And I do not think he can find it.

The second point I would like to make is this: The argument that these poor companies go to Bermuda, the Virgin Islands, Barbados, and the Isle of Man in order to escape American taxes—our critics say it is really a condemnation as to the high tax rates in America. They argue that we should lower our corporate tax rates so they will not even consider going to a tax haven such as Bermuda.

Trust me, no matter how low we bring our corporate taxes, some small country somewhere in the world will have a lower corporate tax rate. We cannot race to the bottom and expect to sustain the civilization we enjoy and the common defense which is funded under this bill if we do not have a tax base in America.

These same people could argue, logically, that we should encourage companies to move overseas to the lowest possible wage rate where people are being paid 5 and 10 cents an hour because it is such a smart business decision. We do not encourage it. We discourage it. We should continue to.

But to argue that somehow we are at fault as a nation because we ask businesses to pay their fair share of sustaining the strength and quality of life in America, I think is ludicrous.

The third point I will make is this: This is a Defense bill. We talk about the Department of Defense, but we all know that within the pages of these bills, particularly this bill, we will find not just words, but we will find the support for the men and women in uniform in America.

Think about what we ask of the men and women in uniform sustained by this Department of Defense appropriations.

We ask these men and women, out of loyalty to America, to be willing to pay with their lives for the privilege to be an American citizen. And each and every one of us is so proud that young men and women come forth willing to do so, willing to give their careers, their lives, to their country.

But think about what those who oppose this amendment are saying: That corporations with so little loyalty to the United States that they are unwilling to pay taxes to this country should somehow be honored with the right to bid on Department of Defense contracts.

I disagree. I disagree. Let me hope that this amendment is adopted. Let me hope that after it is adopted, the next time a major corporation draws its board of directors together and brings in their shifty accountant, who says, "I just came up with a great idea: We're moving to Bermuda, and we can save taxes, and you all can make more money," somebody will say, "What impact is that going to have on our customer base in America? What impact is that going to have on our business in America? Shouldn't we think twice before we abandon this Nation because we want to save a few bucks on taxes?"

My friends and colleagues in the Senate, I support this amendment by the Senator from Minnesota. I will concede that I come to it with some emotion when I consider these businesses that are moving overseas to avoid paying taxes to our Government. Businesses are moving their operations overseas to avoid hiring men and women in the United States. I do not think we should reward them or applaud them or say it is just an exercise of their freedom. They have the freedom to leave. We should have the freedom in the Senate to tell them that their departure is going to cost them an opportunity to bid on these contracts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, we had a long debate this afternoon. My understanding is that my colleagues are going to accept the amendment. I am appreciative of that. I think it is a very good amendment. I think it is important to have good, strong bipartisan support.

I thank Senator DURBIN and Senator REID, our whip, for their help. And if it

is OK with them, I ask unanimous consent they be added as cosponsors to my amendment.

Mr. DURBIN. Yes.

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

Mr. WELLSTONE. I am looking at just a few editorials and op-ed pieces. I will quote from them and do it in 3 minutes so we can get on with this vote:

The trouble is that hinting, even by silence, that it's O.K. not to pay taxes is a dangerous game, because it can quickly grow into a major revenue loss. Accountants and tax planners have taken the hint; they now believe that it's safe to push the envelope. . . . Furthermore, what does it say to the nation when companies that are proud to stay American are punished, while companies that are willing to fly a flag of convenience are rewarded?

That was from columnist Paul Krugman of the New York Times, May 14:

Even more galling is the fact that many of the same companies are giving the taxman the brushoff as they shield themselves with their Bermuda ZIP codes think nothing of holding out their hand when Uncle Sam is doling out government contracts.

That is from columnist Arianna Huffington, LA Times, May 15.

I ask unanimous consent material from the New York Times to the Houston Chronicle, to the Springfield Union News editorial, to the Philadelphia Inquirer—there is a ring of editorials and opinions on this question, and I ask unanimous consent they be printed in the RECORD.

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

#### EDITORIALS AND OPINIONS AGAINST CORPORATE EXPATRIATION

"Tax policy of this sort is outrageously offensive, if not masochistic. It penalizes businesses that behave ethically and responsibly and rewards those that do not. It increases the federal deficit and decreases the federal resources to keep the country running and rivers clean. It extends privileges to corporations that can afford the legal bills which it won't extend to \$20,000-a-year day-care workers. Americans should be outraged, and so should Congress, which should move quickly to pass pending legislation outlawing the dodge."—Peoria Journal Star editorial, May 12.

"The company has thumbed its nose at anyone who questioned its plans. Stanley officials initially tried to bar reporters from the annual meeting, despite high public interest in the Bermuda vote. They also mailed confusing shareholder information about how the vote would be tabulated. Businesses that want to enjoy the benefits and protections provided by this country should pay their fair share of taxes. Guess who will wind up picking up the tab as a result of Stanley's tax avoidance? Other American taxpayers, of course."—Hartford Courant editorial, May 14.

"Even in the best of times, it is outrageous for companies to engage in offshore shenanigans to avoid paying their fair share of taxes. Doing so after the Enron scandal, in dire fiscal times and when the nation is at war is unconscionable."—New York Times editorial, May 13.

"American companies that have no headquarters, no employees or operations in for-

eign tax havens should not be able to lower their taxes by, in essence, acquiring an island post office box. Basic fairness to American companies that remain incorporated in the United States is at stake."—Houston Chronicle editorial, May 9.

"When a U.S.-based corporation decides to reincorporate, basing its operations in, say, the Cayman Islands when the company has little more than a mailbox there, it can legally avoid millions of dollars in taxes. . . . there will come no better moment than this one to right that wrong. We look forward to the floor vote."—Springfield Union News editorial, May 7.

"Even more galling is the fact that many of the same companies are giving the taxman the brushoff as they shield themselves with their Bermuda ZIP codes think nothing of holding out their hand when Uncle Sam is doling out government contracts."—Columnist Arianna Huffington, Los Angeles Times, May 15.

"The trouble is that hinting, even by silence, that it's O.K. not to pay taxes is a dangerous game, because it can quickly grow into a major revenue loss. Accountants and tax planners have taken the hint; they now believe that it's safe to push the envelope. . . . Furthermore, what does it say to the nation when companies that are proud to stay American are punished, while companies that are willing to fly a flag of convenience are rewarded?"—Columnist Paul Krugman, New York Times, May 14.

"Yet it [Stanley] won't have to pay its fair share for the good life and safe business climate we have created here. It shouldn't be allowed to get away with this. It's time to slam this loophole shut—for Stanley and other companies that have the so-called inversion strategy."—Columnist Jeff Brown, Philadelphia Inquirer, May 12.

Mr. DODD. Will my colleague yield for a second?

Mr. WELLSTONE. I am pleased to yield.

Mr. DODD. I thank our colleague from Minnesota.

A lot of people are talking about Stanley Works. I represent the State where that company was located, with a wonderful history and tradition for many years of the Stanley Works Company, with the contribution of employment in my State.

It is a source of great disappointment to many of us that they have taken this position of setting up a shell operation, in this case in Bermuda, with no people there at all—nothing—to avoid taxes. That is deeply disturbing to people in my State. And we are embarrassed, in a sense, that this has become the poster child, if you will, on this issue.

But the Senator from Minnesota has raised a very important point, one that all of us here, in a time such as this, over the last 10 months, after 9/11 understand taxes may be too high. We need to work at that. We need to improve the situation. But to have people stand up in a company and say that, right now, we are going to have profits trump patriotism, that we are going to worry about our pocketbook before we worry about what is best for America, is something over which all of us ought to be outraged.

So I thank the Senator for raising this issue. We are going to have a vote shortly. I believe it is going to carry

overwhelmingly, and it should. The other body has voted similarly on a different bill. Nonetheless, I suspect they may on this as well. We need to send a united message that this kind of behavior we do not like to see in individual citizens, who would trade their citizenship, and we do not want to see it in corporations either.

I thank the Senator for the amendment.

Mr. WELLSTONE. I thank the Senator from Connecticut.

Mr. President, I just want to also, for the record, say I have spoken to Senator GRASSLEY, who said he would be very proud to be a supporter. And I talked with the staff of both Senator GRASSLEY and Senator BAUCUS, and we want to work together on exactly what the reach of this is. We will work hard on that in conference.

The date of 9/11 has been mentioned more than once. The truth is, it also ties into Enron and WorldCom and all the rest. Frankly, people are tired. Thank goodness there are many corporations and businesses that are very good corporate citizens, but people are really tired of this. This is an egregious practice.

Again, this amendment puts everybody on notice, forthwith, actually reaching back to January 1 of this year, if you are going to go to another country and set up a dummy corporation and then shift some of your profits to that corporation and not pay taxes, you are not going to be eligible for any of the defense contracts.

The PRESIDING OFFICER. The Senator's time has expired.

The Republican leader.

Mr. LOTT. Mr. President, I believe in short order the Senate will be prepared to dispose of this amendment. I wish to take a minute at this time to express my appreciation and the appreciation of the entire Senate and I think a grateful country for the outstanding work that is done year in and year out by these two Senators managing this legislation.

Senator INOUE and Senator STEVENS are two unique personalities, first of all. The service they gave to their country and the military during World War II would be enough by itself to cause us to want to express our appreciation to them. But their service in this institution and their leadership in these Defense bills year after year is really outstanding. They have done a tremendous job. They have helped keep America strong. They have helped make sure we have the facilities and the equipment our men and women need to do the job.

That is why when we made the decision to go to war against terrorism and put our men and women into a situation in Afghanistan to deal with al-Qaida, the terrorists, we had some incredible equipment. The American people got glimpses of some of the tremendous things that have been done.

Once again this year they have done a fantastic job. Unless I am mistaken,

this is the largest Defense bill in the history of the country. It was asked for by the President. They have been very careful to be judicious in how they have handled it. But they have brought it to the floor in such a way that Senators on both sides of the aisle agree with their product, and I thought I should take a minute to tell them how much I appreciate it.

Obviously, I am prejudiced. In my neck of the woods we build ships. We are very close to the Navy, but we also have Camp Shelby where Senator INOUE got his training at the beginning of World War II. They have made sure that we paid attention to what we needed for the future in ships, even though the Navy actually had a declining request in this area.

On a personal basis and one based on knowledge of what would have been in the bill but what is in it, what needed to be done, I express my appreciation to the managers and thank them for what they have done here, in the past for the country, and what I know they will always do in their roles in the Senate.

They and their staffs spent many long hours hammering out the details of what amounts to the largest defense budget in the history of our nation and they are to be commended for their hard work.

I want to particularly thank Senators INOUE and STEVENS for filling a major hole in the defense budget—the distinct lack of ship production for our Navy. During this time of war against terrorism, we need to maintain our ability to strike at the heart of our enemy far from American shores—namely, their training camps, intelligence centers, chemical/biological weapon production facilities, and conventional arms caches. Ships play a central role in our ability to project power and—before the actions of the Senate Appropriations Sub-committee on Defense—it looked like we, as a nation, were close to losing a key pillar in our fight against global terrorism.

Mr. President, the military budget as presented to this body earlier this year represented the largest increase in military spending that our country has seen in a long time, and yet the Navy's request for shipbuilding represented a decline in spending from the previous year. It certainly was difficult to understand and even more difficult to understand given that our forces are engaged in combat overseas. This spending profile not only threatened the capability of our Navy, but also threatened to severely dismantle our capability to produce ships in the United States. I don't need to spell out the dire implications of losing what little shipbuilding capacity that we have left in America.

Thanks to Senators INOUE and STEVENS and their staffs' hard work, we have made great strides in righting our ship that was about to sink. I want to applaud the foresight and efforts of committee staff, particularly Charlie

Houy, Steve Cortese, Leslie Kalan, Menda Fife and Kraig Siracuse to correct this problem. They put a lot of hard work into this mark-up and I believe they hit a home run for shipbuilding. This SAC-D mark-up has set the vision for the future and will help the Pentagon as they develop the shipbuilding plan for POM '04.

I also want to acknowledge the forward thinking of Pete Aldridge, John Young, and Dov Zakheim for identifying future funds in POM '04 that will be leveraged into the fleet of tomorrow—a fleet that will be fully capable of addressing threats to our nation that we cannot yet envision. An early version of the ship building plan for POM '04 includes laying the keel for a CVN in 2007; ramps up production of Virginia Class submarines from one ship per year in fiscal years 2004 through 2006 to two ships in 2007 through 2009; production of three DDG-51 class ships per year in 2004 and 2005; commencement of DD(X) production in 2005 with continuation of that program well into 2020; steady-state production of LPD-17 class ships through 2009; and a three-year interval between production of LHA(R)/LHD class ships in 2006 and 2009.

Again, I thank Senators INOUE and STEVENS for putting together a Defense Appropriations bill that makes sense for our Navy, our nation, and our ship building industry. Thank you. I commend you for the great service you have done for our Nation, our military, and our service members.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 4412.

The amendment (No. 4412) was agreed to.

Mr. WELLSTONE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, the underlying Wellstone amendment was adopted; is that right?

The PRESIDING OFFICER. That is not correct. The Wellstone amendment is now pending. Is there further debate on the amendment?

Mr. STEVENS. I ask unanimous consent that the action on amendment 4412 be vitiated and the amendment withdrawn.

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

Without objection, the amendment is agreed to.

The amendment (No. 4364) was agreed to.

Mr. INOUE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I have spoken with Senator GRASSLEY

and with his staff and the Staff of Senator BAUCUS about the definition of expatriating firms and tax havens in my amendment. It would be my hope that the conferees to the Defense Appropriations bill could conform the definition in my amendment with the definition in S. 2119, the Reversing the Expatriation of Profits Offshore Act.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank my colleagues. I think this is an amendment of which we can be proud, and I am very proud that it passed.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

AMENDMENTS NOS. 4388 AND 4422 THROUGH 4434,  
EN BLOC

Mr. INOUE. Mr. President, the managers of this bill, Senator STEVENS and I, wish to submit several amendments for consideration. We ask unanimous consent that these amendments be considered en bloc and adopted en bloc. Before we do that, may I explain the amendments.

They are; an amendment for Senator AKAKA earmarking \$6 million for critical infrastructure protection; an amendment for Senator CLINTON earmarking \$500,000 for renovation of a hangar at Griffiss Air Force Base; an amendment for Senator INHOFE earmarking \$5 million for remote logistic network; an amendment for Senator FEINSTEIN earmarking \$5 million for integrated chemical biological warfare detector chips; an amendment for Senator HUTCHISON earmarking \$1 million for nanoenergetic material research; an amendment for Senator FRIST and Senator THOMPSON earmarking \$2 million for the Communicator force notification system; an amendment for Senator LANDRIEU earmarking \$5 million for the D-Day museum; an amendment for Senator NELSON earmarking \$6 million for the Center for Advanced Power Systems; an amendment for Senator BUNNING earmarking \$1 million for security locks; an amendment for Senator KENNEDY earmarking \$10 million for the Non-Self Deployable water craft study; an amendment for Senator CARNAHAN earmarking \$850,000 for National Guard medical equipment; an amendment for Senators SMITH, WYDEN, and MURRAY to earmark \$8 million for the Navy's Sealion program; an amendment for Senator CRAIG earmarking \$3 million for foreign document digitization.

May I advise the Chair that there is not a single dollar added to the appropriation. These are just earmarks. It has been cleared by both sides.

I send the amendments to the desk. I ask that they be considered en bloc and approved en bloc.

The PRESIDING OFFICER. Is there objection? The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, reserving the right to object, in the list that the distinguished Senator just read, was there a Lugar amendment dealing with weapons of mass destruction?

Mr. INOUE. No.

Mr. LUGAR. Mr. President, I will not object. I simply was hopeful that the amendment might be included at this point.

Mr. INOUE. It was objected to because it was not authorized.

Mr. LUGAR. Reserving the right to object, I shall not object, a point of parliamentary procedure: When would be the appropriate time for this amendment to be considered or this Senator to offer the amendment or for the managers to offer the amendment?

Mr. STEVENS. Mr. President, it is my understanding the bill is still open to amendment. The Senator still has his right to offer it at any time.

Mr. LUGAR. Very well. So it would be appropriate, if I can gain the floor, to do so following the resolution of the amendments the Senator has offered. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask to amend the request of the Senator from Hawaii and ask unanimous consent that the amendment I shall send to the desk for the Senator from Iowa, Mr. GRASSLEY, be adopted. It deals with the awarding of a Medal of Honor flag to recipients of the Medal of Honor.

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

The amendments (Nos. 4388 and 4422 through 4434) were agreed to en bloc, as follows:

#### AMENDMENT NO. 4388

(Purpose: To provide for the designation of a Medal of Honor Flag and for presentation of that flag to recipients of the Medal of Honor)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. (a) Congress finds that—

(1) the Medal of Honor is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Forces of the United States;

(2) the Medal of Honor was established by Congress during the Civil War to recognize soldiers who had distinguished themselves by gallantry in action;

(3) the Medal of Honor was conceived by Senator James Grimes of the State of Iowa in 1861; and

(4) the Medal of Honor is the Nation's highest military honor, awarded for acts of personal bravery or self-sacrifice above and beyond the call of duty.

(b)(1) Chapter 9 of title 36, United States Code, is amended by adding at the end the following new section:

#### “§ 903. Designation of Medal of Honor Flag

“(a) DESIGNATION.—The Secretary of Defense shall design and designate a flag as the Medal of Honor Flag. In selecting the design for the flag, the Secretary shall consider designs submitted by the general public.

“(b) PRESENTATION.—The Medal of Honor Flag shall be presented as specified in sections 3755, 6257, and 8755 of title 10 and section 505 of title 14.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“903. Designation of Medal of Honor Flag.”

(c)(1)(A) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

#### “§ 3755. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 3741 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 3741 or 3752(a) of this title.”

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3755. Medal of honor: presentation of Medal of Honor Flag.”

(2)(A) Chapter 567 of such title is amended by adding at the end the following new section:

#### “§ 6257. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 6241 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 6241 or 6250 of this title.”

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“6257. Medal of honor: presentation of Medal of Honor Flag.”

(3)(A) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

#### “§ 8755. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 8741 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 8741 or 8752(a) of this title.”

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“8755. Medal of honor: presentation of Medal of Honor Flag.”

(4)(A) Chapter 13 of title 14, United States Code, is amended by inserting after section 504 the following new section:

#### “§ 505. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 491 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 491 or 498 of this title.”

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 504 the following new item:

“505. Medal of honor: presentation of Medal of Honor Flag.”

(d) The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36, United States Code, as added by subsection (b), to each person awarded the Medal of Honor before the date of enactment of this Act who is living as of that date. Such presentation shall be made as expeditiously as possible after the date of the designation of the Medal of Honor Flag by the Secretary of Defense under such section.

#### AMENDMENT NO. 4422

(Purpose: To set aside \$6,000,000 of operation and maintenance, Navy, funds for Servicewide Communications for the Critical Infrastructure Protection Program)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the total amount appropriated by title II under the heading “OPERATION AND MAINTENANCE, NAVY”, for Servicewide Communications, \$6,000,000 may be used for the Critical Infrastructure Protection Program.

#### AMENDMENT NO. 4423

(Purpose: To make available from amounts available for the Air Force for operation and maintenance \$500,000 for a contribution to the renovation of Hangar Building 101 at former Griffiss Air Force Base, New York, in order to facilitate the reuse of the building for economic development purposes)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title II under the heading “OPERATION AND MAINTENANCE, AIR FORCE”, up to \$500,000 may be available for a contribution to the Griffiss Local Development Corporation (GLDC) for the renovation of Hangar Building 101 at former Griffiss Air Force Base, New York, in order to facilitate the reuse of the building for economic development purposes. Such renovation may include a new roof, building systems, fixtures, and leasehold improvements of the building.

#### AMENDMENT NO. 4424

(Purpose: To make available from amounts available for Defense-Wide research, development, test, and evaluation \$5,000,000 for the Maintainers Remote Logistics Network)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE”, up to \$5,000,000 may be available for the Maintainers Remote Logistics Network.

#### AMENDMENT NO. 4425

(Purpose: To make available from amounts available for the Navy for research, development, test, and evaluation \$5,000,000 for the Integrated Chemical Biological Warfare Agent Detector Chip)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY”, up to \$5,000,000 may be available for the Integrated Chemical Biological Warfare Agent Detector Chip.

#### AMENDMENT NO. 4426

At the appropriate place in the bill insert the following:

Of the funds provided under the heading “Research and Development, Air Force,” up to \$1,000,000 may be made available for research on nanoenergetic materials.

#### AMENDMENT NO. 4427

(Purpose: To make available from amounts available for the Army National Guard for operation and maintenance \$2,000,000 for the Communicator emergency notification system)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title II under the heading “OPERATION AND

MAINTENANCE, ARMY NATIONAL GUARD", up to \$2,000,000 may be available for the Communicator emergency notification system.

AMENDMENT NO. 4428

(Purpose: To authorize a grant of \$5,000,000 to the National D-Day Museum)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. The Secretary of Defense may, using amounts appropriated or otherwise made available by this Act, make a grant to the National D-Day Museum in the amount of \$5,000,000.

AMENDMENT NO. 4429

(Purpose: To make available from amounts available for the Navy for research, development, test, and evaluation \$6,000,000 for the Center for Advanced Power Systems)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to \$6,000,000 may be available for the Center for Advanced Power Systems.

AMENDMENT NO. 4430

(Purpose: To allow the Department of Defense to obligate funds to secure its sensitive and classified materials to further enhance the national security of the United States)

At the appropriate place in the bill insert the following section:

SEC. . Out of the Operation and Maintenance, Defense-Wide, funds appropriated, \$1,000,000 may be available to continue the Department of Defense's internal security-container lock retrofit program for purchasing additional security locks which meet federal specification FF-L-2740A.

AMENDMENT NO. 4431

(Purpose: To make available from the National Defense Sealift Fund \$10,000,000 for implementing the recommendations resulting from the Navy's Non-Self Deployable Watercraft (NDSW) Study and the Joint Chiefs of Staff Focused Logistics Study to determine the requirements of the Navy for providing lift support for mine warfare ships and other vessels)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title V under the heading "NATIONAL DEFENSE SEALIFT FUND", up to \$10,000,000 may be available for implementing the recommendations resulting from the Navy's Non-Self Deployable Watercraft (NDSW) Study and the Joint Chiefs of Staff Focused Logistics Study, which are to determine the requirements of the Navy for providing lift support for mine warfare ships and other vessels.

AMENDMENT NO. 4432

(Purpose: To set aside from amounts available for the Air National Guard for operation and maintenance \$350,000 for medical equipment)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, AIR NATIONAL GUARD", up to \$350,000 may be available for medical equipment.

AMENDMENT NO. 4433

(Purpose: To make available from amounts available for the Navy for research, development, test, and evaluation \$18,000,000 for the Sealion Technology Demonstration program)

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY" and available for Ship Concept Advanced Design up to \$18,000,000 may be available for the Sealion Technology Demonstration program for the purchase, test, and evaluation of a Sealion craft with modular capability.

AMENDMENT NO. 4434

(Purpose: To provide for standardized digitizing, conversion, indexing, and formatting of captured foreign documentary materials, and for other purposes)

At the appropriate place in Title VIII, insert the following:

"SEC. . Of the funds made available in this Act under the heading 'Research, Development, Test and Evaluation, Defense-Wide', up to \$3,000,000 may be made available to digitize, convert, index, and format captured foreign documentary materials (including legacy materials) into a standard, usable format, to enable the timely analysis and use of mission critical data by analytical and warfighter personnel.

Mr. STEVENS. Mr. President, I move to reconsider that action.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

AMENDMENT NO. 4435

(Purpose: To authorize the waiver of the prohibition on the use of Cooperative Threat Reduction funds for chemical weapons destruction)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself, Mr. BIDEN, Mr. DOMENICI, Mr. HAGEL, Mr. GRAHAM, Mr. LEVIN, Mr. DODD, and Mr. MCCAIN, proposes an amendment numbered 4435:

On page 223, between lines 20 and 21, insert the following:

SEC. 8124. Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 22 U.S.C. 5952 note) is amended—

(1) by inserting "(a) LIMITATION.—" before "No fiscal year"; and

(2) by adding at the end the following new subsection:

"(b) WAIVER.—(1) The limitation in subsection (a) shall not apply to funds appropriated for Cooperative Threat Reduction programs for a fiscal year if the President submits to the Speaker of the House of Representatives and the President pro tempore of the Senate a written certification that the waiver of the limitation in such fiscal year is important to the national security of the United States.

"(2) A certification under paragraph (1) for fiscal year 2003 shall cover funds appropriated for Cooperative Threat Reduction programs for that fiscal year and for fiscal years 2000, 2001, and 2002.

"(3) A certification under paragraph (1) shall include a full and complete justification for the waiver of the limitation in subsection (a) for the fiscal year covered by the certification."

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, during the Memorial Day recess, it was the privilege of this Senator to travel

again with my colleague and partner, Senator Sam Nunn, and with Representative JOHN SPRATT and Representative CHRISTOPHER SHAYS to a number of sites in Russia. One of particular interest to us was the chemical weapons facility at Shchuch'ye, which is approximately 1,200 miles east of Moscow. That particular installation has been a part of the Cooperative Threat Reduction Program insofar as the United States has worked cooperatively with Russia to put extensive fencing and various other security around what amounts to 1.9 million weapon shells—that is, chemical weapon shells—filled with nerve gas, sarin, and VX.

I had visited the sites 18 months before, and this was a return to envision precisely these 85-millimeter shells, these small shells that you can put in a small suitcase. Indeed, I have an illustration of this, Mr. President.

Here is the small suitcase, and here is the Senator from Indiana, and a Russian major took the picture.

As we discuss proliferation, this intersection between terrorists and weapons of mass destruction, envision, if you will, that there are 1.9 million more of these 85-millimeter shells. The Russians on the site estimate if one shell was put into a stadium of 100,000 people, everybody would die. It has that degree of efficacy and it has this degree of portability.

This is why the United States takes seriously the penning up of the chemical weapons of Russia. Russia has declared 40,000 metric tons. One-seventh of them are at Shchuch'ye, in this condition. Also at Shchuch'ye is our greatest hope in working with the Russians to destroy the chemical weapons. They are in the process of building a plant that will require U.S. money to complete. The German Bundesbank has appropriated money this year for this plant, and so has Great Britain, Canada, and Norway, in modest amounts, to join us.

The Russian Duma has appropriated substantially more money for this purpose. Why? Because Russia and the United States and many other nations ratified the Chemical Weapons Convention. We did so 5 years ago. The Russians did so a short time thereafter. It is a 10-year treaty. We are almost at halftime and not the first pound of chemical weapons has, in fact, been destroyed because there was not the money, not the technical organization, until at least this present point.

Mr. President, when I came back from Russia, Senator BIDEN, the chairman of the Foreign Relations Committee, and I were asked to come to the White House to visit with the President and the Vice President, Condoleezza Rice, and Andrew Card. Six of us sat there and talked about the new treaty between the United States and Russia, on which we have had testimony at some of our committee hearings. The point made by the President, Secretary Powell, and Secretary Rumsfeld is that we have a turn

of the road with Russia. We are not naive with regard to all of the problems with Russia, but the President is asking for ratification of this new treaty that would substantially reduce nuclear warheads in the next 10 years.

I took the opportunity to point out to the President of the United States that it is one thing to ratify a treaty, and to negotiate one to begin with, and it is quite another to see actual results from the treaty. We are working in this country to reduce our chemical weapons, and we hope to do so in the 10 years. We have pledged to do so under the treaty. The Russians have a whole lot more of them. My point is that there has not been a reduction there. In this case, it is not a lack of good will, it is a lack of money, lack of technical support.

In the midst of all of this, the dilemma for President Bush—and he raised this during our face-to-face meeting—is: What can I do about it? With the other Nunn-Lugar programs, the Cooperative Threat Reduction Programs, the President could certify that the conditions imposed by Congress on the Nunn-Lugar Act are being met. In the past 10 years, such certification has come each year. This year, it did not.

Ms. Rice and the Vice President advised the President that the administration has sought authorization to waive the certification requirement so that the money could be spent. In effect, no new programs under cooperative threat reduction have occurred for 10 months of this fiscal year due to lack of certification and lack of waiver.

Now, in the supplemental appropriations bill we passed the other evening, as this becomes law—at least for the last 2 months of this year—our Government can actively move to destroy weapons of mass destruction with new contracts—nuclear, chemical, and biological—for 2 months. In a conference now on the authorization of the Defense Department, there is a debate as to how long a waiver might last. The President has asked for permanent authority, and the Senate has offered that in its bill. The House has offered, as I understand it, a 3-year time for the President to waive this certification. But when we come to chemical weapons, the President apparently has no ability to waive anything, or to certify anything.

An additional six requirements are posed, and they have not been met, in the judgment at least of those in the administration who were involved in these deliberations. So as a result, nothing is happening with regard to American money or the destruction of these weapons.

Following my meeting with the President, I wrote a letter to Condoleezza Rice, and I stated everything that I have indicated in these remarks today. I appreciate the fact that she has responded and indicated to me that:

The President has repeatedly emphasized the importance of cooperative

threat reduction in his strategy to reduce and prevent the proliferation of weapons of mass destruction, delivery means, and the materials and technology to develop them. Because of the program's value to the nation's security, the President has asked the Congress to grant him permanent authority to waive CTR certification requirements if he determines that is in the national interest. We strongly support the waiver provision of the Senate version of the FY2003 Defense Reauthorization bill, and have urged the conferees to adopt it.

Our serious concerns about Russian chemical and biological weapons activities make it difficult for the Secretary of State to certify Russia as eligible for CTR assistance. Waiver authority will enable the Administration both to pursue essential CTR weapons reduction and nonproliferation projects, and to work with Russia to resolve our concerns about its chemical and biological weapons activities.

Parenthetically, I might say that one of the concerns is the four installations, allegedly with biological weapons or preparations for them, in Russia to which none of us have had access.

It is my hope in the coming recess to enter two of these and at least clear away whatever may be the dilemmas of those two situations and maybe in the fullness of time to make the other two.

I have been permitted to go into a number of biological situations, in addition to the full gamut of the chemical ones, largely because there is a sense of cooperative threat reduction.

The Russians themselves appreciate that if there are accidents, theft, or a breakdown of the system, Russians will be killed first and in large numbers. This is a grim and serious business which ought not be a part of parliamentary byplay and that has been the dilemma this year.

Condoleezza Rice continues:

Similarly, we welcome your proposal of a waiver of the legislative conditions on CTR assistance to construct a nerve agent destruction facility at Shchuch'ye. As you point out, the small, transportable munitions at Shchuch'ye pose a real proliferation risk. The President underscored the importance of assistance to Russian chemical weapons destruction in his December speech at the Citadel and most recently in the G8 Leaders announcement of Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

We have been working hard with Russia to meet the legislative conditions on the Shchuch'ye project, and have made considerable progress. Nevertheless, it may be difficult to assess with confidence that the information we have from Russia on its chemical weapons stockpile is full and accurate. At a minimum, the information-gathering process will be very time-consuming, but the proliferation threat gives us no time to delay. Indeed, the Administration concluded after its thorough review of nonproliferation assistance to Russia that the destruction project at Shchuch'ye should be accelerated.

Therefore, the Administration has urged the conferees to the FY2003 Defense Authorization bill to provide the President the authority to waive the conditions on CTR

chemical weapons destruction assistance, if he determines that to do so is in the national interest.

Given this letter, Mr. President, I have offered the amendment that is at the desk. It achieves that objective of giving the President waiver authority that he does not have with regard to these chemical weapons. In due course, the conference committee and the armed services will come to a decision as to whether the request by the President for permanent waiver authority on all Nunn-Lugar programs is to be granted to the President.

In a commonsense way, I pray that will be the case. I cannot imagine that it is in the national interest for us to deliberately, having authorized money for Nunn-Lugar, having appropriated money for the Nunn-Lugar program, to have it all tied up in terms of new projects for 10 months.

My point to the President has been: Mr. President, that could very well be the fate of a nuclear treaty with regard to warheads. Why do we believe that somehow that might be exempt because, clearly, American money is going to be involved if we are to make progress in seeing those warheads reduced.

The Russians may want to reduce the warheads to 2,200 or 1,700 or whatever figure is in their national interest, but they clearly do not have the means to do so.

Some Americans, perhaps even Members of this body, may say: Well, that is the Russian's problem; they made their bed; let them sleep in it. But it is our problem because those warheads are aimed at us. The nerve gas at Shchuch'ye will not be aimed at us if it is destroyed, and it can be destroyed during this historical window of opportunity.

Therefore, I earnestly ask for support of the Senate in adopting this amendment so it is absolutely clear that the President has the authority to give the waivers so that we may move ahead on something I think is vital not only to our national interest but in the war against terrorism is imperative. My feeling always has been if the Senate had any idea of this general problem, there would be a speedy resolution.

The purpose of my speech tonight is to make sure this Senate does understand and makes a commitment to destroy these weapons as rapidly as possible, given the storage and given the destruction facility.

I add finally that for those who are at all wondering how they destroy the stockpile, this is the weapon in the suitcase. It would be taken down to a vacuum space. Two holes would be drilled in the bottom of the weapon. The material would be drained out and put in a chemical formulation which finally renders that toxic material without consequence. This has to happen 1.9 million times. It will take 6 years if we begin now.

I hope it will begin now. My plea is for immediate action on the amendment which I hope will be favorable.

I ask unanimous consent that a letter addressed to Dr. Rice dated July 12, 2002, and her response to me dated July 30, 2002, be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,

Washington, DC, July 12, 2002.

Dr. CONDOLEEZZA RICE,

*Assistant to the President for National Security Affairs,*

*The White House, Washington, DC.*

DEAR DR. RICE: We write out of great concern over the current status of various projects in the Nunn-Lugar Cooperative Threat Reduction (CTR) Program at the Department of Defense. Final disposition has yet to be reached on an Administration request for permanent annual waiver authority relative to legislatively-imposed conditions requiring certification by the Executive branch in order to permit elements of the program to go forward. That will remain dependent on the outcome of a conference between the two houses of Congress on the FY 2003 Defense Authorization bill.

Despite the Administration's difficulties in attempting to secure permanent waiver authority from the Congress in order to proceed with the overall Nunn-Lugar/CTR program, we are encouraged that the Administration has continued to seek the waiver to the certification requirements. The same cannot be said with respect to the Administration's approach to the Nunn-Lugar/CTR chemical weapons elimination project in Russia. Congressional conditions—above and beyond those that apply to CTR in general—continue to stymie and delay construction of a chemical weapons destruction facility at Shchuchye, Russia, that is decidedly in the national security interests of the United States. A swift solution to the current stalemate is only possible with strong Administration leadership.

The project at Shchuchye was reviewed by the Administration as part of its non-proliferation program review last year. In a Fact Sheet released December 27, 2001, the White House stated that: "The Department of Defense will seek to accelerate the Cooperative Threat Reduction project to construct a chemical weapons destruction facility at Shchuchye, to enable its earlier completion at no increased expense. We welcome the contributions that friends and allies have made to this project thus far, and will work for their enhancement." Unfortunately, little progress has been made in this direction.

Several of us recently visited Shchuchye and have come to the conclusion that the U.S. needs to move forward expeditiously if we are to eliminate this critical proliferation threat. The depot houses nearly 2,000,000 modern ground-launched chemical weapons. These artillery shells and SCUD missile warheads are in excellent working condition and many are small and easily transportable and could be deadly in the hands of terrorists, religious sects, or para-military units. We were told by our Russian hosts that the weapons stored at Shchuchye could kill the world's population some twenty times over. The size and lethality of the weapons at Shchuchye are clearly a direct proliferation threat to the American people.

Last year, the House of Representatives attached six conditions to the Shchuchye project. Of the original six conditions, four can be met but two continue to be problematic. The remaining conditions require the Secretary of Defense to certify that the information provided by Russia on the size of its chemical weapons stockpile is full and accurate and that Russia has developed a prac-

tical plan for destroying its stockpile of nerve agents. We share the goals associated with these conditions, but these same concerns prompted the Administration to seek a waiver to the larger certification requirements required under the Nunn-Lugar program. Unfortunately, without a similar White House request for a waiver at Shchuchye, it is unlikely that the Pentagon will be able to begin construction of a facility to destroy these weapons in the foreseeable future.

We urge the Administration to weigh in with conferees to the FY 2003 Defense Authorization bill to include a national security waiver of congressionally-imposed conditions on the spending of funds authorized for chemical weapons elimination under the Nunn-Lugar program. As the war on terrorism continues we must ensure that terrorists do not intersect with weapons of mass destruction. Failure to begin destruction of the chemical weapons arsenal at Shchuchye would leave these dangerous, highly portable weapons in an unsafe and insecure location and vulnerable to proliferation. Construction could start tomorrow if Congress were to embrace the proper policy prescription.

The Administration's plans to speed up implementation of this important Nunn-Lugar project cannot coexist with the current Congressional conditions on the program. We urge you to provide vitally needed leadership to permit the Pentagon to begin dismantlement efforts. Without strong White House leadership we fear that progress will again be stymied and U.S. national security interests will suffer.

We look forward to discussing this with you in the near future.

Sincerely,

Richard G. Lugar, U.S. Senator; Joseph R. Biden Jr., U.S. Senator; Chris Shays, U.S. Representative; John Spratt, U.S. Representative; Pete Domenici, U.S. Senator; Jeff Bingaman, U.S. Senator; Ellen Taushcher, U.S. Representative; Bob Graham, U.S. Senator; Chuck Hagel, U.S. Senator; Vic Snyder, U.S. Representative.

THE WHITE HOUSE,

Washington, July 30, 2002.

Hon. RICHARD G. LUGAR,

*U.S. Senate, Washington, DC.*

DEAR SENATOR LUGAR: Thank you for your letter on the Department of Defense Cooperative Threat Reduction (CTR) program.

The President has repeatedly emphasized the importance of CTR in his strategy to reduce and prevent the proliferation of weapons of mass destruction, delivery means, and the materials and technology to develop them. Because of the program's value to the nation's security, the President has asked the Congress to grant him permanent authority to waive CTR certification requirements if he determines that is in the national interest. We strongly support the waiver provision in the Senate version of the FY2003 Defense Authorization bill, and have urged the conferees to adopt it.

Our serious concerns about Russian chemical and biological weapons activities make it difficult for the Secretary of State to certify Russia as eligible for CTR assistance. Waiver authority will enable the Administration both to pursue essential CTR weapons reduction and nonproliferation projects, and to work with Russia to resolve our concerns about its chemical and biological weapons activities.

Similarly, we welcome your proposal for a waiver of the legislative conditions on CTR assistance to construct a nerve agent destruction facility at Shchuchye. As you point out, the small, transportable munitions at Shchuchye pose a real proliferation

risk. The President underscored the importance of assistance to Russian chemical weapons destruction in his December speech at the Citadel and most recently in the G8 Leaders announcement of the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

We have been working hard with Russia to meet the legislative conditions on the Shchuchye project, and have made considerable progress. Nevertheless, it may be difficult to assess with confidence that the information we have from Russia on its chemical weapons stockpile is full and accurate. At a minimum, the information-gathering process will be very time-consuming, but the proliferation threat gives us no time to delay. Indeed, the Administration concluded after its thorough review of nonproliferation assistance to Russia that the destruction project at Shchuchye should be accelerated.

Therefore, the Administration has urged the conferees to the FY2003 Defense Authorization bill to provide the President the authority to waive the conditions on CTR chemical weapons destruction assistance, if he determines that to do so is in the national interest.

Sincerely,

CONDOLEEZZA RICE,

*Assistant to the President for National Security Affairs.*

U.S. SENATOR CARL LEVIN (D-MI) HOLDS HEARING ON NUCLEAR TREATY WITH RUSSIA, JULY 25, 2002, SENATE ARMED SERVICES COMMITTEE, WASHINGTON, DC

LEVIN: My final question. Secretary Rumsfeld, the Cooperative Threat Reduction Program is coming to a halt because of the inability to make the necessary certifications. The Senate bill that's in conference contains the legislative authority that the administration requested which is permanent authority for the president to grant an annual waiver of the prerequisites in the Freedom Support Act and the Cooperative Threat Reduction Act. The House bill contains authority to grant waivers for three years. I assume that you support the administration positions relative to permanent authority, and so, I won't ask you that. But if you disagree with it, perhaps in your answer to the question I'm going to ask you, you could let me know that, too. But here's the issue. The permanent authority requested by the administration to grant annual waivers of the prerequisites to Implementation of the Cooperative Threats Reduction Program does not include an ability to waive the special prerequisites for the Russian chemical weapons destruction program being carried out under the CTR program. President Bush said that not only did he support this important effort to destroy the Russian chemical weapons destruction program, he actually wanted to accelerate it. But there's no authority to waive those special prerequisites for the chemical destruction, then that program is going to be shut down. Will you be asking for waiver authority for the special prerequisites for the Russian chemical weapons destruction program?

RUMSFELD: The administration either has or will be asking for that waiver authority with respect to the chemical weapon destruction program—

LEVIN: Do you support that request?

RUMSFELD: Indeed, I do.

LEVIN: Thank you. General, you support that, too?

MYERS: Yes sir.

LEVIN: Thank you very much.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to be added as a cosponsor to the amendment of the distinguished Senator.

Mr. LUGAR. I will be delighted.

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

Mr. DODD. Mr. President, I commend my colleague from Indiana and thank him and our former colleague, Senator Nunn, whom he has mentioned on several occasions during his remarks this evening. These two individuals have made a significant contribution to the improved environment in which the world finds itself today, with all of its problems. Had it not been for the efforts of Senator Nunn and Senator LUGAR over the years, we would not find ourselves in the position we are today to significantly reduce the kinds of threats the Senator from Indiana just highlighted in his remarks.

I am confident this amendment will be overwhelmingly supported. It should be. My cosponsorship is not a gratuitous act, but I want to be identified with the substance of his remarks and, more importantly, the substance of this amendment.

We had some testimony this morning, in fact, before the Senate Committee on Foreign Relations in talking about Iraq. These are very fine hearings that the chairman of the committee, Senator BIDEN, and Senator LUGAR have cosponsored to give us a wonderful opportunity to consider what options we have with regard to Iraq.

I do not want to dwell on that except to point out that Ambassador Butler this morning, when talking about various options and what we ought to consider and specifically talking about the issue of containment and whether we have exhausted the containment approach, questioned himself as to

whether we had. But he said one thing we need to do, if anything at all, is to work more closely with Russia because they could play a very important role.

What the Senator from Indiana is doing, not only with this amendment in the short term, is creating at least the possibility of that cooperation which may be essential in the months and years ahead.

It is a staggering statistic. I do not know if my colleagues were listening carefully. Over the next 6 years, I presume working 5 or 6 days a week, 10- or 12-hour days—that is how long it will take to eliminate this incredible risk. The idea that we would be prohibited from doing so because we deny the President waiver authority because of an existing parliamentary situation or treaties that require some prior action I think would be a great missed opportunity.

I commend the Senator from Indiana immensely for his efforts in this regard, and I thank Senator Nunn as well for his previous work here and his continuing work. I wish to associate myself in this effort. This may be one of the most important things we will do in this bill, and I commend the Senator for offering the amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Connecticut for his cosponsorship.

Cosponsoring this amendment are the chairman of the Foreign Relations Committee, Mr. BIDEN; Mr. DOMENICI; Mr. HAGEL; Mr. GRAHAM; Mr. LEVIN, chairman of the Armed Services Committee; Mr. DODD; and I am pleased to add my colleague from Arizona, Mr. MCCAIN.

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

The Senator from Hawaii.

Mr. INOUE. We are prepared to accept this amendment and take it to conference.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 4435.

The amendment (No. 4435) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

#### AMENDMENT NO. 4443

Mr. MCCAIN. Mr. President, I have a couple of amendments the managers have accepted, and I have another amendment that would be the subject of debate. I send those two amendments that I think are agreed to, to the desk at this time and ask for their immediate consideration, either separately or en bloc. The first amendment I would request be called up would be amendment No. 4443.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 4443.

The amendment is as follows:

(Purpose: To remove the waiting period in the limitation on use of funds for conversion of the 939th Combat Search and Rescue Wing)

Beginning on page 221, line 24, strike “60 days after”.

Mr. MCCAIN. Mr. President, the first amendment would remove the reporting period required for the positioning of UH-60s and would allow that the report be submitted at any time. It is largely technical in nature.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 4443.

The amendment (No. 4443) was agreed to.

### NOTICE

*Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.*

#### ORDERS FOR THURSDAY, AUGUST 1, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, August 1; that on Thursday, following the prayer and the pledge, the Journal of proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day, and that the Senate then resume consideration of the conference report to accompany H.R. 3009, the Andean Trade Act, with the time until 10:30 a.m. equally divided and controlled between the proponents and opponents, with Senator BAUCUS or Senator GRASSLEY controlling the proponents' time and Senator DORGAN or his des-

ignee controlling the time in opposition; that at 10:30 a.m., without further intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the conference report.

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

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:27 p.m., adjourned until Thursday, August 1, 2002, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate July 31, 2002:

##### INTERNATIONAL MONETARY FUND

NANCY P. JACKLIN, OF NEW YORK, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF TWO YEARS, VICE RANDAL QUARLES, RESIGNED.

##### BROADCASTING BOARD OF GOVERNORS

D. JEFFREY HIRSCHBERG, OF WISCONSIN, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2004, VICE MARC B. NATHANSON, TERM EXPIRED.

##### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To Be Major General Brig. Gen.*

TIMOTHY M. HAAKE, 0000

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED