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No. 9

House of Representatives

The House was not in session today. Its next meeting will be held on Monday, January 27, 2003, at 2 p.m.

Senate

FRIDAY, JANUARY 17, 2003

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Lord of history, who calls great leaders and anoints them with supernatural power to lead in times of social distress when Your righteousness and justice must be reestablished, this weekend we celebrate the birthday of Martin Luther King Jr. We praise You, O God, for his life and leadership in the cause of racial justice. You gave him a dream of equality and opportunity for all people which You empowered him to declare as a clarion call to all America.

As we honor the memory of this truly great man and courageous American, we ask You to cleanse any prejudice from our hearts and help us press on in the battle to assure the equality of education, housing, job opportunities, advancement, and social status for all people, regardless of race and creed. May this Senate be distinguished in its leadership in this ongoing challenge to assure the rights of all people in this free land. Amen.

The PRESIDENT pro tempore. Please join the distinguished assistant Republican leader in pledging allegiance to our flag.

PLEDGE OF ALLEGIANCE

The Honorable MITCH MCCONNELL, a Senator from the State of Kentucky, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Repub-

lic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The assistant majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning we will be resuming consideration of H.J. Res. 2, the appropriations bill. Under the order, following 5 minutes of debate, there will be a vote in relation to the Harkin amendment regarding Byrne grants. Following that vote, and an additional 5 minutes of debate, there will be a vote in relation to the Schumer amendment relating to port security. Members can, therefore, expect two consecutive votes to begin shortly. I understand additional amendments are expected and, therefore, Members can expect further roll-call votes today. It is hoped we can finish this bill today or this evening. If that is not possible, it is anticipated that the Senate will resume consideration of this bill on Tuesday after the holiday and remain in session until it is completed.

The PRESIDENT pro tempore. The assistant Democratic leader.

Mr. REID. Mr. President, I ask my distinguished colleague, the senior Senator from Kentucky, I was not paying as much attention as I should have. Did the Senator announce how late we would be working today?

Mr. MCCONNELL. Mr. President, I say to my friend from Nevada, at this

point, about all I can relate to our colleagues is that we will stay in session and continue to try to make progress on the bill. That is really about all the enlightenment I can offer at this particular point this morning.

Mr. REID. I am sure the Presiding Officer will be down and enlighten us further at some subsequent time.

Mr. MCCONNELL. I am confident he will.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of House Joint Resolution 2, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 2) making further continuing appropriations for the fiscal year 2003, and for other purposes.

Pending:

Harkin amendment No. 32, to restore funding for nondiscretionary Byrne grants to a level of \$500,000,000.

Schumer Modified amendment No. 31, to provide funds for research and development grants to increase security for United States ports.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Alaska.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Mr. STEVENS. Will the Chair please announce what the program is.

AMENDMENT NO. 32

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes of debate equally divided prior to the vote on or in relation to the Harkin amendment No. 32.

Mr. STEVENS. Mr. President, before that starts, I think we should wait for the participants. I wish to announce, assuming the Senator from New York and I can work out an understanding, there may not be a second vote. Members should be aware, there may not be the second vote. The first vote will take place as scheduled.

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

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

Who yields time?

Mr. HARKIN. Mr. President, parliamentary inquiry. Will the Presiding Officer state what is before the body right now?

The PRESIDING OFFICER. There are 5 minutes evenly divided on the Harkin amendment No. 32.

Mr. HARKIN. Mr. President, the omnibus bill that is before us virtually eliminates the Byrne law enforcement grant program. This amendment restores the funding to \$500 million to the fiscal year 2002 level. There is no increase, but this at least holds it harmless.

On each Senator's desk is a table of how much each State's law enforcement would lose without the Byrne grant. These grants go directly to State and local law enforcement. It pays for regional drug task forces, technology, forensics, prevention, and other valuable antidrug efforts in local communities.

I have heard from the National Sheriffs Association, the International Association of Chiefs of Police, the National Association of Police Organizations, and the National Governors' Association, who have voiced strong support for this amendment.

At this crucial time in our history, we cannot afford to reduce the effectiveness of our Nation's law enforcement agencies.

I received a letter this morning from the head of the Kansas Bureau of Investigation, Mr. Larry Welch. I do not know him personally. He said:

Elimination of Byrne funding would be absolutely devastating to Kansas law enforcement.

Mr. President, this amendment is needed by local law enforcement all over the United States, and I hope we adopt it overwhelmingly.

I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I am pleased to cosponsor Senator HARKIN's amendment to restore full funding to

the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, a program which is used to fund crime and drug prevention programs in communities nationwide.

The bill before us today cuts the Byrne grant program by \$500 million, in essence eviscerating it. I have trouble understanding why anyone would choose to decrease funding for a program that strives to improve the criminal justice system and increase public safety.

Cutting this program has real consequences in my home State of Delaware. There, Byrne grant money goes to fund a wide range of significant drug abuse and prevention programs, juvenile crime initiatives and other criminal justice projects, including: Delaware's Key and Crest programs, which help criminal offenders get off of drugs and decrease their chance of re-offending once they are released from jail; drug treatment services for criminal offenders in drug court programs; drunk driving patrols in Dover, DE; and drug prevention programs such as "Heroin Hurts" which educates teens about the dangers of the deadly pure heroin available in my State.

The Byrne program is distributed as a block grant to each State, based on a State's population. Delaware typically receives almost \$2.5 million per year. It's critical funding, funding that secures the hometown and that helps keep our kids safe and drug-free.

I could go on about the good Byrne has done in Delaware. We have used Byrne funds to create eight community-based crime prevention programs around my State. In New Castle County and Dover, these programs offered training and services to adults and youth in high crime areas. Another project identified hate crime hotspots throughout New Castle County and increased police services through a specialized hate crime unit to those areas.

We have used Byrne funds to train prison officers, to improve our criminal justice records, and to expand the Delaware State Police's crime mapping project.

Byrne is an incredibly flexible law enforcement program. It's amazing to me that we would propose to eliminate it in this bill. I will fight this cut, and I am pleased to stand with my friend from Iowa in offering this amendment to restore Byrne funds.

Mr. President, I cannot fathom why my colleagues are doing this. This is the single most popular, effective program that has existed in helping State law enforcement. Everybody on that side knows that. It has all the Republican attributes. It is flexible. It is one of those programs that the States like very much.

The Presiding Officer from South Carolina knows how it works in South Carolina, and in this rush to be able to make room for these cockamamie priorities, what are we doing? We are cutting FBI agents. We eliminate the Violent Crimes Task Force. The FBI can-

not function in the States on ordinary crimes such as bank robbery and interstate car theft. We cut another 800 FBI agents, or thereabouts, under this proposal.

We are cutting the COPS program. I think my colleagues have it backwards. I think this is the most cockamamie idea I have heard in a long while. This narrow definition of a constitutional national defense is going to come back to bite us.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I ask unanimous consent that Senators JEFFORDS, MURRAY, EDWARDS, CLINTON, GRAHAM, and SCHUMER be added as cosponsors.

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

Mr. KOHL. Mr. President, unfortunately, the Edward Byrne Memorial State and Local Law Enforcement Assistance Program suffered a \$500 million cut in this bill. Hundreds of law enforcement agencies throughout Wisconsin depend on this money to fund a variety of crime prevention, drug interdiction, domestic violence, and many other creative, anti-crime initiatives. In fact, Wisconsin received more than \$9 million in Byrne formula grant funds last year.

Eliminating this source of funding will drastically impair local law enforcement's ability to combat crime. I am pleased to co-sponsor Senator HARKIN's amendment to restore the Byrne formula grant program to last year's level of \$500 million. We cannot leave our State and local law enforcement agencies out in the cold, especially at a time when we've asked them take on the additional responsibility of being the first line of defense and the first to respond in case of a terrorist incident. The safety of our communities depends on local law enforcement's ability to do their job well. At the very least, we can assist them by restoring this funding.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. KERRY. Mr. President, I strongly support the Harkin amendment to restore funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program to its fiscal year 2002 level. I am concerned that the omnibus appropriations bill before us eviscerates the Byrne program. The Byrne program provides a flexible source of funding to State and local law enforcement agencies to help fight crime by funding drug enforcement task forces, more cops on the street, improved technology, and other anticrime efforts. Massachusetts received over \$11.5 million in Byrne funding last year. On countless occasions I have heard from law enforcement officers from Massachusetts about the value of the Byrne program to their crime-fighting efforts.

The war against terror has placed unprecedented demands on State and

local law enforcement to prevent terrorist attacks and to respond to an attack should one occur. But fighting the war on terror is not the only job that we expect police officers to do. We also expect them to combat the prevalence of drugs in our cities and rural communities, we expect them to keep our homes and families safe from thieves, and we expect them to make us feel secure when we walk through our neighborhoods. We are well aware that the States are facing a severe fiscal crisis, some \$75 billion collectively, what priority does it reflect to cut back on support to local law enforcement in this budget and security environment? A wrong-headed one, in my estimation.

This amendment is supported by the National Association of Police Organizations, the International Association of Chiefs of Police, and the National Governor's Association. I am proud to stand with these organizations in support of the Harkin amendment to restore funding to the Byrne amendment.

Mr. BIDEN. Mr. President, I am pleased to cosponsor Senator HARKIN's amendment to restore full funding to the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, a program which is used to fund crime and drug prevention programs in communities nationwide.

The bill before us today cuts the Byrne grant program by \$500 million, in essence eviscerating it. I have trouble understanding why anyone would choose to decrease funding for a program that strives to improve the criminal justice system and increase public safety.

Cutting this program has real consequences in my home state of Delaware. There, Byrne grant money goes to fund a wide range of significant drug abuse and prevention programs, juvenile crime initiatives and other criminal justice projects, including:

Delaware's Key and Crest programs, which help criminal offenders get off of drugs and decrease their chance of reoffending once they are released from jail;

Drug treatment services for criminal offenders in drug court programs;

Drunk driving patrols in Dover, DE;

Drug prevention programs such as "Heroin Hurts" which educates teens about the dangers of the deadly pure heroin available in my State.

The Byrne program is distributed as a block grant to each state, based on a State's population. Delaware typically receives almost \$2.5 million per year. It's critical funding—funding that secures the hometown and that helps keep our kids safe and drug-free.

I could go on about the good Byrne has done in Delaware. We have used Byrne funds to create eight community-based crime prevention programs around my state. In New Castle County and Dover, these programs offered training and services to adults and youth in high crime areas. Another project identified hate crime hotspots throughout New Castle County and in-

creased police services through a specialized hate crime unit to those areas.

We have used Byrne funds to train prison officers, to improve our criminal justice records, and to expand the Delaware State Police's crime mapping project.

Byrne is an incredibly flexible law enforcement program. It's amazing to me that we would propose to eliminate it in this bill. I will fight this cut, and I am pleased to stand with my friend from Iowa in offering this amendment to restore Byrne funds.

Mr. HATCH. Mr. President: I rise to comment on amendment No. 32, which would restore \$500 million in funding for the Department of Justice's Edward Byrne Memorial State and Local Law Enforcement Assistance Program, the Byrne Grant Program.

There is no question we all agree on the importance of maintaining adequate funding for the Byrne Grant Program. The Byrne Grant Program does much to enhance State and local law enforcement, providing critical grants which are needed to fight violent and drug-related crime. In the last year alone, over \$4 million was awarded to State and local law enforcement agencies in Utah to fight violent and drug-related crime.

As many of my colleagues, I was extremely disturbed to learn the resolution we have before us today contains absolutely no funding for the Byrne Grant Program. Obviously, it is not in the interest of supporting local law enforcement for that situation to stand.

Let me discuss another consideration. Appropriation have worked very to craft a bill that is fiscally responsible, that will balance the need for spending against restraint, and that will help us restore a balanced budget which is so vital to our country's economic security. The amendment we have before us, offered by my good friend and colleague, Senator HARKIN, proposes to add \$500 million to the bottom line of this bill, without an offsetting reduction which will keep the resolution within the total funding level acceptable to the President. Thus, its passage would vastly exceed the carefully crafted Federal discretionary spending level agreed to by President Bush and congressional appropriators last year and jeopardize the legislation we must pass to ensure continued funding for virtually all of the Government except the Department of Defense.

I am relieved to hear our chairmen, Senator STEVENS and Senator GREGG, provide assurances that if the Harkin amendment were not adopted, they will restore the funds in the conference committee with the House of Representatives. Based on those assurances, I will cast my vote to table the Harkin amendment.

Before I close, I wanted to also express my concerns about a provision in H.J. Res 2 which dramatically restructures the section 8 Housing Choice Voucher renewal calculation. The resolution states that contracts will be re-

newed based upon levels used in previous years to calculate future housing payments and administrative fees. This formula could result in a severe undercounting of the number of families likely to be served by vouchers in the upcoming year.

Housing Authorities are facing an ever-increasing series of challenges, including increases in low-income and disabled eligibles and rising rental costs in many areas. Many of Utah's agencies who have received new voucher awards within the last six to 12 months are projecting they will have inadequate funding to meet their needs.

As I read the resolution, any additional funding needed to support increased costs will be a limited amount that is located within a central fund allocated by the Secretary. This could force Housing Authorities to reduce staff, resulting in lost administrative fees, and a reduction in the percentage of vouchers being used. It is my hope that the conferees will be able to rectify this problem that could serve to undermine the successfulness of the Section 8 program.

Mr. SPECTER. Mr. President, I am unable to support the amendment by my colleague, Senator HARKIN, to restore \$500 million in non-discretionary funding to the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. I am unable to do so not based on my opposition to the program, but rather due to the fact that the chairman of the Appropriations Committee, Senator STEVENS, has outlined a separate strategy to restore this funding in conference.

The Edward Byrne Memorial State and Local Law Enforcement Assistance Program provides funding to State and local governments to help make communities safe and improve criminal justice systems. Specifically, the Byrne Program emphasizes the reduction of violent and drug-related crimes and fosters multi jurisdictional efforts to support national drug control priorities.

Byrne Program funds are awarded through both discretionary and formula grant programs. Discretionary funds are awarded directly to public and private agencies and private nonprofit organizations, while formula funds are awarded to the States, which then award subgrants to State and local units of government as well as to agencies and organizations.

Senator HARKIN's amendment would add \$500 million to the overall cost of the Omnibus Appropriations bill, an amount which far exceeds the funding cap on the bill which the administration is willing to support. Chairman Stevens has explicitly stated that although this program was taken out of the bill, additional money was put in its place because he is aware that the House of Representatives intends to restore funding for this program in conference.

I have consistently supported the Byrne Program and similar programs

in the past, and have also worked tirelessly through the annual appropriations process to secure funds and grants for both rural and metropolitan law enforcement agencies in the Commonwealth of Pennsylvania and throughout the Nation. As the former District Attorney of Philadelphia, I understand the importance of Federal funds to local and state law enforcement agencies to help reduce crime and have consistently supported increased funding for that purpose.

Based on the comments made by Chairman STEVENS, I am confident that this program will be restored in conference. Accordingly, I am unable to support my colleague's amendment.

Mr. GREGG. Mr. President, what is the remaining time?

The PRESIDING OFFICER. The Senator from New Hampshire has 2½ minutes remaining.

Mr. GREGG. If the Chair would advise me when I have reached a minute, then I will yield to the chairman of the committee, the President pro tempore.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. First off, let's remember we have dramatically increased the money in this bill by \$2 billion which is going back to the local police forces in this country. That is \$2 billion. The Byrne program is a good program, but it is a program that buys lights and cars. It is a program that is used for basically the day-to-day operation of the police forces, and that makes sense when we can afford it.

This bill is structured in a way so that we can stay at the seven-fifty level. We expect the Byrne money to come back into this out of conference. But as a practical matter, to get to the seven-fifty level, we thought it was more important to put \$2 billion of new money into the police agencies where they needed it, which is in the area of supporting their efforts to fight terrorism.

I yield to the Senator.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, this is the time when we ask both sides of the aisle to trust us. We took out a program we know is going to go back into this bill and put additional money in another place because we know the House will help us put it back in. This will help save another portion of this bill that we support.

We have done this for years. The other side has done it, too. We know what the House wants. The House wants this back in. We want to convince them the other money we have in here also is good.

I urge the Senate to give us the flexibility to deal with this bill in conference the way it is outlined. It is a very flexible bill. There are 11 bills in 1 amendment. I guarantee it will survive.

I pledge it will survive, but also what will survive is another \$2 billion we need for another program. This is part

of that program. So on the basis of trust, I ask my colleagues to trust us.

I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

The Senator from Iowa.

Mr. HARKIN. Is there any time remaining on our side?

The PRESIDING OFFICER. There is no time remaining on the Democratic side.

Mr. STEVENS. If the Senator wishes a minute, I ask unanimous consent that he would have an additional minute.

Mr. HARKIN. I only need 30 seconds.

Mr. STEVENS. All right. Thirty seconds.

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

Mr. HARKIN. I want to add Senator DORGAN as a cosponsor.

On the \$2 billion that is in the bill, that is for first responders. That does not go to the same entities we are talking about in the Byrne amendment. That is the only point I want to make.

Mr. STEVENS. I agree it does not, but this money is going back in under the negotiations strategy we outlined. I guarantee it is going back in, but give us some leeway to deal with this bill. It is an enormous bill.

Again, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Regular order. A voice vote.

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

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. REID. I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there does not appear to be a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nebraska (Mr. HAGEL) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "no".

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—52

| | | |
|-----------|-------------|-----------|
| Alexander | Dole | Miller |
| Allard | Domenici | Murkowski |
| Allen | Ensign | Nickles |
| Bennett | Enzi | Roberts |
| Bond | Fitzgerald | Santorum |
| Brownback | Frist | Sessions |
| Bunning | Graham (SC) | Shelby |
| Burns | Grassley | Smith |
| Campbell | Gregg | Snowe |
| Chafee | Hatch | Specter |
| Chambliss | Hollings | Stevens |
| Cochran | Hutchison | Sununu |
| Coleman | Inhofe | Talent |
| Collins | Kyl | Thomas |
| Cornyn | Lott | Thomas |
| Craig | Lugar | Voinovich |
| Crapo | McCain | Warner |
| DeWine | McConnell | |

NAYS—46

| | | |
|----------|-------------|-------------|
| Akaka | Dorgan | Lieberman |
| Baucus | Durbin | Lincoln |
| Bayh | Edwards | Mikulski |
| Biden | Feingold | Murray |
| Bingaman | Feinstein | Nelson (FL) |
| Boxer | Graham (FL) | Nelson (NE) |
| Breaux | Harkin | Pryor |
| Byrd | Inouye | Reed |
| Cantwell | Jeffords | Reid |
| Carper | Johnson | Rockefeller |
| Clinton | Kennedy | Sarbanes |
| Conrad | Kohl | Schumer |
| Corzine | Landrieu | Stabenow |
| Daschle | Lautenberg | Wyden |
| Dayton | Leahy | |
| Dodd | Levin | |

NOT VOTING—2

Hagel Kerry

The motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 31, AS MODIFIED

Mr. STEVENS. Mr. President, the Senator from New York offered the next amendment on which the yeas and nays have been ordered. As I promised last night as we wound up, we have reviewed Senator SCHUMER's amendment, and he has drafted a modified amendment which he will offer and which we will accept.

I want to call to the attention of Senators that there are some of these

amendments that can be worked out, if we have a chance to work them out. We want to work with both sides of the aisle to try to accommodate the desires of Senators with regard to these 11 bills in one amendment.

I yield to my friend from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that Senators HOLLINGS, DORGAN, KENNEDY, GRAHAM of Florida, BIDEN, CLINTON, and LAUTENBERG be added as cosponsors of this amendment.

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

AMENDMENT NO. 31, AS FURTHER MODIFIED

Mr. SCHUMER. Mr. President, I ask unanimous consent to further modify my amendment with the changes that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 31), as further modified, is as follows:

(Purpose: To provide funds for research and development grants to increase security for United States ports)

On page 719, strike “,” on line 14, and insert the following:

Provided further, That, of such amounts provided herein, \$150,000,000 shall be available for the Secretary of Homeland Security pursuant to the terms and conditions of section 70107(i) of Public Law 107-295 to award grants to national laboratories, private non-profit organizations, institutions of higher education, and other entities for the support of research and development of technologies that can be used to secure the ports of the United States:

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. KERRY. Mr. President, I strongly support Senator SCHUMER's amendment to add \$150 million for port security research grants to the omnibus appropriations bill for fiscal year 2003. I cannot be here for the vote, but if I were I would vote in favor of this amendment. We passed a comprehensive maritime security bill at the end of the last Congress because in the aftermath of September 11 it became apparent that our Nation's ports were vulnerable to terrorist attacks. Our bill provided for the creation of a port security infrastructure that will significantly increase the level of security at ports and maritime facilities across the country. However, the bill was not funded through the appropriations process and a funding mechanism has yet to be decided. The Schumer amendment would immediately release grant money to laboratories and universities for the research and development of technologies which will help detect the presence of chemical, biological, and nuclear weapons at our Nation's ports, something we addressed in the Maritime Security Act but have yet to implement.

There is no doubt that we will need to develop new technologies and improve upon existing detection tech-

nology if we are to fully secure our ports against the threat posed by weapons of mass destruction. There are simply not enough customs inspectors to search every piece of cargo that comes into the United States. We will need to have equipment that can scan large cargo containers and detect explosives, chemical and biological agents, and any other substance that could conceivably cause harm. We will also need improved technology that will help officials track, and keep track, of cargo containers from their point of origin to their point of destination. Calling upon our scientists and educators to develop new security technologies is essential if we are to effectively wage the war on terrorism. Given the inadequacies that we know exist in our port security, I do not believe that we can afford to wait around to act. Senator SCHUMER's amendment is critical to the future of maritime security, and I urge my colleagues to vote for its passage.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we are prepared to accept this amendment. What it does is it dedicates moneys that are already in the bill to the consideration of the process of developing the system of detecting items in cargo vans as they come into our country. It is a very vital subject, and we are pleased to work with the Senator from New York.

I urge its adoption.

I yield back the remainder of our time.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, I thank the Senator from Alaska, as well as the Senators from South Carolina, Washington State, and Arizona for their help.

Let me explain it quickly to my colleagues and how it is changed. As many of you know, something I have felt very strongly about is the ability to detect nuclear devices as they might be smuggled into this country by terrorists, either on ships in the large containers or over the Mexican or Canadian borders.

The scientists at our energy labs tell us they can develop or perfect detection devices much better than Geiger counters, which is the only detection device we have now that can prevent such devices from being smuggled in, which could cause an unimaginable tragedy—if a nuclear device were smuggled into the country and exploded.

The original amendment added \$150 million for research. Through the good work of the chairman of the Appropriations Committee, we have now simply said that that money will come out of TSA. He has graciously agreed to protect that in conference. I think it is a happy compromise that solves the problem I have had getting research for this and the problem he has had making sure there are no new allocations.

It tracks the language that Senator HOLLINGS and Senator MCCAIN put in

the port security bill and now provides the funding without adding any additional funding. So I am glad we have a compromise and look forward to seeing this research proceed very quickly. We cannot afford to wait.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified.

The amendment (No. 31), as further modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. SCHUMER. 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 Alaska.

Mr. STEVENS. Mr. President, it is my understanding the Senator from West Virginia will offer an amendment. I would like to inquire from my good friend if we could put a time limit on this amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, if I may respond to my friend, I am willing to enter into a time agreement. I think that is good. I wonder how many of my colleagues will want to have 2 or 3 or 5 minutes. I do not want to leave my friends out of the equation. As far as I am personally concerned, I could do with 45 minutes.

Mr. STEVENS. Mr. President, I ask unanimous consent that we have an hour on the amendment; 45 minutes for the Senator from West Virginia, 15 minutes for our side.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Is this the one on the across-the-board cuts?

Mr. BYRD. Yes.

Mr. STEVENS. Does the Senator wish to have no second-degree amendments?

Mr. BYRD. That is fine, and an up-or-down vote.

Mr. STEVENS. We agree, no second-degree amendments and an up-or-down vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 36

(Purpose: to nullify all across-the-board rescissions contained in this joint resolution.)

Mr. BYRD. Mr. President, I yield myself such time as I may consume. And I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an amendment numbered 36: Strike title VI of division N.

Mr. BYRD. Mr. President, the distinguished Senator from Alaska has been very gracious in proposing that I, as the author of the amendment, have 45 minutes and that he, the manager on the other side, have 15 minutes.

My hearing isn't too good at this point. I am trying to clarify.

Mr. REID. Mr. President, if I could ask the Senator from West Virginia to yield.

Mr. BYRD. Yes.

Mr. REID. It is my understanding that on this amendment the Senator from West Virginia would control 45 minutes and the Senator from Alaska 15 minutes.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

Mr. President, let me thank my friend from Alaska again. He is, in Shakespeare's words, "a man after my own kidney." He offers me three times as much time as he intends to claim. What does that tell you? That tells you he is a very fair man. And it also tells you he is very sure of his votes. We saw, yesterday, how well disciplined the Republican majority is. Every man, every woman, right down the line—no variation, no veering off course—straight to the object, no matter what the contents of the amendment, no matter what its attributes, votes it down. I say this with all due respect to Senator STEVENS. But he is sure of his votes, which indicates to me that the other side has caucused, they have said they are going to say no to every amendment we offer on this side. I respect them and I admire them for their discipline.

Now, Mr. President, to the amendment.

After the election—remember the election, my friend from Rhode Island, who presides this morning over this Chamber with a degree of discipline and poise and aplomb that is so rare as a day in June—after the election, the President of the United States threw down the gauntlet and insisted that total discretionary spending not exceed \$751 billion. He said: That is it. That is the line. That is the mark. No more. That far but no further.

To meet this arbitrary target, Senator STEVENS was forced to reduce the 11 bills that were approved by the Senate Appropriations Committee last July, on bipartisan, unanimous votes, by \$9.8 billion. What a change. What a change a few months can make.

These 11 bills were approved by the Senate Appropriations Committee last July, when we had 15 Democrats, 14 Republicans, and—to the man and to the woman—we had a bipartisan vote, a unanimous vote, in support of these 11 bills. And now, because the President has drawn a line in the sand and sent the message to the Republican majority: Cut it. Cut it—and we see the discipline on the other side of the aisle—everybody is marching to the tune of the President of the United States on that side of the aisle. So what he says goes. He says: That far. It will go this far, and no further.

All right. So to meet this arbitrary target, Senator STEVENS was forced to reduce the 11 bills that were approved by the Senate Appropriations Com-

mittee last July, on bipartisan, unanimous votes, by \$9.8 billion. Let's see how everybody votes today.

This shortsighted and arbitrary ceiling on spending forced Senator STEVENS to make dramatic reductions in priority programs designed to defend our homeland, educate our children, improve our transportation systems, and strengthen our law enforcement programs.

The legislation before us also includes a 2.9-percent across-the-board cut in all domestic programs. Get that, an across-the-board cut in all, not just some but all domestic programs. This provision, buried in 1,052 pages of legislative text, will exacerbate the cuts that are already made in the bill. A cut of 2.9 percent now, or \$11.4 billion, in domestic spending is no technical adjustment.

The President insisted that there be a vote on going to war with Iraq before the election. He insisted that he must have that vote. The Republicans insisted that we must have the vote on Iraq before the election so that the impending election would affect the outcome of that vote. I wonder why they didn't say: Let's vote on the 11 appropriations bills before the election, with the across-the-board cut of 1.6 percent and then with the addition yesterday of 1.3 percent, making a total of 2.9 percent across the board. How would that have been before the election? How would that have been perceived before the election if we had this vote then? If we could have only had the vote that is about to come, if we could have had it before the election, what a difference that would have made.

Here we are now. This country is faced with a cut of 2.9 percent, or \$11.4 billion, in domestic spending. This is no technical adjustment. This is a real cut. Nor can it be fairly characterized as capturing the savings from agencies operating under a continuing resolution for 4 months. Don't you believe that. The President's budget for fiscal year 2003 was simply inadequate when it came to critical domestic programs. The President proposed to freeze domestic spending, excluding homeland security, and last summer the Senate Appropriations Committee approved, on a bipartisan unanimous vote, an allocation that provided just enough additional resources, about \$11 billion, to cover the cost of inflation for domestic programs. Every Republican on the Appropriations Committee voted for that. Every Democrat on the Appropriations Committee voted for that.

With those additional funds, the committee was able to restore essential funding for programs that the President proposed to cut, such as veterans medical care, highway funding for the States, education programs, the new No Child Left Behind law, Amtrak, and State and local law enforcement.

Now what a change. Now the President has not only insisted on virtually eliminating the \$11 billion increase that the committee approved last sum-

mer, but by including this 2.9-percent cut in domestic programs, spending will actually be cut overall by 1 percent. It is also deeply troubling that some of this \$11.4 billion across-the-board cut is being imposed on domestic programs to pay for increases in mandatory programs.

The mandatory side of the Federal budget is going through the roof unchecked, going through the ozone layer, while the domestic programs that are being funded through the annual appropriations process are being squeezed—like I squeezed my grapefruit this morning. The domestic programs that are being funded through the annual appropriations process are being squeezed.

Approximately \$4 billion of the \$11.4 billion across-the-board cut is included in the bill to pay for increased mandatory spending in Medicare, in assistance for needy families, and for drought relief. While these are important programs, should our veterans have to pay for them with longer lines at hospitals and clinics? Hear me. I am asking you, the people out there who are listening and watching through the electronic eye, I am asking you. I am asking my friends on the other side of the aisle, while these are important programs, should our veterans have to pay for them with longer lines at hospitals and clinics? How many pregnant women and infants have fewer meals through the WIC program? How about that? The silence is deafening.

Should we fail to meet our commitment to double the budget for the National Institutes of Health over 5 years? I think not. And the Senate, based on previous votes, thinks not.

Once we start down this road of paying for increases in mandatory programs by cutting domestic funding, where will it stop?

When I came to Congress more than 50 years ago, I seem to remember that the Appropriations Committees of the two Houses controlled something like 90 percent of the domestic spending programs. My memory is not infallible, but it was a tremendous figure over today's. We have been hearing in recent years that the Appropriations Committees have control over about one-third of the total expenditures.

Now what we are doing, with these mandatory programs, you might refer to them as backdoor spending. Congress, and the Appropriations Committee, has absolutely no control over that. That change has come about in my 50 years in Congress. Now what we are going to do is pay for some of those mandatory programs with an across-the-board cut in discretionary spending.

Now, go back and face your constituents. I wish we had this vote before the election. This is the vote we should have had before the election. Once we start down this road of paying for increases in mandatory programs by cutting domestic funding, where will it stop? There will be no stopping it.

There is only \$385 billion of domestic funding for fiscal year 2003. We are talking about funding that is important to 290 million people in this great Nation. Are we going to pay for the new prescription drug benefit with cuts in domestic programs? Are we? There simply is not enough domestic spending in the entire budget to cover such mandatory costs.

Let's be sensible about this matter. Let's forget politics for a moment. An across-the-board cut of 2.9 percent is a real, honest-to-goodness cut that would change people's lives across this Nation. Where do you stand? Go back to your constituents, tell them where you stand.

What was the first question that was ever asked since the human race began? In reading the Book of Genesis, the first chapter, the first question ever asked was when God walked through the Garden of Eden in the cool of the day, before the shades of night had fallen, and he was looking for Adam and Eve. They had eaten of the forbidden fruit.

I know some people think it is old-fashioned to refer to the Holy Bible. I don't. Right there in that first chapter of Genesis you will find the greatest scientific treatise that was ever written, giving the chronology of creation, and the scientists don't dispute that chronology as it is laid down there. But God went through the garden and he asked: "Adam, where art thou?" Adam was hiding. He and Eve had gotten over behind some bushes. They were hiding. Can you hide from God? They found they could not. But they were hiding over behind some bushes. God went through the garden and said: "Adam, where art thou?" I say to my friends, you are going to be asked by the people: Where were you? Where were you? Where were you when these cuts took place? Where were you?

Mr. REID. May I ask the Senator to yield for a question?

Mr. BYRD. Yes.

Mr. REID. The Senator is aware, I am sure, that one of the groups being affected by these vicious cuts is American veterans. I was on a cable TV show today with the Officers' Association and the Veterans of Foreign Wars. They talked about the tremendous needs of American veterans for health care and other benefits.

Mr. BYRD. Yes.

Mr. REID. Is the Senator aware that what they have done already is a \$693 million cut to American veterans' health care benefits?

Mr. BYRD. Yes. I am getting to that. I want Senators to answer the question from their veterans, where were you?

Mr. REID. Almost \$700 million.

Mr. BYRD. Yes, where were you?

Mr. REID. Is the Senator also aware that in the Washington Post and all over the country today there are stories that in addition to these cuts, the VA is going to cut veterans' access further? I think it is a disgrace to do to American veterans what this bill does,

and I say to the Senator—I am sure he is aware but I ask this question: Isn't this exemplary of the vicious cuts that are taking place in this legislation?

Mr. BYRD. That is just one example, and it is a shameful—not just a disgrace, it is a shame, a shame. This across-the-board cut is not a careful choice. This cut would result in ham-handed reductions in veterans' programs, public health programs, education programs, and homeland security programs. Yes, this is a shame.

Mr. REID. I say to the Senator, the reason I mention this is it is descriptive, exemplary of what they are doing to the American people under the guise of fiscal conservatism. If this is "compassionate conservatism," then I don't want any part of it.

Mr. BYRD. If this is compassion, the shedding of tears means nothing. Where is the compassion when it comes to spending money to send our men and women overseas, with all of this big, loose talk that we hear, and we are spending money hand over fist. Nobody suggests cutting a nickel or a dime when it comes to putting money in the military. There is no across-the-board cut there.

The taxpayers elect us to make careful choices. So I thank the distinguished Senator for bringing out this inequity.

The Women, Infants and Children Program, which provides essential sources and nutrition to millions of low-income families, would be cut by \$138 million. If food costs and program demands continue to climb, this cut could mean that 224,689 eligible women, infants, and children could be turned away from the WIC program later in the year.

At a time of heightened concern about the safety of our Nation's food supply, the Food Safety Inspection Service would be cut by \$22 million, eliminating the salaries of 490 food safety inspectors.

Last fall, at an Intelligence Committee hearing, FBI Director Mueller testified. He said:

I have a hard time telling the country that you should be comfortable—

This is Mr. Mueller talking. The Director said that the FBI is focusing on the threat of terrorists who would use military action against Iraq as a pretext to strike America. That is what he said. That is not what I am saying. That is what he said. Yet, this across-the-board cut would result in the FBI losing 1,175 agents, including 188 agents through attrition, 90 agents through current vacancies, 110 agents that were requested in the fiscal year 2003 budget request, and 787 agents from the agency would have to be laid off.

Yesterday, my friend, Mr. GREGG, the distinguished senior Senator from New Hampshire, said in so many words, but I think they all added up to this: The FBI is flush with cash. Well, after this across-the-board cut, the FBI will be scrounging for pennies. How about that song, "Pennies from Heaven." I don't

know where the pennies will be coming from, but they are going to be pretty scarce, that is sure.

At the same Intelligence Committee hearing, FBI Director Mueller, in discussing the potential for terrorist attacks in America, focused attention on certain high-risk sectors, such as transportation, energy, and agriculture. The FBI has sent warnings urging extra precautions in those sectors. Yet, this across-the-board cut would reduce funding for security at our nuclear powerplants by \$18 million. This cut will result in a reduction of more than \$280 million in funding for the Transportation Security Administration and the Coast Guard, two critical agencies whose mandates are to protect our airports and our ports.

A reduction of this size will require the Coast Guard to conduct fewer port security patrols and further degrade their efforts in the areas of drug interdiction, marine safety, and fisheries patrol. Coast Guard ships will spend more time sitting at the dock for the lack of fuel, money, and operating funds.

The Customs Service would have to cut 1,600 positions, including agents and inspectors, at our Nation's seaports. Now this is serious. This is not just play money. This is serious.

The administration has continually stated that places of national interest have specifically been targeted by terrorists for attack, and yet this arbitrary cut would reduce funds for the U.S. Park Police, resulting in approximately 35 fewer Park Police officers at the very same time that the agency is beefing up its antiterrorism efforts at our most visible national symbols, such as the Statue of Liberty, the Washington Monument, and the Jefferson Memorial.

With these additional cuts, total funding in the bill for homeland security programs would be reduced to less than \$24.4 billion. This is virtually a freeze at the level for fiscal year 2002. At a time of heightened vulnerability at home, the FBI will be losing agents, the Customs Service will be losing inspectors at our ports, the Food Safety Inspection Service and the Food and Drug Administration will be losing food inspectors, and the Immigration and Naturalization Service will be losing Border Patrol agents.

In addition, the resources to help State and local governments train and equip first responders for potential terrorist attacks with biological, chemical, or nuclear agents will be cut—that is right, cut—by 2.9 percent. Is this any way to govern? I think not.

Environmental cleanup activities would be cut by \$203 million. Such a cut would delay short-term cleanup milestones at Hanford in Washington State, Savannah River in South Carolina, as well as in Idaho, in New Mexico, in Nevada, in Ohio, in Kentucky, yes, and even at Rocky Flats in Colorado.

Let's talk about the Head Start Program. The Head Start Program would

be cut by \$192 million, eliminating services for 2,722 children, adding to the 2,800 children that the National Head Start Association claims would be displaced by the President's budget. This cut would result in the elimination of services to a total of 5,522 children in fiscal year 2003.

The budget for the National Institutes of Health would be cut by \$778 million, scuttling the plan to double NIH's budget over 5 years. A 2.9-percent cut would reduce VA medical care by \$692 million. How about that? This would result in 230,000 fewer veterans being treated and 1.8 million fewer visits by veterans to outpatient clinics.

Go to the veterans the next time you go home; go around your State and tell the veterans what you have done. Tell them you have cut the money for their clinics. Tell them you have cut the money for VA medical care. Tell those veterans, look into their eyes, tell them we have cut their money. Yes, I voted to cut it. I voted to cut it.

Last year, though, I did not vote to cut it. When we reported out those bills last year, we supported it. So this would result in 230,000 fewer veterans—let me say it again, 230,000—being treated and 1.8 million fewer visits by veterans to outpatient clinics.

This cut would also result in 236,000 veterans remaining on VA's waiting list to see a doctor because the VA would not be able to hire additional staff to reduce the backlog of veterans waiting to see a doctor. These across-the-board cuts are simply not acceptable. They are real cuts.

If Senators care about health care for our veterans, if you care about homeland security, if you care about the National Institutes of Health, you should support this amendment regardless of political party; you should support this amendment.

I urge Members to support my amendment to strike this arbitrary and ill-considered cut.

Mr. President, I reserve the remainder of my time. How much time do I have left?

The PRESIDING OFFICER. Fourteen minutes.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I understand the position of the Senator from West Virginia. However, I wish to state the policy of this amendment that I have offered is that it does not go below the level of the 2002 appropriations that are the basis for the continuing resolution in effect now.

I took the position if we went below the funding level that is out there now based on the 2002 level of appropriated funds, Members would say: Wait a minute, we are better off to continue on the 2002 level. The Senator's statement about what was cut are cuts from the proposal we brought before, and I joined him in bringing that before the Congress last year.

We are not cutting any veterans. We are not cutting out anyone who is re-

ceiving care now. We are cutting out the increase that would have been available under the bills that were pending before the Congress last year.

As a practical matter, there may be some items where the programs had been ramped up because of a supplemental. We are working on the basis of the appropriated level of funds for 2002. In some instances, the continuing resolution does ramp up a little bit, as we found out with regard to an item that was before us last night in the amendment we dealt with just before we went home.

I do believe the Senator's amendment, as I understand it, strikes the offsets. We are back at the question of whether the Senate wants to discipline itself. We had no budget resolution last year. That was not the fault of any action of the Appropriations Committee under the chairmanship of the Senator from West Virginia or myself. We had no budget resolution. Had we had a budget resolution, we would have had a level of discipline, and that is the ceiling that had been established by the budget resolution.

The President sent a budget to the Congress, and it was limited to \$750.5 billion. We have before us a proposal that limits that to \$751.3 billion because the President submitted a subsequent request and amended his budget for the fire program of \$825 million.

Lacking any other basis for a level of discipline, after the election, Senator BYRD and I, Congressman YOUNG, and Congressman OBEY got together and agreed we would hold the level of the President's \$750.5 billion if we could get the bills done at that time. We did not get them done, and when we came back, the President asked me to join him and asked if I would continue the quest for a limit at that level of \$750.5 billion. He agreed at that time to give us the \$825 million for the fire program.

The offsets listed in title VI, which Senator BYRD would strike, are offsets that are necessary to achieve basically two things: One is the full funding for the amount that can be spent of the election reform bill in the 7½ to 8 months that are remaining, a bill that is absolutely necessary to be funded and put into place if we are to avoid, or at least try to avoid the problems of the election in the year 2000. This would modernize the election system throughout the country. This was a bipartisan bill that was passed, and this is its funding.

Secondly, the tremendous drought disaster areas of the country demand help. We faced a problem of how to deal with that, so we added the monies for drought and disaster to this bill and we offset it by an across-the-board cut in all programs.

That, again, is dealing with the basic problems of the country in a way that we will take these to conference, and we hope to come out of the conference with a bill approved by the House, that the President will sign, that will not exceed the \$751.3 billion level but will

take care of these and hopefully keep the two basic programs, drought disaster and election reform, and hopefully stay within the level we have agreed to try to achieve, and that is the \$751.3 billion.

Our goal is to cover these, and we intend to cover them within the bill without across-the-board cuts. I do not know if we can get there. We know the House disagrees with a series of things that the Senate added. The Senate still has basic items above the President's budget request in most instances. So the House may want us to come down on a series of those. We are going to conference, and for the first time we will deal, through the full committee process, with 11 of the 13 bills, an enormous undertaking.

The only way we can get the two critical items to conference, in order to stay within our stated goal and demonstrate that we are going to stay within that goal to limit our expenditure to \$751.3 billion, we provide for an across-the-board cut. I personally think it is going to end up somewhere around 1 percent by the time we are finished.

If there is not a 1-percent slush in every item in this budget, then I really have not been here 34 years, going on 35. These bills are estimates, and we are reducing estimates by 1 percent in order to take to the President the final bill at the level he sees fit to set. I think it is a legitimate objective.

Again, if we were not in the process of dealing with the post-9/11 situation, if we were not in the process of building up to try to protect the interests of our country abroad and our allies in terms of Iraq, if we were not dealing with the problems in Korea, if we did not have the problems we have abroad—they are all military in nature—we probably would not have this problem because we have already passed the two bills, the military construction bill and the Defense appropriations bill.

Even in this bill we have given the President an additional amount of money for intelligence and activities with relationship to the problems I have mentioned, and we have emphasized the protection in training and equipment for our men and women who are in uniform. There is no question about that. That has strained the national budget, and it has led the President of the United States to urge us to hold this level to \$751.3 billion.

I urge the Senate to defeat the Senator's amendment. I know across the Senate, if this becomes final, people are going to say this is going to be down, that is going to be down, and that is true. There are going to be some accounts that are not as high as we would like to have them, and as I would like to have them, but there is going to be a budget the President will sign, and we can go on to the work of 2004.

We are trying to get behind us the problems of the last Congress. I really

feel very uncomfortable about the fact that we are trying to pass 11 bills that should have been passed by the last Congress, and I have been trying to do it in a way that no one says who shot John or why would we not pass them. In my opinion, one of the main reasons is we did not have a budget resolution. We did not have a budget resolution for a lot of reasons.

In any event, we do not have one now, and the only way I know to get this bill to conference is to insist upon maintaining the discipline that is required to show we are going to get a bill to the President that he will sign.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Democratic leader.

Mr. DASCHLE. Mr. President, I will use my leader time to talk to this amendment.

I compliment the distinguished Senator from West Virginia for his amendment. I think this is one of the most important amendments we will vote on in this entire debate. He is simply restoring the across-the-board cut, as he indicated and outlined. We are now at a 2.9-percent across-the-board cut. That 2.9 percent represents at least \$16 billion, over and above the other \$5 billion that was cut, a total of \$21 billion from discretionary accounts.

We have done an analysis of what those cuts actually mean in real-life terms. Those cuts mean the elimination of 1,175 FBI agents. There are 1,175 FBI agents who will lose their jobs if this cut goes into effect as it is now proposed.

The FBI Web site lists 10 priorities. The No. 1 priority is to protect the United States from terrorist attack.

The No. 2 priority is to protect the United States against foreign intelligence operations and espionage. The No. 3 priority is to protect the United States against cyberspace attacks in high-technology crime; No. 4, combat public corruption at all levels; No. 5, protect civil rights.

Which of these priorities will be sacrificed as a result of the loss of 1,175 FBI agents? Would we do that to the military? Would we do it to the National Guard? Would we do it in any other context as we consider the war on terror and the need to fulfill our constitutional responsibility to protect and defend this country against all enemies, foreign and domestic? I do not think so. Why would we cut 1,175 FBI agents at this time?

We have had serious food safety issues over the course of the last decade. I was chairman of a Subcommittee on Agriculture when the whole E. coli crisis broke out. I can recall so vividly families talking about their children being poisoned as a result of E. coli. Why? In part, because we did not have enough food safety inspectors. This 2.9-percent reduction, this \$21 billion, will cut 490 food inspectors from our system today. We will have 490 fewer food inspectors. This will cut 230,000 veterans who are now getting medical services.

How ironic it is that as we send people to the Persian Gulf to fight for this country and we tell those who are already there we are going to cut them off; they are not going to have the medical assistance; they are not going to get the care.

I cannot begin to imagine how, in the name of fiscal discipline or anything else, so long as that huge tax cut is out there, our colleagues on the other side could possibly rationalize advocacy for a tax cut of that magnitude, leaving no millionaire behind, while we tell veterans they are not going to get medical services, while we tell the FBI, with all of its priorities, they are not going to have the kind of agent support for 1,175 FBI agents, we are going to eliminate their jobs.

How in the world, with all the dangers there are in food safety, can we say we do not need 500 food safety inspectors today?

That is what we are saying. That is what anybody is saying if they vote against Senator BYRD's amendment. I hope people will rethink this. As I said, this whole budget business that we are facing now is bizarre. We cannot afford \$6 billion for education. We cannot afford \$5 billion for homeland defense. We cannot afford the money for 1,175 FBI agents. But we can afford an \$89,000 tax cut for 226,000 millionaires. I do not get it. I hope our colleagues will follow the wise counsel and leadership of our colleague from West Virginia. Let's vote for the Byrd amendment. Let's put some sanity into the budget process, into these appropriations bills this year.

I yield the floor.

Mr. REID. Will the Senator from West Virginia yield me time?

Mr. BYRD. How much time does the Senator want?

Mr. REID. Six minutes.

Mr. BYRD. I yield 6 minutes to the distinguished Senator from Nevada.

Mr. REID. I very much appreciate our leadership laying out the problem. Yesterday, instead of the FBI losing the number of agents it is losing today, 1,175 agents, it was 800. Each day, more FBI agents are lost because of this ridiculous procedure we are going through.

For my friend, and he is my friend, the Senator from Alaska, who I care a great deal about—I have served with him all my time in the Senate on the Appropriations Committee—for him to say we are funding election reform out of this, is that not good? It is money they are stealing from other accounts. Next, are they going to take care of prescription drugs by cutting off domestic discretionary spending?

Anyone who votes against Senator BYRD today is voting against the FBI, literally; 1,175 FBI agents will be eliminated.

Mr. STEVENS. Will the Senator yield on my time?

Mr. REID. For a question?

Mr. STEVENS. Yes.

Mr. REID. Sure.

Mr. STEVENS. Where does the Senator get those figures? The FBI received \$3.49 billion in fiscal year 2002 and this bill has \$3.92 billion. Beyond that we provided \$158 million in the FBI joint task force. Not one FBI agent will be fired. We will not increase, but not one will be fired. Where does the Senator get those figures?

Mr. REID. I say to my friend from Alaska, how he or anyone else can with a straight face say you can do an across-the-board cut—"across the board" means across the board, equal in every account in domestic discretionary spending—without money being lost, and without people losing their jobs, that is what it is all about.

These budgets, most of them, most every budget we have in the Federal Government involves employee personnel.

Where do the figures come from? They come from our staffs. This comes from the staff of the Democratic leader.

We can dwell on things other than the FBI, but the FBI is being cut. Take our word for it. These across-the-board cuts are cutting into the very heart of these programs. He talks about food safety inspectors. Anyone voting against Senator BYRD is saying food safety is not too important; we can do without approximately 500 food inspectors. Anyone voting against Senator BYRD's amendment is saying there is going to be about half a billion cut with Housing and Urban Development, which will mean 79,000 fewer families receive housing assistance.

To think you can take money from across the board and take care of election reform and other programs without these programs being hurt is mystical.

There will be a cut in the Customs Service. Already they are to the bare bone. I visited the Customs Service in Las Vegas and I was astounded 5 years ago how few people worked in the Customs department in Las Vegas. In areas where they should have a lot of Customs agents, there will be cut-backs. It will be about 1,600 Customs inspectors being cut back. This new cut means fewer agents at borders than prior to September 11.

We worked very hard to ramp up the spending for NIH. Everyone should understand when they vote against Senator BYRD's amendment they are cutting the NIH by 44 percent, including in biodefense.

We estimate there will be about 2,800 children deprived of early childhood education. This new cut on top of the original cuts in the Bush budget leaves a total of 5,522 children without any services.

This \$137 million cut in WIC will mean 225,000 women, infants, and children will be left without nutritional and health care services.

The VA is about \$700 million, which will mean about 225,000 veterans without medical services.

I agree with Senator GEORGE VOINOVICH, my friend from the State of

Ohio, quoted as saying just a few days ago "as far as the eye can see, I see red." That is what this is all about.

For my friend, my good friend, from the State of Alaska, to talk about this is a difficult job, that is an understatement. That is an understatement to try to come up with what they are doing. I heard my friend from Alaska promise one of my colleagues: we will take care of it in conference. The House is quoted as saying they will have the bill less than we have. It is magic that I don't think exists congressionally. It is magic that I don't think exists legislatively.

I say to the Senator from West Virginia, thank you very much. This is the vote of this bill. We are asking they do away with the across-the-board cuts. If they want to spend more money in these programs, get real money—not funny money—because they are stealing from the American people and trying to come up with a budget that is impossible and exists by magic.

Mr. BYRD. I thank the distinguished Senator.

How much time remains?

The PRESIDING OFFICER. The Senator from West Virginia has 8½ minutes.

Who yields time?

Mr. BYRD. I yield 3 minutes to the distinguished Senator from North Dakota, Mr. DORGAN.

Mr. DORGAN. This across-the-board cut is not a good idea. We need to make the right investments in the right agencies, to protect the American people, especially with respect to homeland security. These across-the-board cuts are not the right thing to do. Everyone knows that.

My colleague talked about the number of veterans that will be affected with respect to the diminished veterans health care, as well as the FBI. My colleague from Alaska, for whom I have great respect, said we will increase that budget. That is true. But if this is a cut, it is a cut. It is a cut below the anticipated level of spending in these areas.

It has been said this morning that part of the reason for this is to give farmers some help. Providing some money to help farmers who have experienced disaster is very important. But we did that last year by a wide bipartisan vote in the Senate and proposed a \$5.9 billion program on an emergency basis. What is being proposed today, apparently—I read in the paper—is a \$3.1 billion proposition that will send drought aid to farmers who never had a drought. I don't understand that. What are we thinking about? Let's pass the disaster aid we passed last year for family farmers on an emergency basis, and then let's deal with the spending needs we have in this country. Yes, for the FBI, for the Customs Service, for all of these agencies, especially those engaged in homeland security.

Yesterday my colleague from West Virginia talked about the importance

of homeland security. I understand what is going on. I understand the President has said, here is a marker; you have to meet that marker. So he wants to cut spending in the FBI, the Customs, Veterans, Health and so on, in order to meet his marker.

But on the other hand, he says while we are short of money and cannot fund what we intended for these funds, let's have a tax cut of \$675 billion over 10 years. I don't understand the priority here. Either we have a homeland security issue we need to respond to or we do not.

My colleague from West Virginia said earlier today the head of the FBI told us we are in as much jeopardy today as we were the day before September 11 with respect to the potential threat from terrorists. If that is the case, how can anyone say we cannot fully fund the needs we anticipated earlier with respect to the FBI, the Customs Service, and others?

I understand what is going on. I understand someone had to bring to the floor the President's marker with respect to spending, but it is not right to do this across-the-board cut in order to meet that artificial level, especially at a time when the President says there is plenty of money for a \$675 billion tax cut over the next 10 years. In terms of priorities, that is the wrong priority for this country.

Mr. STEVENS. I yield 2 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend and colleague from Alaska for his leadership on this bill. I have great respect for the Senator from West Virginia, and he is very consistent in wanting to spend more money in this bill. He tried yesterday and didn't win, so now he says, let's eliminate the reductions across the board. The net impact of that would be \$11.4 billion this year. You might say that also would increase the base that we put in the budget, so that would be compounded every year, so this amendment would cost at least \$120 billion assuming no inflation—probably closer to \$140- or \$150 billion—over those years.

I have heard my colleague say we are cutting the FBI. The FBI went from \$3.4 billion to \$4.1 if you add the two accounts together.

I heard my colleague say they are cutting the NIH. That went from \$27.2 billion and received a \$3.8 billion increase.

I just heard my colleague say we are cutting the VA; we are hurting veterans and veterans health care. Veterans care went from \$23.9 and received a \$2.6 billion increase, over a 10-percent increase.

When people are saying we are having cuts and it is going to cost thousands of jobs, it reminds me of somebody saying we are going to give you \$1,000. Then they say we changed our mind, we are giving you \$900—you just

lost \$100. We are talking about big increases, funding the priorities. I congratulate my colleague and urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Alaska.

Mr. STEVENS. Mr. President, fear is a terrible quotient in the political spectrum. And the fear that an across-the-board cut might reduce the level of spending today, spending under the 2002 appropriations level, is a great one.

But I can state to the Senate without equivocation, not one FBI agent will be cut, not one will be lost. We have an increase, again, of nearly \$500 million in the overall FBI level—rounded off a little bit. We have another increase of \$158 million for the Joint Terrorism Task Force. An across-the-board cut to those two increases, \$436.5 million for the FBI and \$158.5 for the Joint Terrorism Task Force, is about \$80 million. That still represents an increase for those two programs. An across-the-board cut would not reduce the FBI at all—there would be no reduction. The Department of Justice would still receive an increase of well over a billion dollars after the across-the-board cut.

I have respect for my friend with regard to facing the problem of an across-the-board cut. It is an indiscriminate cut and that is why I don't like it. It goes across the board and says take from each account so much money in order to achieve putting all the items you want to take to conference into conference. But remember, it is a mechanism to get to conference.

I could eliminate all of the across-the-board cuts if I took out all of the add-ons from that side of the aisle, or take out all the add-ons from this side of the aisle, the Members' requests. If the Senate wants me to do it, I will put them in the RECORD. They total a considerable amount more than 2 percent of the budget.

Under the circumstances, to accuse me of some strange tactic by having an across-the-board cut to accommodate those requests, take them to the conference with the House and see how much the House will allow us to add, for these Members to add, I think is a little duplicitous.

So before I am accused of cutting the FBI or cutting milk for babies or something such as that, keep in mind, if it keeps up, I will not put them in. We could take every one of them out with just one single amendment. If the Senate wants to do that, we wouldn't have any across-the-board cut at all. Take the Members' accounts out of this bill and there will be no across-the-board cut.

I suggest the defeat of the amendment of the Senator from West Virginia.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. KERRY. I strongly support the Byrd amendment to strike title VI of

division N from the omnibus appropriations bill. Title VI includes a provision which would impose a 1.6 percent across-the-board reduction on all domestic spending. These cuts follow an earlier \$9.8 billion reduction in domestic spending from the Senate Appropriations Committee passed spending bills. Together, these cuts will reduce domestic spending by more than \$20 billion and will force punitive cuts in veterans health care, housing, education, homeland security, highway funding, Amtrak, the National Institutes of Health, Head Start, WIC and other important national priorities.

Today, we are not meeting our promises to our veterans. The Department of Veterans Affairs, VA, has consistently received inadequate resources to meet rising medical costs and a growing demand for its health services. In November 2001, Secretary of Veterans Affairs Principi identified a \$400 million funding shortfall for fiscal year 2002. As a result of this shortfall, more than 300,000 veterans throughout the country are on waiting lists for medical care, and many must wait 6 months or longer for an appointment to see medical staff. Although Congress provided \$417 million for veterans health care as part of the fiscal year 2002 emergency supplemental spending bill, passed in July 2002, the President agreed to spend only \$142 million of the approved funds. In addition to the fact that the VA health system must now overcome the severely inadequate amount provided in fiscal year 2002, the VA has also been operating at last year's funding level since the onset of the 2003 fiscal year in October.

This funding crisis has forced the VA health system to resort to short-term fixes, such as discontinuing outreach activities in an effort to reduce enrollment and instituting new regulations that require the rationing of health care. Moreover, the VA has already reduced services at a number of facilities throughout the country and has closed some facilities altogether. It is crucial for the VA to receive an increase in fiscal year 2003 medical care funding provided in both the Senate and House Appropriations Committee bills. Instead, the Republican majority has decided to impose an additional 1.6 percent reduction to the already inadequate levels of funding for veterans services.

Today, our Nation is facing an affordable housing crisis. For thousands upon thousands of low-income families with children, the disabled, and the elderly, privately owned affordable housing is simply out of reach. Recent changes in the housing market have further limited the availability of affordable housing across the country, while the growth in our economy in the last decade has dramatically increased the cost of the housing that remains.

The Department of Housing and Urban Development, HUD, estimates that more than 5 million American households have what is considered worst case housing needs. Since 1990,

the number of families that have worst case housing needs has increased by 12 percent, that is 600,000 more American families that cannot afford a decent and safe place to live.

Despite the fact that more families are unable to afford housing, we have decreased Federal spending on critical housing programs such as the Public Housing Capital Fund, elderly housing, and Public Housing Drug Elimination Grants since fiscal year 1995.

Earlier this month HUD also announced plans to dramatically reduce the amount of funding available for the operation of public housing by up to 30 percent. This would cost the city of Boston approximately \$13 million in housing funding during fiscal year 2003. This additional across-the-board cut would impose even further cuts in the operation of public housing. This is simply unacceptable to those who depend upon housing assistance.

These are just two examples of the arbitrary cuts will be imposed on every domestic program, many of which already are inadequately funded. That is why I strongly support the Byrd amendment and urge my colleagues to support it as well.

Mr. GRAHAM. Mr. President, as the now ranking member on the Committee on Veterans' Affairs, I must make my fellow Senators aware of the impact of the proposed across-the-board cut in the appropriations for the executive branch for fiscal year 2003 on the Department of Veterans Affairs and its ability to provide health care and benefits to our Nation's veterans.

Yesterday morning we were talking about a 1.6 percent cut, of which VA's share would be over \$424 million. But let me put that in context. That would have meant that 125,000 fewer veterans will be seen in VA's hospitals, that 250 benefits claims adjudicators would lose their jobs. And it would mean that a hiring freeze would be in place across the VA. These cuts are being put into place at a time when there are 235,000 veterans waiting over 6 months for an appointment at VA. It takes an average of 200 days for a veterans disability claim to be decided. But today we are talking about a 2.9 percent cut across the board. VA has not computed what this will mean to America's veterans yet.

Let me be more specific, so that my colleagues can understand the consequence of this decision. The proposed 2.9 percent cut would cost the Veterans Health Administration almost \$695 million of the \$2.4 billion increase VA health care was slated to receive. The VA-HUD Appropriations Committee recognized VA's dire need for health care resources, and responded accordingly in a bipartisan effort last year.

Meanwhile, VA announced just today that in light of rapidly rising numbers of veterans coming to VA for health care and prescription drugs, they will have to cut off enrollment for a certain category of veterans. How can we possibly consider cutting funding now, in

the face of such sharply rising demand for VA health care? There are over 44,000 veterans waiting half a year to see a doctor in my home State of Florida right now—this is unacceptable. The system clearly needs higher increases in funding, not decreases.

Mr. President, it is also important to point out that a vital segment of the VA health system will receive a drastic cut as a result of this proposal, VA research. This program is invaluable not only to the veteran community, but to the Nation as a whole. VA research is responsible for advances such as the CT and MRI scans, the cardiac pacemaker, and performing the first kidney transplant. The groundbreaking dynamic of the VA research program also serves to attract leading researchers and physicians to VA. Reducing funding for this program is a true disservice to all Americans.

On the benefits side, this is a true cut. The original Senate-reported amount of \$992 million will be reduced by \$29 million. VA has been battling a backlog of claims. It has been making some progress. The VA Secretary has set a goal of deciding new claims within 100 days by the end of this fiscal year. He will not meet his target with this appropriation. As I said, FTE will be cut. There will be a hiring freeze. While the Florida office is now doing slightly better than the national average, it still takes 155 days to process a claim.

In addition, the nationwide overtime authorized at various regional offices to process disability claims will be severely curtailed. Currently, each regional office is averaging 40 overtime hours per month. This overtime program has resulted in a reduction in the pending claims backlog. An across-the-board reduction in overtime will mean that veterans will have to wait longer to have their claims reviewed. The accuracy in decisionmaking will drop. We must restore funding before the backlog grows again to unmanageable proportions.

As you all know, the veterans' population is aging rapidly. We are losing over 1,200 World War II veterans per day. While the VA is attempting to make a special effort to adjudicate claims of veterans over the age of 70, every day a veteran dies while his or her claim is awaiting a decision.

I understand that there are many competing demands being placed on the executive branch right now. But in a time when the White House can afford to offer a tax cut of \$640 billion, and in time when we are asking the men and women in the military to go back into harm's way, can we really afford to turn our backs on them when they return from war?

Mr. BYRD. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 5 minutes. The Senator from Alaska has 11½ minutes.

Mr. BYRD. Mr. President, if I may have the attention of the Senator from

Alaska, nobody has accused the Senator from Alaska of anything that is wrong, any underhanded tricks, any tactics that are inappropriate. The Senator from Alaska is trying to do the bidding of this President. And the bidding of the President is we will take an arbitrary figure.

Here are Senator HOLLINGS and Senator GREGG and the members of their committees—they work hard. They determine what is right for the FBI and for the other items in their budget. They make that determination based on their hearings, based on the testimony that is educed from those hearings, based on common sense. These two Senators I have mentioned have been in this business for a long time. They know what they are doing.

Then to come along with an arbitrary figure—I am not accusing the Senator from Alaska of anything. I would be the last to do that. If he wants to cut out the add-ons, let him do it. He can cut out mine if he wants and cut out his. We are not going to play blindman's bluff here. If you want to, cut those out. Those add-ons are for the people we represent, for the installations in our home towns. We can defend those add-ons. There is nothing I care about being secret on as to those add-ons.

But what I am talking about here is the fact that we are not exercising good judgment based on facts. What we are doing is taking an arbitrary figure that is set by this administration downtown, and the distinguished Senator from Alaska is doing a good soldier's work.

I would never complain about the Senator from Alaska. But I would say to you, Mr. President, these are real cuts. These are real cuts. And it is unwise to cut across the board. That is not the way to make cuts. That is not the way to reduce spending—across the board. That is unfair. It is unwise. That is what we are doing.

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

Mr. BYRD. Yes, I yield.

Mr. HARKIN. If the Senator will yield—

Mr. BYRD. How much time do I have?

The PRESIDING OFFICER. The Senator from West Virginia has 2 minutes 50 seconds.

Mr. HARKIN. I will be brief. I just want to buttress what the Senator is saying about real cuts. Listen to this.

Mr. BYRD. Save me 1 minute, I say to the Chair.

Mr. HARKIN. The cut to NIH. We have worked hard here on a bipartisan basis to double the funding in 5 years. This is the last installment this year. The cuts we now have before us will cut \$778 million out of the NIH. That is more than the entire budget for research on Alzheimer's disease.

Mr. BYRD. Yes.

Mr. HARKIN. It is more than the NIH's entire budget for research on breast cancer.

Mr. BYRD. Yes.

Mr. HARKIN. It is more than the NIH's entire budget, now get this, for research on prostate cancer, ovarian cancer, Parkinson's disease, and muscular dystrophy all combined.

Mr. BYRD. Yes.

Mr. HARKIN. That is a real cut. The Senator from West Virginia is right, that is big.

Mr. BYRD. And this amendment impugns the good judgment of the Senator who is now speaking to me and his counterpart from Pennsylvania.

Mr. HARKIN. Senator SPECTER.

Mr. BYRD. Those two Senators have chaired that committee and they have worked hard. They have used their good judgment based on the testimony and based on the facts.

Mr. HARKIN. Precisely.

Mr. BYRD. They are saying to these two Senators and the members of that subcommittee: Forget your experience, forget your wisdom, forget what you say. We are going to have an arbitrary figure. It doesn't mean anything; it is just a figure. And you are going to suffer. Your people are going to suffer—your people back home, my people.

It is unwise. It is unfair. It is unjustified. It is unreal. And I say every Senator in this body ought to think, ought to look in the mirror when he or she casts this vote and be ready to go back home and tell his constituents or her constituents: I did it.

Mr. President, this record is going to follow Senators.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. BYRD. I thank the Chair. I reserve my 1 minute.

Mr. STEVENS. Mr. President, the Senator is entitled to his last minute.

Let me tell the Senator about NIH. In fiscal year 2002, we had \$23.45 billion. In this bill, we have \$27.15 billion. That is an increase of almost \$4 billion. An across-the-board cut takes out about \$300 million. It does not reduce anything.

In my chairmanship—

Mr. HARKIN. If the Senator will yield—

Mr. STEVENS. I am not yielding. In my chairmanship, when I was chairman before, we doubled NIH. I am proud of that. We have not reduced that level. We have increased it.

No Senator on this side need fear we are cutting one FBI agent, taking one dollar away from the existing level of NIH, or taking one dollar away from anything. The guideline, again, was we kept the level of 2002 in every account.

That is a continuing resolution. To reduce the level that they are traveling on now would be wrong. We are increasing every one by passing those three bills. That is why we want to pass them.

Look at them. You can go down these Departments. Every one of them gets some kind of increase because of the fact we are going from 2002 to 2003. An across-the-board cut takes less than 2 percent out of all of them, if we have to

do that when we come out of conference. We don't believe we will have to.

I really respect my friend from West Virginia. But I am carrying the President's torch, which is "remember the deficits." People on this side reminded us of the deficits every day this last week. The President said: Remember the deficits. Get a guideline. Take my number for a guideline. I said: We will do that. We will take your number, we will take it to conference, and we will hold it coming out of conference and you will have a bill you can sign.

Mr. BYRD. Mr. President, the President says, "Remember the deficits." I say remember the \$1.6 trillion tax cut that was enacted by this body and the other body last year. I say, let us not enact a \$670 billion tax cut that this President and this administration is suggesting Congress pass. Tax cuts will add to the deficit.

This is where the deficit cuts lie. These are not mere computational exercises. These are not mere budgetary exercises. These are real cuts. These mean something to the people out there in connection with their safety, their health, their welfare, and the security of their homeland. I say, Senators, look in the mirror when you cast this vote.

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Nebraska (Mr. HAGEL) is necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "Aye".

The PRESIDING OFFICER. Are they any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—46

| | | |
|----------|-------------|-------------|
| Akaka | Dorgan | Levin |
| Baucus | Durbin | Lieberman |
| Bayh | Edwards | Lincoln |
| Biden | Feingold | Mikulski |
| Bingaman | Feinstein | Murray |
| Boxer | Graham (FL) | Nelson (FL) |
| Breaux | Harkin | Pryor |
| Byrd | Hollings | Reed |
| Cantwell | Inouye | Reid |
| Carper | Jeffords | Rockefeller |
| Clinton | Johnson | Sarbanes |
| Conrad | Kennedy | Schumer |
| Corzine | Kohl | Stabenow |
| Daschle | Landrieu | Stabenow |
| Dayton | Lautenberg | Wyden |
| Dodd | Leahy | |

NAYS—52

| | | |
|-----------|---------|-----------|
| Alexander | Allen | Bond |
| Allard | Bennett | Brownback |

| | | |
|-----------|-------------|-----------|
| Bunning | Fitzgerald | Nickles |
| Burns | Frist | Roberts |
| Campbell | Graham (SC) | Santorum |
| Chafee | Grassley | Sessions |
| Chambliss | Gregg | Shelby |
| Cochran | Hatch | Smith |
| Coleman | Hutchison | Snowe |
| Collins | Inhofe | Specter |
| Cornyn | Kyl | Stevens |
| Craig | Lott | Sununu |
| Crapo | Lugar | Talent |
| DeWine | McCain | Thomas |
| Dole | McConnell | Voivovich |
| Domenici | Miller | Warner |
| Ensign | Murkowski | |
| Enzi | Nelson (NE) | |

NOT VOTING—2

Hagel Kerry

The amendment (No. 36) was rejected. Mr. STEVENS. 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.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I hope Senators will listen.

Rarely in recent memory has the United States faced more profoundly serious and complicated challenges to our global leadership. We are beginning our second year of war in Afghanistan, our second year of chasing after Osama bin Laden, and at the same time the Pentagon is feverishly mobilizing for possible war in Iraq. Meanwhile, North Korea is firing up its nuclear production facilities and warning of a third world war in Asia if the United States dares to interfere.

Suddenly large swathes of both the Middle East and Asia are on the brink of open warfare, and the conduct of U.S. foreign policy is facing enormous tests. Even our allies are questioning our real intentions and our ultimate ambitions. This is certainly not the time for rash words or hasty action, but it is most definitely the time to take a long and sober look at where the United States has been and where it may be headed.

The administration's doctrine of preemption and the testing of that doctrine in Iraq have thrust the United States into a new and unflattering posture on the world stage.

In many corners of the world, America the peacemaker is now seen as the bully on the block. I believe it is time for this administration to review our national security strategy and its take-no-prisoners approach to international relations. In working through the complex process of developing strategies to protect the world from terrorists and weapons of mass destruction, we must also work to restore the image of the United States to that of strong peacekeeper instead of belligerent bully.

Terrorism is a global threat and it demands a global response. We must seek cooperation, not confrontation. The contrast between the administration's handling of the crisis in Iraq and its handling of the crisis in North Korea is a perfect illustration of why a doctrine that commits the United States to the use of preemptive force,

unilaterally if necessary, to prevent unsavory regimes from acquiring weapons of mass destruction is a flawed instrument of foreign policy.

I am relieved that the administration, despite North Korea's alarming rhetoric, appears to fully comprehend the folly of a preemptive U.S. military strike on a nation which we believe is a nuclear power.

Mr. MCCAIN. Mr. President, I raise a point of order that the debate has to be germane during the first 3 hours of the consideration of the bill under the so-called Pastore rule and that that be enforced.

Mr. BYRD. Mr. President, the Pastore rule, as I understand it, has run its course. The Senator is talking about the Pastore rule.

Mr. MCCAIN. Mr. President, I ask for a ruling from the Chair raising a point of order that during the first 3 hours of legislation it has to be germane to the pending legislation.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator is correct that the Pastore rule requires that debate be germane during the first 3 hours of consideration of the measure.

Mr. BYRD. Mr. President, this debate is germane. I have not finished my speech yet. I hope the Senator will show me the courtesy that I would show him.

Mr. MCCAIN. Mr. President, I raise the point of order that the debate is not germane at this time during the first 3 hours of the debate.

The PRESIDING OFFICER. The Senator is entitled under precedent to a reminder under this rule.

Mr. BYRD. What is the Chair's ruling?

The PRESIDING OFFICER. Under the rule, Senator, you are entitled to one reminder about the germaneness.

Mr. BYRD. Mr. President, there is \$3.9 billion in this bill in defense funding for related activities. What I am saying, I think, is very germane to what we are talking about. The Senator from Arizona hasn't shown me the courtesy of even hearing my speech.

Mr. MCCAIN. Mr. President, again I ask for a ruling of the Chair. The remarks the Senator from West Virginia is making are in a manager's amendment and not included in the present bill.

Mr. BYRD. Mr. President, I am speaking about the defense of this country. This bill involves the defense of this country. There is \$3.9 billion in this bill for national defense.

The PRESIDING OFFICER. The Senator from West Virginia, the Chair has ruled, is within the confines of the rule and the topic in question is germane.

Mr. BYRD. I thank the Chair.

Mr. President, let me go back in my speech and pick up where I was interrupted. I have been in Congress more than 50 years. There have been 11,707 Members of the House and Senate since the Republic began. I am the fourth—only three Members, men and women,

of all the 11,707 men and women elected to both Houses in the Congress exceed me. And here I am making a speech on what I consider to be important, and I think it is very germane to what we are talking about. We are talking about the national defense of this country when we have this appropriation bill up. We are talking about the expenditures for the military in this bill. We are facing a situation in which we may be spending more and more and more money for the military. I thank the Chair for the ruling. I am just sorry I was interrupted on this matter. I would not interrupt the Senator from Arizona concerning germaneness on a speech he maybe making at any time. I would not do that.

I will back up and then pick up where I was interrupted. I am relieved that the administration, despite North Korea's alarming rhetoric, appears to fully comprehend the folly of a preemptive military strike on a nation which we believe is a nuclear power, and has finally agreed to at least talk with the North Korean government and to work with other nations in the region toward a diplomatic solution to the crisis.

The situation in Iraq, however, appears to be heading in the opposite direction. Iraq, which, by all accounts, does not have nuclear weapons, and is presently the subject of scrutiny by U.N. inspectors, is under the heavy threat of a preemptive U.S. attack. The airwaves are awash with video snapshots of brave young American soldiers bidding tearful goodbyes to loved ones. When it comes to Iraq, America's war machine seems to be cranked up to a fever pitch. This is going to cost money, real money. We have talked about a 2.9 percent across-the-board cut here in domestic discretionary spending. Nobody is saying anything about a cut in military spending, no. I am not advocating that. I want to face up to the situation that confronts us. I want the American people to start looking and listening to what is going on.

Ever since Congress voted last year to hand to the President the power to decide—we did that; Congress did that over my obstreperous objection, vociferous objection; Congress did that. Twenty-three Members of the Senate decided to vote against handing this power over to the President, the power to declare war. Ever since Congress voted last year to hand to the President the power to decide why, when, how, and where we will wage war against Iraq, the question of whether we should wage war has largely been overlooked.

It is past time to remedy that omission. Where is the debate on the wisdom of actually resorting to force? Is that going to cost money? Where is the debate? How much is it going to cost? How many men and women in the Armed Forces are we likely to lose? What may happen here at home in the

war against terrorism? Where is the urgency? Why not let the inspectors do their job? Why are our allies backing away?

Congress made a serious mistake in passing the open-ended use-of-force authorization last year, but we only compound that mistake by sitting idly by while the Pentagon draws up war plans—costly war plans—and sends our young men and women abroad.

Now is the time for informed debate. Here we are about to go out for a recess. It is time for us to look at this matter. It is facing us. Now is the time for informed debate, and now is the time for a public examination of where we are headed and why.

The President has stated repeatedly that he has not decided whether to invade Iraq. We must take him at his word. It is my hope that he will not rush to judgment. The situation demands a careful and thorough examination of the views of our allies, the costs in money, the costs in lives, the risks before any final conclusion that war is the only recourse.

Congress must be part of that debate. The United Nations must be part of that debate. A vote taken last fall should not constrain Members of Congress from reevaluating the situation in light of recent developments. However bad it was—and it was very bad, I think—the use-of-force resolution passed by Congress last October did not impose an oath of silence on Congress or on the American people. It did not prohibit the continued questioning of the administration's decisions with regard to Iraq. This may be difficult to do when the war drums are beating, but that is sometimes the uncomfortable role of the true patriot.

Mr. President, without so much as a whisper of debate, our Nation is actually mobilizing to attack a sovereign state before U.N. weapons inspectors have even made serious headway in their work. Is this what the policy of preemption means: That we preempt evidence and move to attack based on suspicions?

The administration's new policy of preemption has repercussions far beyond Iraq. Other nations are watching what we are doing. North Korea is one of those nations. Even Brazil is reported to be contemplating the development of nuclear weapons as an insurance policy against possible attack.

Iraq and North Korea are both charter members of the President's infamous "axis of evil," and yet at the same time that the President is turning the heat up on Iraq, he and his administration have been vigorously downplaying the crisis in North Korea.

Iraq has at least allowed U.N. weapons inspectors into the country. North Korea threw them out. Iraq, to the best of our knowledge, does not currently have nuclear weapons. North Korea, on the other hand, has brazenly admitted that it is working to develop nuclear weapons, and there is evidence that it already has some nuclear capability.

Iraq at least is going through the motions of cooperating with the United Nations. Meanwhile, North Korea has announced its withdrawal from the Nuclear Non-Proliferation Treaty, threatened to resume missile testing, and declared that U.N. sanctions will mean war. Yet the United States is mobilizing for war with Iraq while politely tiptoeing around the far more dangerous situation on the Korean peninsula.

The President, in the same breath that he assails Saddam Hussein, has gone to great lengths to assure the world he has no intention of invading North Korea. Is it any wonder that our allies are scrambling to make sense of America's foreign policy? Is it any wonder that the new image of the United States has caused turmoil and puzzlement even among our staunchest allies?

I am sure many of our friends around the globe wonder why diplomacy can remain an option with a regime as treacherous and threatening as North Korea and yet can be taken off the table when it comes to a much weaker Iraq. I wonder if the administration has calculated enough the ramifications of a military solution in Iraq not only in terms of dollars, but also in terms of bloodshed and hardship in the Middle East and terrorist attacks here at home.

What is the message we convey to the world if we are eager to apply a doctrine of preemption on those countries with limited ability to defend or counterattack and yet waffle over a preemptive response to dangerous regimes with the firepower to get back? Are we not, in effect, saying that nuclear weapons and long-range missiles can provide small countries with an insurance policy against a U.S. preemptive strike? The unanticipated result of this doctrine of preemption may be to unleash a global scramble to acquire the means to deter the United States from unprovoked attacks. We could be at the brink of a new type of arms race, unleashed by fear of a preemptive U.S. strike.

There are many risks to an inconsistent foreign policy that, in some cases, threatens the use of force as a first response and, in other cases, takes military action off the table entirely. Our national treasure will be increasingly poured into bullets and bombs at a time when homeland security is an equally pressing concern, or even greater concern. Our efforts to preach peace and restraint as a solution to the Israeli-Palestinian conflict will be sabotaged by our own our own foreign policies. American citizens at home will face an increased threat at the hands of terrorists lying in wait for the chance to cripple our economy and derail our war machine, and we will be increasingly hard pressed to prevent terrorist destruction because our resources will be sucked up—sucked up—by the war machine that now drives our foreign policy.

Additionally, if we stay the current course, thousands upon thousands of American families will face a painful uprooting. Many of the men and women who will be sent to Iraq are members of the National Guard and Reserve. Military officials have said that the activation of National Guard and Reserve troops for a war against Iraq could exceed 100,000.

The impact of such a large activation will reverberate throughout the Nation in communities large and small, in the small community of Sophia where I have lived and where I have voted for these many years. On January 7, the Charleston, WV, Gazette reported that a speeding motorist raced through three tollbooths and drove more than 75 miles on the West Virginia Turnpike before any State troopers were available to pursue him. The problem? The State Police force is suffering a severe shortage of troopers. The fear? The situation will get much worse if the 51 West Virginia troopers who are also members of the Guard and Reserve are called up for duty.

This problem is not unique to West Virginia. According to the Charleston Gazette, law enforcement agencies across the nation, whose members are heavily represented in the Guard and Reserve, are worried about the impact of a war on their ability to protect the public. And law enforcement will not be the only profession to be affected by a Reserve call-up. Members of the Guard and Reserve are not just part-time soldiers—they are also full-time members of their communities, holding key jobs. Policemen, firefighters, paramedics, doctors, nurses, teachers—their professions run the gamut, and their absences when on active duty leave significant voids for those left behind.

America will be at great risk of terrorist attack—we are told—if we invade Iraq. Shortages among the ranks of health and public safety professionals diverted from their civilian jobs to go to war with Iraq will leave Americans with a perilously thin margin of protection at home just when they are likely to need it most.

We must not be in a rush to initiate war against Iraq. Saddam Hussein is certainly in no position to launch a strike against the United States with thousands of our troops massed on his doorstep. Iraq will not be able to rebuild its ailing military in the coming months or to covertly produce weapons of mass destruction under the watchful gaze of the U.S. military and the U.N. weapons inspectors. Today's headlines reveal that the UN inspectors discovered a cache of empty chemical warheads in an ammunition dump. Who knows what tomorrow's inspections may uncover. Where is the urgency that would drive us to preempt the inspectors before they have adequate time to fulfill their mission. While there is dwindling international support for using the initial findings of the U.N. inspectors as a trigger point for

invasion, there is great support for the overall United Nations arms inspection program. Saddam Hussein is politically isolated, and the world is virtually unanimous in supporting the disarmament of Iraq. I support that disarmament.

To act precipitously now, however, without the full support of our friends and allies, could cost the United States dearly in the long run. Already, some of our strongest allies in the region, most notably Turkey, must chafe at U.S. pressure to join in the war on Iraq. According to a recent survey by the nonpartisan Pew Research Center, 83 percent of Turks oppose allowing U.S. forces to use bases in their country to attack Iraq. And yet our war plans call for the stationing of as many as 80,000 U.S. troops in Turkey. In Europe, the same poll found that large percentages of the population believe that U.S. desire to control Iraqi oil is the chief reason that we are considering attacking Iraq. These perceptions can only serve to undermine our global influence in the years to come. If the U.S. can seize Iraq for its oil, what other nation might it decide to conquer? These thoughts must be on the minds of those who question our new and belligerent foreign policy.

The possibility exists that the crisis in Iraq can be resolved without a shot being fired. With more time and increased diplomatic efforts, there is a chance that Saddam Hussein could be peacefully forced into exile. But first, the fever pitch of war rhetoric often heard from this White House must subside. If we fancy ourselves a superpower then we must behave as a superpower, with confidence, with wisdom, and with dignity.

Some very important dates are fast approaching. The first is January 27, when the United Nations weapons inspectors are due to present to the Security Council their first formal assessment of Iraqi compliance with U.N. disarmament demands. Their interim report, delivered to the Security Council on January 9, confirmed that Iraq's weapons declaration was incomplete and insufficient, but the inspectors also reported that they have found no "smoking guns."

I was heartened by Secretary of State Colin Powell's statement that, despite indications to the contrary, January 27 is "not necessarily a D-Day for decision-making." We must give the inspectors adequate time to conduct a thorough search. While the White House continues to assert that Saddam Hussein possesses weapons of mass destruction, it is important to note that the United States has just begun to share key intelligence information on the Iraqi weapons program with the U.N. inspectors. It will take time to pursue those leads. Even our staunchest allies, including Great Britain, are urging the U.S. to slow down on Iraq and let the inspectors do their work. The January 27 report is the first, not the final, step in that process.

The second important date on the near horizon is January 28, when President Bush is due to deliver his State of the Union message. The dueling crises in Iraq and North Korea are grim reminders of his last State of the Union speech when the President branded those nations and Iran an "axis of evil."

The President's rhetoric that evening was colorful, but events have proved that it was not wise. I note that the President is now saying that he is "sick and tired" of Saddam Hussein. That is just the type of rhetoric we do not need at this volatile time. It only adds to our image of bellicosity. President Bush must resist any urge to personalize our foreign policy and tone down the supercharged public rhetoric which has been flying around for months. Whether George Bush is "sick and tired" is not the issue. Whether ROBERT BYRD is sick and tired is not the issue. It must not be perceived as the President's reason for sending American men and women to shed their blood in the hot sands of Iraq.

America must not be viewed globally as a reckless power which views the world in terms of simply flattening the opposition. We must not continue to brandish our awesome military might, walk away from treaties and cooperative agreements, and ignore nuances and sensitivities.

We are losing friends all around the world, and that is extremely risky business in an age of globalism and terrorism. A great nation should not have to rely solely on the force of its armies to inspire the world's admiration. A great nation should inspire other nations by the example it presents to the world.

The doctrine of preemption is likely to cause us trouble far into the future. Labeling whole countries as "evil" invites a response and risks arousing hatreds and passions that are best left sleeping.

Setting the United States up as the ultimate judge of good and evil, with the right to preemptively strike any nation which might pose a threat in the future, is the fastest way one can imagine to make us not only feared but also universally hated.

When one considers that a single angry person in a crowd with a vial of some dreadful, active virus is the equivalent of billions and billions of dollars worth of U.S. military might, it becomes clear that we are making the wrong choices on the foreign policy front.

When tensions across the globe are so high, the President would be prudent to measure his words carefully and reiterate for all the world to hear that he has not yet decided to attack Iraq, that he will fully engage in diplomatic solutions to the North Korean crisis, and that the United States will seek not to initiate war but to apply the soothing balm of patience to an anxious world. I call upon this Administration to cool the rhetoric; reevaluate its doctrine of

preemption; initiate a return to the peace table in the Mideast; and go back to the United Nations for a final endorsement before we decide whether to unleash the deadly dogs of war.

I yield the floor.

The PRESIDING OFFICER. The galleries will refrain from making any outbursts.

The Senator from Arizona.

AMENDMENT NO. 44

(Purpose: To strike section 211 of Division B)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. MCCAIN. While I am waiting for the clerk, I mention that I was told by the distinguished manager of the bill after the last vote that I would be recognized for the next amendment. That did not happen. In the aspect of senatorial courtesy, I believe I have been given assurances that I would propose the next amendment. It is clear we are on Friday at 12:30, and we have additional amendments, some 40 or 50 amendments, that will require recorded votes. I think it is important at this time we move forward.

I intend to be brief in my description of this amendment and ask for the yeas and nays at the appropriate time. I have an amendment at the desk and ask for its reading.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 44.

Beginning with line 12 on page 138, strike through line 14 on page 141.

Mr. MCCAIN. Mr. President, this amendment would strike section 211 of division B of the resolution. What section 211 of division B does is pretty incredible. It would give the still-to-be created subsidiary of the Malaysian-owned "Norwegian Cruise Lines," owned by Malaysia, the exclusive right to operate foreign-built cruise vessels in the domestic cruise trade.

Effectively, the provision would allow Norwegian Cruise Lines, which bought the pieces and parts of two "Project America" cruise vessels following the bankruptcy of a company called American Classic Voyages, to incorporate these parts into large cruise vessels that would be constructed in foreign shipyards. Then, notwithstanding the Passenger Vessel Services Act, the provision would allow the Norwegian Cruise Lines to flag these vessels as if they were U.S.-built vessels and operate them in the domestic trade—guess what—requiring service in Hawaii. The provision also allows the Norwegian Cruise Lines to bring over a third foreign-built ship to operate in the United States of America, in direct violation of existing law.

As many of my colleagues know, I am no fan of the protectionist laws that require domestic cruise ships to be U.S.-owned, U.S.-built, U.S.-flagged, and U.S.-crewed. However, I strongly object to waiving these laws for only one foreign-owned company.

These proposed vessels have a long and sordid history. The pieces and parts that NCL will build into cruise ships have cost the American taxpayers close to \$200 million dollars. Again, these parts were bought following American Classic Voyages' bankruptcy, which had begun construction of two vessels in Ingalls Shipyard in Mississippi after securing loan guarantees from the Federal Government through an intensive lobbying effort.

Let me provide some history of American Classic Voyages' "Project America" for the record: The project, which was to consist of the construction of two large cruise ships in the United States, received considerable political support over the last several years. This political support translated into language being included in the Department of Defense Appropriation Bill for FY 1998 that granted a legal monopoly for its owner, American Classic Voyages, to operate as the only U.S. flagged operator among the Hawaiian islands. In March of 1999, the contract for Project America was signed with great fanfare in the rotunda of this very building.

Intense lobbying also created the political pressure that helped secure a \$1.1 billion loan guarantee from the U.S. Maritime Administration's (MARAD) Title XI loan guarantee program for the construction of these two vessels—which is, by the way, the maximum allowable amount.

Within the first year of construction on the first of these cruise ships, the project was a year to a year and a half behind schedule. Both American Classic Voyages and Northrop Grumman Corporation—Ingalls Shipyard's parent company—were crying foul over construction problems and months of non-binding mediation over contract disputes.

On October 19, 2001, American Classic Voyages filed a bankruptcy petition under Chapter 11 of the U.S. Bankruptcy Code. The petition listed total assets of \$37.4 million and total liabilities of \$452.8 million. The cruise line said in its petition that it has more than 1,000 creditors, including the American taxpayers being represented by the Department of Transportation.

Had the Project America vessels been completed, they would have been the largest cruise ships ever built in the United States and could have sparked a new phase of commercial shipbuilding in this country.

Mr. President, none of that occurred. The failed project is one of the most costly loan guarantees ever granted under the Maritime Loan Guarantee Program. I questioned the merits of the "Project America" at the time the special legislation was considered and went so far as to introduce an amendment to the FY 1998 Department of Defense Appropriation Bill to remove the monopoly language. Based on the information available at the time, I believed then that the project was more likely to fail than to succeed.

Guess what? The project did fail. Project America resulted in the U.S. Maritime Administration paying out over \$187.3 million of the American taxpayers' money to cover the loan default for this project, and recovering only \$2 million from the sale of some of the construction materials and parts. But now, the provision in the Omnibus is built around the scraps of that horribly failed pork project, which would now go into the new venture.

Like "Project America," the provision in this omnibus bill singles out one company; this time it is Norwegian Cruise Lines, for preferential treatment, and gives that company privileges enjoyed by no other. There has been no analysis, no discussion, no hearing, no debate on the value of granting an exclusive exemption for this one foreign-owned company—exclusive exemption from the Passenger Vessel Services Act.

Over the last several years, I have worked with all sectors of the maritime industry to look for solutions that would provide for a healthy U.S.-flagged cruise ship industry calling on ports nationwide. While these efforts have not come to fruition, I am committed to continuing this work. But those efforts will be, and should be, taken in the committee charged with this responsibility, the Committee on Commerce, Science, and Transportation.

The author of this language is a member of the Commerce Committee, and a valued one. I strongly urge him to bring this issue on the agenda of the Commerce Committee and maybe we can work this out, rather than tucking it in as a provision, without any debate, without any discussion, without any authorization at any time, in direct violation of existing law. It is a direct violation, an exemption from existing law, the Passenger Vessel Services Act.

Any proposed legislation from the Commerce Committee will be crafted in an open and inclusive manner, not behind closed doors as appears to have occurred with section 211.

Aside from the procedural concerns I have, section 211 is fundamentally unfair. I firmly believe what is good for one corporation is good for all. Section 211, however, would create an uneven playing field for cruise operators and, depending on how the language was interpreted, also would create an uneven playing field for States by requiring these vessels to operate only in Hawaii, leaving most coastal States with no regular U.S.-flagged cruise ship service.

Following on the heels of the failed attempt by American Classic Voyages to build a large cruise ship in a U.S. shipyard—an effort driven by lobbyists and special interests—I believe further efforts to expand the U.S.-flagged cruise ship fleet should be accomplished through the normal legislative process after debate and open examination. Any solution should benefit a

broad section of the U.S. maritime industry and all of our Nation's ports. In order to spur such a debate, I offered that amendment to simply strike the special interest provisions in the omnibus bill. We can do better than this provision.

Let me just give a couple of quotes from the media, this one from the New York Times, June 18, 2002:

CRITICS CHRISTEN SHIP PROJECT AS AN OFF-COURSE U.S.S. PORK.

Two years ago, with waving flags and hula dancers swaying, the government announced an ambitious program to build two passenger cruise ships—the first in a United States shipyard since the 1950's—and provided more than \$1 billion in loan guarantees to get the program going.

It did not hurt that the ships were to be built in the Pascagoula, Miss., shipyard where the father of Trent Lott, the Republican Senate minority leader, once worked. As a result, Senator Lott became one of the strongest supporters of the program, which was named Project America.

Today, the project is being derided as an example of political pork gone wrong. What remains of Project America is an unfinished hull the size of two football fields and pieces for a second ship lying around. The hull is not floatable; it has neither a completed bow or stern; and its future is in doubt. The price to the government for the failed project is \$187 million—money the government is trying to recoup by putting the half-finished hull on the market.

By the way, they did put it on the market. They sold it for \$24 million, of which the American taxpayer got \$2 million—1, 2—\$2 million, in return for a \$187 million default.

How can we come to this body and tell them that we ought to do anything but leave this issue alone for now? Haven't we done enough damage to the American taxpayers? Isn't a \$187 million default enough?

This dismal reality only confirms the worst fears of the project's critics—and is a far cry from the high hopes of those who backed it. Critics, who call Project America corporate welfare, say it shows the dangers lurking behind the tens of billions in loan guarantees the government has extended to an array of businesses, among them airlines, the housing industry and American exporters.

"This has turned into a corporate welfare debacle."

* * * * *

The Maritime Administration's loan program is intended to support domestic shipyards by guaranteeing the debt issued to finance commercial ship construction. Last year, the agency guaranteed \$362 million; in 2000, \$885 million.

When a project fails—as happened after American Classic's bankruptcy filing—the government steps in to pay off the debt-holders.

You know, the interesting thing about this, too, this outfit that started this Project America, is there is a billionaire who operates a casino—riverboat. He is a billionaire. He didn't lose any money on this deal. He didn't lose any money. The American taxpayer did, because it was so well crafted, thanks to special interest lobbying, that the only exposure was to the American taxpayer—\$187 million worth.

It will be argued that September 11 was the cause of the downfall of this magnificent project.

Even before Sept. 11, Project America had run into trouble. It had fallen behind schedule and was far over budget. As a result, Northrop Grumman, which owns the shipyard, took a \$60 million write-off from it and American Classic lost \$100 million. The yard itself will continue to make and repair Navy vessels.

"The project was behind schedule and millions in the hole," said John Graykowski, former administrator of the government's shipbuilding program. "The terrorists' attack masked this reality and perhaps allowed the emperor to maintain his modesty."

So any argument that it was September 11 that caused this porkbarrel project to fail is simply not in compliance with the facts.

There have been a lot of articles written. There probably should have been more because of the incredible loss to the American taxpayer of \$187 million—sorry, \$185 million; we got \$2 million back.

So now here we go. We take an omnibus appropriations bill of \$400 billion and we stick into it a little amendment that violates existing law, protects a Malaysian—gives a special break to a Malaysian-owned Norwegian Cruise Lines, and we are supposed to sit back and accept that. I don't think so. I don't think so. Didn't we learn a lesson last time, when Congress got involved, when there were a few of us who said: Wait a minute, wait a minute, this is crazy; this is just crazy?

How many millions of Americans' taxpayer dollars do we have to spend before we stop this kind of activity?

There are a number of other aspects of this issue. The proposed amendment will achieve the completion of Project America. My response to that—when Project America's earmark was pushed through in 1998, the proponents alleged that the goals were to develop a U.S.-built, U.S.-flagged cruise vessel fleet by authorizing the temporary operation of foreign-built cruise ships in the domestic trade.

The provision in today's omnibus appropriations bill totally disregards the prior requirement that a company operating foreign-built U.S.-flag vessels in Hawaii trade build the U.S. vessels in the United States. Now they will be built overseas. Instead, 211 will allow the construction of two vessels, using some parts of the failed Project America project, but it would not accomplish the objectives of promoting U.S. shipbuilding, as was one of the alleged benefits under the original project. When the Project America earmark was pushed through in 1998, it was limited to one company and two vessels. When Project America encountered financial problems and then bankruptcy, all of the alleged benefits to the country were lost and cost the taxpayers nearly \$200 million.

If the sponsors are now seeking to achieve a new objective—the operation of U.S.-flagged cruise vessels regardless

of where they are built—then the amendment should be expanded to allow foreign-built cruise vessels to operate under the U.S. flag in all the domestic cruise ship markets in order to increase the alleged economic benefits that would result from U.S.-flagged cruise vessels.

As far as military preparedness goes, we don't need to even bother to discuss that.

The proposed amendment will benefit the U.S. economy. It has really benefited the U.S. economy a great deal so far.

The proposed amendment does not perpetuate the Project America monopoly. As drafted, the provision creates a de facto monopoly for one company in the Hawaii cruise trade, arguably in the U.S. coastal cruise market. No other company under this proposal, under this legislation, can operate foreign-built, U.S.-flagged—can, under this proposal, operate U.S.-flagged, foreign-built cruise vessels in the Hawaiian market or any other market. It is totally unrealistic to believe another company will be able to secure financing to build a vessel in the United States for operation in the Hawaii cruise trade in direct competition with the foreign-built, U.S.-flagged cruise vessels that would be authorized to operate under this provision with far less capital investment.

I will be glad to engage in more debate on this issue. This was a terrible thing we did to the U.S. taxpayers back in 1998 under a process that I have vehemently and strongly resisted because of these very circumstances. Provisions are inserted in appropriations bills without hearing, without authorization, without scrutiny.

Then some of us have to come to the floor and object to them without full and certain knowledge of the issue.

I promise you that if I had known for sure we were going to lose \$187 million of the taxpayers' money, I would have filibustered.

I knew it was wrong and seriously flawed. I knew that some billionaire who operates riverboats probably isn't very good in the business of building massive cruise ships.

But we cannot continue this kind of activity. Just suppose that this is a good idea, that it is a great idea. Why are we putting it into an omnibus appropriations bill that is supposed to fund the functions of Government and not authorize in direct violation of existing law? How do we justify that?

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. McCAIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, in 1997 Congress, as noted by my colleague from Arizona, enacted the U.S.-Flag Cruise Ship Pilot Project in an attempt to "jump start" the redevelopment of a

U.S.-flag cruise industry. As some of our colleagues know, the large oceangoing cruise ships, so familiar in Miami and other United States ports, all operate under foreign flag. This may be a startling fact when one considers that after the Second World War, U.S. flag ships carried some 80 percent of the world's ocean borne cargo and most of America's seagoing passengers. Today, in stark contrast, less than 4 percent of all the world's international cargo moves on ships flying the U.S. flag, and not a single large oceangoing passenger cruise ship in the world operates under U.S. registry.

The enactment of what has become known as the "Project America" legislation more than 5 years ago was intended to reestablish a U.S.-flag cruise ship industry. The benefits of creating a U.S.-flag cruise ship industry have long been obvious. Such an industry would maintain America's preparedness for a national emergency by developing a pool of qualified seafarers, help sustain a fleet of U.S.-flag vessels to support our military vessels and a maritime industrial base for times of national emergency, create tens of thousands of seagoing and shoreside American jobs, and stimulate the development of a U.S.-flag cruise ship tourism business with commensurate benefits to the U.S. tax base, the U.S. economy, and U.S. employment.

These were among the guiding principles and objectives of our legislative efforts to restore a U.S.-flag cruise ship industry through the Project America legislation in 1997. Under the terms of that legislation, the re-flagging of one foreign-flag cruise ship was permitted contingent on the operator contracting for construction of two new U.S.-built cruise ships—the first such vessels to be built in the U.S. in more than 40 years.

The project, while proceeding with considerable difficulty, including delays and increased costs in construction, ultimately became a victim of the September 11 attack on our Nation. The terrorist attacks dramatically impacted the U.S. economy, and caused financial difficulties for the entire travel industry. In fact, passenger bookings for American Classic Voyages Co.—AMCV—the company that undertook Project America, decreased by as much as 50 percent, and cancellations of bookings increased by as much as 30 percent in the weeks after the attacks. Ultimately, as a result, AMCV filed for bankruptcy, and construction on the two Project America ships was halted. The re-flagged vessel, the m/v Patriot, was transferred out of U.S. registry.

As a result of these events, thousands of seagoing and shoreside jobs were lost including more than 1,000 crewmembers and cruise ship service providers. Passengers experienced disruptions and lost fares. Yet, the U.S. government paid \$185 million on a Title XI shipbuilding loan guarantee for the two cruise ships under construction at Northrop Grumman Ingalls Shipbuilding—

Ingalls—in Mississippi. Project America came to an abrupt halt.

At the time the Senate considered the Project America legislation, there were concerns, and in some cases opposition, expressed about Federal funds being spent for the construction of these ships and a proposed preference in market access for AMCV to serve the coastwise trade among the islands that comprise my State. But no one—not one member of the Senate—voiced an objection to the goal of further developing a U.S. flag cruise industry that would ultimately provide thousands of seafarer and shoreside jobs for Americans. Those jobs, along with the development of a qualified pool of seafarers that this country could rely upon in times of national emergency, should not become the permanent victims of the terrorist attacks. As our Nation restores the buildings and facilities that bore the brunt of that attack, we must also assist in the recovery of economic casualties. Since the demise of Project America, I have searched for a solution that would permit most of the objectives of the original legislation to be accomplished, but without any further expenditure of Federal funds, without any Federal loan guarantees, and without the need for the market preference in the 1997 law.

Last year, the U.S. Maritime Administration and Ingalls put the partially constructed Project America ships up for sale. While the sale was open to any offeror, Norwegian Cruise Line—NCL—the longest established of the U.S.-based cruise lines, placed a bid on the Project America ships that far exceeded all others. After NCL committed to acquiring the hulls, I met with company officials to discuss the possibility of completing Project America in a way that would achieve most of the main objectives of the original legislation without any further expenditure of Federal resources or any Federal loan guarantees. It is my hope that over time the United States will reap the benefits of its investment.

In the course of those discussions, completing the vessels at Ingalls did not seem possible. NCL asked Ingalls to bid on completing the vessels in Mississippi; however, the yard did not bid because it was preparing to build new ships for the U.S. Navy. Unfortunately, NCL's only option was to complete the ships elsewhere. In the meantime however, more than 250 workers in Mississippi worked on the partially completed hull over the summer to make it seaworthy for towing overseas for completion in another shipyard. It has become apparent that further legislation is necessary to reestablish the project to achieve most of the Project America goals, and to respond to concerns expressed by my colleagues about the original legislation.

Therefore, this provision in the Omnibus Appropriations bill will amend the original Project America authority. This provision, like the original

Pilot Project, will apply only to cruise ships operating in regular Hawaii service. It was done that way because other areas did not want to have this competition. My provision would allow for the completion of the first hull, with an option to complete the second hull, from the material acquired in conjunction with the Project America ships that were under construction at Ingalls. Either or both of these ships may be completed in a non-U.S. shipyard experienced in cruise ship construction for operation under the U.S. flag in regular coastwise service. These new U.S.-flagged cruise ships will be required to operate with American crews, be subject to all U.S. laws, including tax, labor and environmental laws, and be owned by a U.S. corporation with United States citizens serving as chief executive officer and chairman of the board of directors, and with U.S. citizens controlling the board. Like the original Project America legislation, this bill permits increased foreign equity involvement in the enterprise. While under this new provision, the ultimate beneficial owner need not be a U.S. citizen, the requirement that the vessels be owned by an American company ensures that the ships' operations will be subject to all U.S. laws and that the vessel assets of the U.S. company will be available to our Nation in times of national emergency.

Consistent with the original Project America legislation, the U.S. corporate owner would have the right to reflag a modern foreign-built vessel under U.S. flag for operation in the coastwise trade to facilitate a cost-effective and timely transition to U.S. registry. Like the newly built ships, the reflagged vessel must have a U.S. crew and be subject to all U.S. laws. Before operating under U.S. registry, however, two conditions must be met. First, the reflagged vessel must undergo a complete inspection to ensure compliance with all relevant Federal safety and public health laws of the United States that are applicable to U.S.-flagged cruise ships. Further, any refurbishing or remodeling that may be necessary to assure compliance with these Federal laws must occur in a United States shipyard. Second, the reflagged vessel may commence operating only after the first Project America ship enters service. The U.S. Maritime Administration will be charged with overseeing the implementation of this bill, but reimbursement for costs associated with this oversight shall be obtained from those who operate cruise ships under this new authority.

The result of this provision would be the introduction of multiple modern U.S.-flagged cruise ships in regular Hawaii service. The ships would employ as many as 3,000 U.S. seamen, and all would be subject to U.S. labor, tax, and environmental laws, unlike the major foreign cruise lines. In short, these proposed changes to the original Project America legislation will still allow many of the original principles and ob-

jectives to be achieved, without additional cost to the American taxpayer.

While the legislation is limited to Hawaii, at the request of other areas, the benefits go far beyond the shores of my home State. In addition to the thousands of jobs and hundreds of millions of dollars in economic activity generated nationwide, this provision will strengthen our U.S. Merchant Marine. The ships operating under U.S.-flag will be assets available to the Department of Defense in time of national emergency, and these U.S.-flagged cruise ship operations will significantly expand our pool of qualified seafarers that man civilian-crewed military ships such as the Ready Reserve Fleet, a fleet of 76 U.S. Government-owned ships used to meet surge sealift.

The Department of Defense relies heavily on U.S. mariners to crew a large number of non-combatant vessels to deliver a wide range of supplies to United States and allied forces around the globe. In fact, as much as 95 percent of the military's fuel, food, munitions, and spare parts would move by these ships in the event of a major war.

The media have chronicled the concerns of our Nation's military and maritime officials about the Nation's ability to crew these non-combatant ships because of shortages in the numbers of civilian American seafarers. Most recently, in Defense Week, VADM David Brewer, Commander of Military Sealift Command, expressed "concern" that the lack of qualified seafarers might "strain" activation of the Ready Reserve Fleet.

CAPT Bill Schubert, Administrator of the Maritime Administration, the agency charged with ensuring a viable Ready Reserve Fleet, has been even more blunt in his assessment of the circumstances last year in a Baltimore Sun article entitled, "Shipping Crew Deficit Called Wartime Risk," where he said:

This is a very serious issue that needs to be addressed now—today . . . I'm not comfortable right now that we have the ability to respond to an emergency.

Mr. President, I ask unanimous consent that a copy of the Defense Week and Baltimore Sun articles be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 1.)

Mr. INOUE. Mr. President, I think we should remind ourselves that not too long ago there was a war we have referred to as the Yom Kippur war that was fought in the Middle East. It was a war that involved the Republic of Egypt and the State of Israel.

On Yom Kippur Day, a day of very holy significance in Israel, Egyptian troops went across the river, got into the Sinai, and were on the verge of successfully carrying out the military mission. We received frantic calls from Israel to resupply their troops, because their troops had a 90-day amount of

ammo, but because of the intensity of the combat, over half of that had already been used.

We, therefore, called upon every American and American company that owned ships on the high seas but under foreign registry. There are hundreds upon hundreds of vessels owned by Americans or American companies that are registered in Panama, Liberia, or in someplace out in the Pacific in the trust territories. They do not pay taxes. They do not hire American crews. But we felt that because they were Americans, they might come to our aid. We wanted ships to carry these military goods to help the Israelis.

When the word reached them that the Saudis would look upon this as an unfriendly act, the response from our fellow Americans, to help Americans provide help to their allies, the Israelis, was absolutely zero. Not one ship responded. History shows, as a result, we had to carry out cargo on C-5 aircraft, huge aircraft. Two of them were buzzed by Egyptian fighters. Every time I think of this, I shudder, because if any one of them had been shot down, the question arises, would we have been involved? In all likelihood, we would have been.

Therefore, the fact that after the end of World War II we carried 80 percent of all the cargo, and today less than 4 percent, should be of concern to all of us.

What if the war many are suggesting might happen does happen and it becomes not a minor war but a major war? Do we have the vessels to carry necessary troops and equipment abroad? I believe that is a good question we should ask ourselves.

I do not suggest the Project America provision solves this problem. However, virtually every person engaged in the debate over seafarer readiness would agree that a primary way to address the problem is to promote a viable U.S.-flag fleet. My provision does just that.

With international tensions rising, I believe we must do all we can to support the Nation's military readiness. My legislation would do that by creating desperately needed American seafaring jobs that will support a military sealift.

To summarize, let me be clear what this section does. First, no Federal funds may be used to complete the Project America hulls. No Federal loan guarantees may be issued by the U.S. Government to perform work on these ships. The preference in the original Project America law that was criticized as limiting competition among the islands of the State of Hawaii does not apply to these ships. At this moment, if any American company wishes to build a ship in the United States and carry on the business in Hawaii or, for that matter, in any other port of the United States, that company may do so. Or if that company has a foreign flag vessel and believes that vessel should be reflagged to an American flag and would come before us, as we

have in the past, it we may do so. This does not close that door. It just gives it a jump start.

We need something to be done. As I pointed out, Federal safety and health inspections on the proposed reflagged vessel must occur in the United States shipyard, not abroad. All future maintenance on these cruise ships and any repairs needed in order to register the vessel in the U.S. must occur in our shipyards. The U.S. Coast Guard safety regulations will govern ship operations, and U.S. mariners operating the vessel will be subject to Coast Guard licensing. The U.S. Maritime Administration will oversee the implementation of this legislation and recapture that cost from the cruise line operators.

I want to stress to my colleagues and those in the maritime industry that this provision will not adversely impact the Jones Act cargo trades where the fleet is vibrant and growing. It is strictly limited to the large oceangoing cruise ships and then only those operating in the regular Hawaii service where there are no U.S.-flag operations.

I would also like to stress I continue to support U.S. domestic shipping requirements that mandate U.S.-built, operated, and crewed vessels. I recognize that in certain circumstances, some degree of relaxation of these requirements may be necessary to stimulate growth in the United States maritime industrial base. While this particular provision is intended to fulfill the completion of Project America, and promote the use of large U.S.-flag passenger vessels in Hawaii, I have supported legislation that will provide similar flexibility for large passenger vessels throughout the United States. This legislation was introduced by my distinguished colleague from Arizona. I will continue to support such proposals that are crafted to strengthen our U.S. maritime industrial base.

However, I feel we need to move forward expeditiously with this proposal to ensure we can realize some of the benefits of the original Project America legislation. Planning requirements and operational changes necessary to complete this project to allow for the use as a U.S.-flag vessel must be made shortly or the vessels will be completed for use under a flag of convenience or foreign flag.

Yes, some \$185 million in Federal funds have already been invested in this project as a result of the Maritime Administration loan guarantees that were called upon when AMCV went bankrupt. A U.S.-based cruise company has taken the risk of purchasing the hull and related materials from Project America with no assurance that legislation could be enacted to obtain coastwise privileges.

Instead of simply building the ships overseas for operation under a foreign flag with foreign crews or seeking product exemptions to the Passenger Vessel Services Act to operate these ships,

NCL has stepped to the plate and is willing to hire American crews, be subject to American laws, and achieve some of the original benefits of Project America.

I will be the first to admit that the original Project America failed. There is no U.S.-built cruise ship ready for delivery on January 23, 2003, which was supposed to have been the delivery date of the first Project America ship. There is no work proceeding on a second U.S.-built cruise vessel, and the Federal Government is out \$185 million for the title XI loan guarantee. While the economic downturn resulting from September 11 was the final nail in the lid of the Project America coffin, the troubles, as noted by my colleague from Arizona, began well before that catastrophic event.

No one will dispute that U.S. shipyards are inexperienced in constructing large oceangoing cruise ships. We recognized this and, through the original Project America, provided the incentive necessary for an \$880 million fixed price contract to build modern state-of-the-art cruise ships in the United States.

Throughout the process, the shipyard experienced significant problems in construction of ships. For example, within the first year of construction, the yard was experiencing a projected delay in delivery of approximately 1 year and an escalation in the price of outfitting the interior of the ship by as much as \$76 million. Eventually a negotiated settlement was reached, extending the delivery dates, increasing the price, and requiring additional project equity.

After the vessel owner's bankruptcy brought the work on Project America to a halt, the partially completed vessels were auctioned. The successful bidder, NCL, offered the Ingalls shipyard an opportunity to bid for completing the vessels, but Ingalls declined. The yard handled predominantly military construction and was not interested in completing the vessels. Instead, the yard retooled its operation to handle an increased order book for Navy ships.

U.S. shipyards predominantly build Navy ships. Based on past experience, the Government is more willing than the private sector to absorb increases in the price tag or delays in delivery of the vessel. A commercial company requires more stringent pricing and schedule discipline to ensure that projects are economical.

With Project America, that discipline did not exist, and the shipyard opted to concentrate its efforts on government contracts. Other shipyards were in the same situation, with orderbooks filled with government vessels.

I remain committed to our U.S. shipyards and believe they have an important role to play in the future of the U.S. cruise ship industry. My provision will give shipyards additional business that they may not otherwise get—any conversion work necessary for certification of the new cruise ships, and any

future non-warranty repairs and maintenance must be done in U.S. shipyards.

If Section 211 is not adopted, the Federal Government will lose all future benefits from its \$185 million investment. My provision gives America another opportunity to jump-start a U.S.-flag cruise industry that will bring the Government a return on its investment.

NCL is the only cruise line willing to step up to the plate today and commit to a U.S.-flag, U.S. crewed operation.

We can choose to write off the Project America investment by not acting, and watching as these completed hulls are introduced into the booming U.S. cruise market under a foreign flag, with foreign crews, operated by foreign corporations without direct benefit to the U.S. economy or American workers.

But if we are to make good on any of that investment, we must act now to generate real and lasting economic benefit to our economy—and to restore pride in the fact that the Stars and Stripes will once again fly on modern oceangoing passenger cruise ships.

By taking action now on Project America, we will begin to recover the investment our nation has made in these hulls both through revenues to the U.S. Treasury in the form of individual income taxes, Federal and State corporate income and payroll taxes, and a broad range of other Federal and State taxes paid by the cruise industry—not to mention the broader benefits this legislation will bring to our military preparedness and to our sagging economy.

No further Federal funds are required, nor are Government financial guarantees permitted. This legislation simply allows for the completion of Project America and for this company to set a shining example as a proud employer of U.S. seafarers and as a proud operator of U.S. flag ships.

I urge my colleagues to support this effort so that we can revive our U.S.-flag cruise industry, increase our military preparedness, stimulate the economy, and create thousands of good jobs for Americans.

EXHIBIT No. 1

[From Defense Week, Nov. 12, 2002]

FORCE PROTECTION IS TOP CONCERN FOR SEALIFT COMMANDER

(By Nathan Hodge)

Protecting vulnerable cargo ships has become the main worry for the three-star admiral in charge of the fleet that is moving weapons and materiel in support of a U.S. military buildup in the Middle East.

In an interview with Defense Week, Vice Adm. David Brewer, commander of Military Sealift Command (MSC), said that force protection is MSC's "No. 1 priority."

At some point, that could possibly mean embarking armed guards aboard foreign-flagged ships that move sensitive U.S. military cargo. Asked if that was the case, he simply said, "We're still working that issue," and declined to elaborate. MSC operates a fleet of 120 noncombatant ships to deliver a wide range of supplies to U.S. and al-

lied forces around the globe. In event of a major war, ships controlled by MSC would move as much as 95 percent of the military's fuel, food, ammunition and spare parts.

The command augments its own fleet by contracting with commercial shippers. According to U.S. Transportation Command, the United States military relies on commercial ships—many under foreign flag—to meet as much as two-thirds of its sealift requirements.

In an ideal world, said Brewer, the U.S. military would move all its cargo under U.S.-flagged ships. But he added: "Right now, we don't have enough. We've seen a steady decline in U.S. flag shipping over the last 10 years. I think . . . there's less than 125 U.S.-flagged [commercial] ships now."

That means increased reliance on foreign-owned ships for military sealift, an issue that has prompted concern in policy circles. In a July report, the General Accounting Office said the Defense Department "relinquishes control" of sensitive military cargo when it contracts out to foreign ships.

When the U.S. military hires foreign-flagged vessels, there are no armed U.S. guards on board. When the U.S. military hires U.S.-flagged ships, sometimes there are guards on board. But when GAO reviewed many shipments of weapons on U.S.-flagged vessels, it found them unguarded.

Brewer stressed that U.S. cargo preference laws favor U.S.-flagged shippers, who get the first opportunity to bid on any of MSC's contracts for cargo movement. And he said that MSC very closely scrutinizes all the commercial vessels, including foreign ones, that carry military cargo.

"If we cannot find a U.S. flag, we sometimes will embark cargo or equipment on a foreign flag," he said. "But in a perfect world, we want a U.S. flag."

When MSC does embark equipment aboard a foreign-flagged ship, Brewer said, "We watch those ships very closely and in some cases embark our personnel aboard those ships to make sure the cargo is secure."

Asked if that included armed cargo supervisors, called supercargoes, Brewer said: "We're still working that issue. Armed supercargoes is an issue we're still working."

INVESTING IN UPGRADES

An attack last month on an oil tanker off the coast of Yemen spotlighted the vulnerability of commercial ships. In an incident reminiscent of the attack on the USS Cole (DDG 67) in 2000, a small watercraft laden with explosives struck the French super-tanker Limburg, crippling the ship.

Brewer said MSC takes the threat to merchant vessels as seriously as it takes the threat to military transport ships and said his command would be investing more money over the next several years to upgrade security on board its own ships.

"We're dedicating significant resources to, number one, providing . . . force protection in terms of training and equipment to budgeting a significant amount of money actually through fiscal 2009 to make sure not only that we not only install the latest technology in terms of hull-perimeter lighting, intrusion detection systems, things of that sort, but also to make sure that we have aboard ships any technology that may be available in the future," he said. "So we are investing a lot of money."

The technology upgrades are particularly important because military transport ships, unlike Navy combatants, have small crews.

"MSC ships are 'manned to mission,'" he said. "So that means they're minimally manned. Therefore there's not extra people on board our ships to be armed."

Much of the money that MSC will invest is in equipment and training. And Brewer said

he was working closely with the Navy's fleet commanders in terms of developing an across-the-board force-protection policy for Navy ships.

"So we're investing quite a bit of time and money into force protection and we're working with the fleet in terms of developing and refining force-protection policy," he said.

BEANS AND BULLETS TO MIDEAST

Meanwhile, MSC continues to charter vessels regularly to move equipment and supplies. Earlier this month, MSC hired out two commercial ships to move a large shipment (284 containers full) of ammunition along with 28,000 square feet of rolling stock (including armored vehicles).

The ships were headed for unspecified destinations in the Middle East, said Marge Holtz, a spokeswoman for the command.

Brewer would not comment directly on deployments in support of military operations or the destination of cargoes. But he suggested that his command was keeping pace with the Navy's increased operational tempo, including the recent deployment of carrier battle groups to the Persian Gulf region.

"Our workload has increased in the sense that we are operating with the increased operational tempo with the battle groups," he said. "But basically we satisfy the fleet's basic needs."

Asked whether he is confident that his command can easily be put on a war footing, Brewer said: "Ramping up, because of the planning we've put forth, . . . is not a problem."

However, he did suggest that a full mobilization might put a strain on the Ready Reserve Force, a fleet of 76 government-owned ships kept in reserve by the Maritime Administration to meet surge shipping requirements for the military.

"Where that would put a strain on the maritime industry is if we have to activate the Ready Reserve Force ships," Brewer said. "And with the decrease in U.S.-flagged ships, there's a concomitant decrease in U.S. mariners. So we're working with the Maritime Administration and the unions in making sure that if we have to go to war and activate the Ready Reserve Forces, there are enough mariners to man those ships."

Most of those ships are kept in a "reduced operating status," with small crews aboard for maintenance.

"If we have to take those ships to a full operating status, there is some concern there, but we're working this issue very diligently with the Maritime Administration and the maritime unions and we feel we could satisfy any wartime requirements," he said.

That point, he said, further reinforces the desire of the government, the shipping industry and unions to increase the number of U.S.-flagged ships.

In general, said Brewer, "I want to see more U.S.-flagged ships. Period. More U.S.-flagged ships, number one, will be good for the economy. We are a maritime nation. More importantly, it is essential for our national security. Because [it means] the less we have to depend on foreign-flagged shipping today."

[From the Baltimore Sun, Jan. 13, 2002]

SHIPPING CREW DEFICIT CALLED WARTIME RISK; BUSH'S MARITIME CHIEF ACKNOWLEDGES WORRIES ON READINESS; "A VERY TOP PRIORITY" NEW RESERVE FORCE AMONG PROPOSALS TO EASE SHORTAGE

(By Robert Little)

The Bush administration is acknowledging, after years of government denials, that the nation's ability to fight a large-scale war overseas is in peril because of a

crippling shortage of manpower in the U.S. merchant marine.

William G. Schubert, Bush's maritime administrator, said in an interview that he does not believe the Pentagon could find enough sailors to operate its cargo ships if military forces were deployed for a sustained overseas campaign.

He plans to pursue several immediate remedies, including pushing for the creation of a new Merchant Marine Reserve, and said solving the manpower crisis will be "a very top priority" of his administration.

"This is a very serious issue that needs to be addressed right now—today," said Schubert, a former merchant seaman who was sworn in just over a month ago. "We don't have time to postpone this issue any longer, or there could be some very serious consequences. I'm not very comfortable right now that we have the ability to respond to an emergency." A series of articles in *The Sun* last summer showed that a shortage of U.S. merchant sailors, brought on by declines in the nation's commercial shipping fleet, would leave many of the government's cargo ships stranded in port during a crisis.

A small military force like the one currently in Afghanistan can be deployed and re-supplied with cargo planes and helicopters. But during a large campaign involving tank divisions and heavy machinery, such as the Persian Gulf war, about 95 percent of the equipment, fuel and supplies must move in ships.

The federal government keeps almost 100 empty cargo ships scattered around the country for use in such an emergency, and it plans to crew them with civilian sailors from the U.S. merchant marine. A complete activation of the 76-ship Ready Reserve Force and about two dozen other dormant sealift vessels would require more than 3,500 mariners, all of them culled from the nation's commercial shipping industry.

Despite denials of a shortage from government and military officials, the series published in *The Sun* revealed that the Pentagon recycles crew members, transferring them from ship to ship giving each vessel a full crew just long enough to pass a drill verifying its readiness for war. Some mariners served on as many as five ships a year.

The series also showed that the federal government is relying on retired sailors to fill in during a crisis, even though it has no idea how many retirees are available, who they are, where they live or what qualifications they have.

Since the articles were published, leaders from the nation's merchant marine unions have acknowledged the shortages, and two senior members of Congress have introduced legislation to bolster the commercial shipping industry and reverse its decline.

"THAT'S A GOOD START"

But Schubert's comments represent the first acknowledgement from a federal official responsible for military sealift that the shortage exists—and the first pledge to do something about it.

"If he's admitting that this is a big problem, then he's the first one to do so. And that's a good start," said retired Navy Capt. Robert W. Kesteloot, a former director of strategic sealift for the Chief of Naval Operations who says a growing manpower shortage was apparent at the Pentagon even in the late 1980s.

"It's about time someone over there started taking this seriously," Kesteloot said.

The Navy is ultimately responsible for military sealift, but it has little control over the crew members hired for its dormant cargo ships because they are all temporary civilian contractors, not regular employees. The responsibility to maintain and preserve

that work force rests with the U.S. Maritime Administration, a division of the Department of Transportation.

Previous maritime administrators have acknowledged concerns about manpower but have all claimed that the military's cargo ships can be fully crewed. Schubert's predecessor, Clinton-appointee Clyde J. Hart, said in an interview last year: "It's a problem that should keep us up at nights, but it's not a readiness problem. We can man the ships."

But Schubert, who worked for the Maritime Administration during the Gulf War and watched it struggle to crew sealift vessels more than 10 years ago, said he discounts even the agency's latest survey, made public late last year, which concludes that a sufficient supply of mariners is available.

"I'd hate to put our national defense on the line based on a statistical analysis," he said. "It was a problem 10 years ago, and the situation today has only gotten worse."

The U.S. military has always relied on civilian merchant mariners for moving supplies by sea. They are cheaper than military personnel, because they are hired only when needed. And Navy sailors aren't trained in the precise skills required to operate cargo ships—and virtually all of them lack the necessary licenses and certifications.

A typical merchant mariner works four months at sea, then spends four months ashore, and few of them have permanent jobs on the same ship. Jobs are handed out by the unions based on how long a mariner has been ashore looking for his or her next ship. When a mariner has been ashore long enough to qualify for work again, most take whatever ship is available at the time.

In a crisis, the Pentagon plans to add its ships to the unions' list of commercial vessels looking for crew members, luring sailors back to sea much sooner than normal.

That strategy worked for decades, when the U.S. merchant marine dominated the globe and the fleet had thousands of vessels. But since 1950, the U.S.-flagged commercial fleet has shrunk from nearly 3,500 vessels to about 220. An industry that once kept more than 160,000 sailors employed now has fewer than 6,500 jobs.

Schubert said that correcting the manpower shortage will be a top priority in his administration. He plans to appoint a new deputy administrator with expertise in manpower and recruitment, and conduct a new, detailed survey of the merchant marine work force.

EXPANSION OF RESERVE FORCE

Schubert has already met with Navy officials to discuss creating a new merchant marine arm of the Naval Reserve. The Navy has a Merchant Marine Reserve, but it includes only ships' officers—not unlicensed seafarers that make up the bulk of a cargo ship's crew.

He is considering making service on Ready Reserve Force cargo ships an element of the service obligation for graduates of the tuition-free U.S. Merchant Marine Academy. And he wants to set up a program at the academy for emergency mariner training, to counter shortages in a crisis. Schubert graduated from the academy in 1974.

He also plans to oversee creation of a national database listing contact information for anyone—active or retired—with the Coast Guard qualifications necessary to work at sea. Today the government relies solely on unions and word of mouth to find mariners when they are needed.

But those are mostly short-term solutions. Lasting increases in the number of sailors available to the military can be accomplished only by altering the economic outlook for shipping companies that choose to register their vessels in the United States and hire American sailors, he said.

"If we don't have programs or initiatives to promote the profitability of the U.S. flag, nothing else will matter," he said.

The Bush administration has not taken a position on a bill before Congress that would lower taxes on American cargo ships in hopes of luring more vessels to the U.S. fleet. That legislation, sponsored by the senior Republican and Democrat on the House Transportation and Infrastructure Committee, is awaiting a hearing in the House of Representatives.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, if this amendment is allowed to stand in the appropriations bill without a hearing, without scrutiny, without any examination, without any authorization, it will be a violation of the Passenger Vessel Services Act, which required that any ship operating under these circumstances has to be built in the United States of America.

Mr. BYRD. 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. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent that the vote in relation to the McCain amendment occur at 1:30 today, with the time equally divided in the usual form and with no amendments in order prior to the vote; further, that prior to the vote, Senator LANDRIEU be recognized as in morning business for up to 5 minutes; further, that following this vote, Senator BIDEN be recognized to speak for up to 20 minutes and Senator BROWNBACK, for up to 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Mr. President, reserving the right to object, I ask the distinguished manager and chairman, does he anticipate further votes following the speaking?

Mr. STEVENS. Yes, we do expect further votes this afternoon. We have the prospect of a Dodd amendment and a further amendment by the Senator from Arizona. So we have the prospect of continuing votes on through the afternoon.

Mr. MCCAIN. Mr. President, I do not object.

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

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I thank the Senator for the accommodation for me to make a few brief comments about the District of Columbia appropriations portion of this appropriations bill.

I have no amendment to offer, but I will make a few general comments about a very small portion of this underlying bill, and I am mindful that we are about to vote on Senator MCCAIN's very important amendment.

Obviously, there are pros and cons, but I wish to take this moment to talk about a \$512 million budget out of a \$750 billion bill. It is not a lot of money—well, obviously, it is a lot of money; \$512 million is not small change, but it is such a small percentage of the total amount of the appropriations bill. But for the 500,000-plus people who are residents of the District, for the citizens of our Nation who look to the District as truly what it is—their capital, our Nation's capital, and for the many hundreds of thousands and millions of people who travel to this District every year—adults, senior citizens, children, people of all ages, I thought I would take a moment to say a few brief words.

I want to begin by thanking our chairman, now ranking member, of the Appropriations Committee for his help in crafting this important portion of this bill. The good Senator from West Virginia spent many years as chairman of this subcommittee, and he knows well the issues about which I am speaking.

I thank the chairman, Senator MIKE DEWINE from Ohio, for his leadership. We work very closely as chairman and ranking member. I thank him and his staff, Mary Dietrich, for all of their hard work in pulling this portion of the appropriations bill together.

First, I wish to speak about a couple of big points. The District's budget is in fairly good shape. It has taken effort on the part of Congress, Democrats and Republicans, as well as the mayor and his partners on the council, a lot of work by the business community and civic organizations that have given suggestions and comments, as well as a structure that was put in place after the reform board moved on, to put in place a financial infrastructure that helps the District stay on strong financial footing.

Are there challenges? Yes. Is every city in America challenged? Yes. Every State, as the Senator most certainly knows from his State of Tennessee, is challenged with budget constraints. But the District, just as every city in America, struggles with chronic problems of losing a tax base and having to provide services for hundreds of thousands of people who come into the District each day yet do not pay that full share of the tax and the political difficulty of finding an appropriate political solution.

Nonetheless, with all those challenges, this mayor and the city council have gotten the District close to a balanced budget position, and because of that, a lot of the initiatives about which we have talked in Congress are going to hopefully be brought to the forefront.

No. 1, in this budget, there is additional security for the District of Columbia. As our Nation's Capital, we should, as Members of Congress, along with the mayor and council, make sure we set as much money in place as we can to secure the many beautiful

monuments and buildings. Unfortunately, this is a target-rich district and needs extra money for security. Some, not all of what we need, but some of that money is in the bill.

No. 2, the District has put forward a great and ambitious agenda for improving their schools. I am proud to say there is \$20 million to create, not for the first time, to expand a revolving fund for charter schools. As the schools improve, we are able to help create the kind of physical environment that rewards excellence, and that is in this bill.

We have also created the first ever family court in the District to try to cut down on child abuse and neglect, to help strengthen our families and our neighborhoods, to create special judges who will pay attention to these very serious challenges and then support them in their efforts. I thank Senator DURBIN particularly for his work in that regard. There are other provisions worth noting.

I am proud to submit a bill that works with the mayor and with the council in a bipartisan way to help this city, which is so special to the people who live here and so special to all of us, fulfill the dreams of how we want to see this city flourish and grow in the years ahead.

Again, I thank my colleagues on the Appropriations Committee for putting forth efforts to create this bill.

The PRESIDING OFFICER (Mrs. DOLE). The Senator's time has expired.

UNANIMOUS CONSENT—S. RES 23

Mr. DASCHLE. Madam President, on Wednesday, the administration made a decision to oppose the University of Michigan's efforts to promote diversity on the campus. In making the announcement, the administration said that Michigan's process amounted to a quota, and that the university should look at other factors, such as economic and geographic backgrounds. Their statement ignores the fact that both of those factors, as well as others, are considered by the university and given the same weight as race.

I have made clear on other occasions what I and many of my colleagues believe: The Michigan system is not a quota; the Michigan system is constitutional; and that President Bush made the wrong decision. Racial and ethnic diversity in our Nation's institutions of higher education is an important goal.

A student body that reflects the diversity of America is a valuable resource for all of our students. But kind words and lofty rhetoric alone cannot open the doors of educational opportunity or guarantee a diverse student body.

We must show our commitment through our actions. That is why today I am asking consent that we adopt a resolution that supports the University of Michigan. This resolution states that the Senate supports the univer-

sity's attempts to create a racially and ethnically diverse student body and directs the Senate legal counsel to file an amicus brief on behalf of the entire Senate in support.

By adopting this resolution, we can show with our actions, not just our words, that we truly believe in the importance of racial and ethnic diversity. I hope my colleagues will join me in this effort and support, certainly not stand in the way, of the resolution.

Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 23 and that the Senate then proceed to its immediate consideration; that the resolution and preamble be agreed to, en bloc; and that the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I think all of us in the Senate would love to see equal opportunity for all students. One of the great advances we have made is to eliminate discrimination—formal discrimination—that we had in this country for a long time against people of color, but I do not believe the answer to that is by instituting something that, in fact, discriminates the other way. That is what the University of Michigan system does, to give someone, because of the color of their skin, 20 points toward the admission score and someone with a perfect SAT score—to me the values that the admission process should consider are where the person came from, the obstacles they had to overcome in their lives, their economic condition, and their family situation.

There are many issues that are intangibles that should be considered in an admissions process. But when you compare this young girl from Michigan, who was the plaintiff in this case, who happens to be white and has overcome a lot in her life to reach the point where she could apply to the University of Michigan and potentially be accepted, and you may have someone who happens to be Hispanic or African American and may have come from a privileged background, went to the finest private schools, and for them to get an advantage over someone who scratched and clawed through a very difficult situation seems to be unfair.

What the administration has done is tried to focus, as the President did at the University of Texas when he was Governor of Texas, on trying to provide opportunity for all without putting forward discriminatory impediments to people simply because of their gender, their ethnic background, or their race.