

Anyway, all of this stuff is fairly known now, what we have to do. I believe we can move through these at a fairly decent rate.

Senator LEVIN mentioned last night that people have been waiting for several days to offer amendments, and we have to make sure they have that opportunity. The main reason for rising now is to say I hope that—I should not say I hope; I guess it should be in the form of a question—on Monday that we are going to have some votes on some substantive defense-related amendments, and I do not know what time the distinguished majority leader wants to do that. If it is going to be at the regular time, 5:30, we should know that. If it is going to be earlier, we should alert our folks to that now. Because of certain things that also are quite known around here, we will not have votes tomorrow, unless the majority leader decides to have a cloture vote. Other than that, there will not be any other votes, I am very confident of that.

Does the majority leader have an idea whether he is going to move things up on Monday?

Mr. FRIST. It is absolutely critical that we make today a productive day, and I think we have a good plan for today. Tomorrow needs to be a productive day. The scheduled cloture vote for tomorrow would likely be the only vote tomorrow, and again I think we need to discuss that over the course of the day and then see what the plan would be for Friday and Monday. We will be voting Monday absolutely. We will probably do it later in the day. Again, we will defer to the managers about that.

We need to make Monday a very full and productive day if we are going to finish this bill.

Mr. REID. Mr. President, I want to make sure everyone understands that tomorrow will be a tremendously good day to offer amendments. There would be time to debate whatever they want to lay down, and even though there would not be votes scheduled on them tomorrow that would sure be a good way to get things done. Some Members have already expressed to me that they would be willing to lay down their amendments tomorrow. So tomorrow, in addition to Monday, should be a productive day on this legislation.

Mr. FRIST. I agree, tomorrow would be a great day to lay down amendments if they are absolutely necessary and important amendments, but for amendments we do not need to consider or that can be considered later, we do not need to lay down too many amendments tomorrow because I want to be able to finish this bill. But tomorrow is going to be a productive day.

MEDICAL LITIGATION REFORM

Mr. FRIST. Mr. President, I know we are going to go straight to the bill, but first I want to make a few comments on another very important issue, and

now during leader time is the most appropriate time for me to comment. It is an issue that is very close to my heart and an issue that has tremendous impact on people in every State.

I will speak to one State, that is Massachusetts, on the issue of medical liability.

It was just this week that the American Medical Association added another State—Massachusetts—to its growing list of States that can be classified as being in medical crisis because of out-of-control medical litigation system.

For several months, as we brought a series of bills to the floor to try to bring this issue to debate and to focus the attention of this body on it, we have been using the number of 19 States. Now it is 20 States in this great country of ours that are in medical crisis because of this single issue.

According to the AMA, access to quality health care is increasingly endangered. What this means is decreased access to doctors. If you need a doctor, if you are in an automobile accident or if you are a mom or future mom and you need an obstetrician, access to care is increasingly endangered due to a broken medical litigation system. It is a problem in all States and in at least 20 it is a crisis. It is spreading across the country and that is why I take this opportunity to at least mention it and shine a light on it once again. It is a problem, it is a growing problem, and we have a responsibility to address it.

Three weeks ago, I had a wonderful opportunity to present what is called the Shattuck lecture before the Massachusetts Medical Society. I had done my training in Massachusetts and I have tremendous respect for that organization. They report that the litigation crisis has become so severe in Massachusetts that numerous high-risk specialists, such as obstetricians, neurosurgeons or trauma surgeons, have reduced their scope of practice. This applies to 29 percent of general surgeons—a general surgeon is the one who might come to the emergency room to sew up your child if they have a laceration—36 percent of obstetricians, 41 percent of orthopedic surgeons, and greater than 50 percent of all neurosurgeons. If you are in an accident and you are going to a hospital, you want a neurosurgeon there to evaluate and appropriately treat.

Those are the percentages of those who have said they are reducing their scope of practice. In other words, if you are a neurosurgeon, you might do elective cases but you might not put your name on the list to show up in the middle of the night to treat somebody. Why? Because your insurance would go from \$100,000 to \$300,000, just so you could have the opportunity to come in late at night to treat somebody. That is about as simple as I can say it. The problem is quality of care is being affected.

The facts in Massachusetts reflect a growing trend. I gestured going up. It

should be going down, because it is almost like a downward spiral that is occurring over the last several weeks and months and years. We have heard it again and again on the floor with anecdotes reinforcing what the medical societies are telling us, what hospitals are telling us, and what physicians are telling us, and that is that doctors are leaving and narrowing the scope of their practice. They are leaving the opportunity to deliver babies, maybe just to do the medical aspects of gynecologic care, or no longer taking calls in trauma centers, or they are moving to less litigious States.

I was in Pennsylvania a few months ago. I believe 1,400 doctors in the last 2 years have left the Philadelphia area and they cite the high medical liability rates they are paying as the No. 1 reason they are forced to leave. Many doctors are retiring from practice altogether.

Neurosurgeons and obstetricians are being hurt the most. If you talk to people in the emergency room or if you have friends, nurses, or technicians there, just ask them because emergency rooms are having an increasingly difficult time getting the high-risk specialists, and those are the people you want if an injury occurs. If driving home tonight you are in an accident, you want somebody there or someone who can get there very quickly. That is what is at risk.

I keep mentioning the doctors. It is not just the doctors; it is the patients who are ultimately hurt. The doctors probably will be OK. They will move and incomes can sort of adjust. It is ultimately the patients who are being hurt when health care is being threatened.

The good news is we know how to address the crisis. It is not just a problem that is getting worse that cannot be fixed. We actually know how to address the crisis. Commonsense comprehensive medical litigation reform, which has taken place in some States, has been proven to be overwhelmingly successful. It strengthens our system by addressing the abuses in the system. We want a strong tort system. We want to make sure medical malpractice is aggressively addressed. What we don't want are frivolous, unnecessary lawsuits that drive up the cost of health insurance for the physician, but ultimately the cost of health care throughout the system, and destroy the quality of the great health care that we do have in this country.

Being a physician, obviously this is close to my heart because I see it and I happen to be around physicians a lot and I happen to be around patients a lot. I am not going to give up on this issue. We are going to keep bringing it back again and again until we make headway on this increasing problem.

I don't know how many more States it will take. Massachusetts was added this week. I don't know how many more States we are going to have to add to this medical crisis before we act.

How many women are going to have to put up with their obstetricians leaving halfway through the pregnancy, either moving or dropping obstetrics, and having to find another obstetrician, or in rural areas not being able to find an obstetrician at all?

So I do call on my colleagues to stand with America's patients, the American people, and resist the powerful special interests—we know they are out there today—that want no change whatsoever.

I am determined to press forward. We will try once again at some point in the future to address this on the floor of the Senate. This is not a partisan issue. It goes way beyond that. People say we have these partisan votes, but it is not a partisan issue. This should not be and cannot be a partisan issue. So let's make Massachusetts the last State added to this list. Let's reduce that list. The only way we can do that is by acting on the floor of the Senate. Let's act now to stop the crisis from spreading and let's work together to put America's patients first.

I yield the floor.

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities for the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

Pending:

Reed amendment No. 3352, to increase the end strength for Active-Duty personnel of the Army for fiscal year 2005 by 20,000 to 502,400.

Warner amendment No. 3450 (to amendment No. 3352), to provide for funding the increased number of Army Active-Duty personnel out of fiscal year 2005 supplemental funding.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri, Mr. BOND, will be recognized to call up the Bond-Harkin amendment.

AMENDMENT NO. 3384

Mr. WARNER. I wonder if the Senator will yield for a minute? The Senator from Missouri, perhaps the Senator from Iowa, could they advise the Senate with regard to your desire to make a change to the amendment? Has that been completed yet?

Mr. BOND. Mr. President, I would advise the distinguished chairman of the committee that we have made a modification on this to change the offset to

an across-the-board reduction in the DOE appropriations. Discussions are continuing with you. We would like to have the same treatment for these workers as the other workers who were described in the Bunning amendment.

This is a work in progress. We do have an across-the-board offset in authorization for all DOE programs in this bill, but, obviously, we are going to have to continue to work with you and work in conference to make sure this is an effective, agreeable offset.

Mr. WARNER. Fine. I would say we will continue to work. At the moment, from the managers' perspective, at least this manager would have to take a close look at this.

I hope in a short time we could establish a time agreement so we could move on with other matters.

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

Mr. BOND. Mr. President, I yield to the distinguished Senator from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized to offer his amendment under the previous order.

Mr. REID. Will the Senator from Missouri yield for a question?

Mr. BOND. I am happy to yield to the distinguished minority whip.

Mr. REID. I am wondering if the two proponents of this legislation, the Senator from Iowa and the Senator from Missouri, would give us a general idea of how long they will speak on this?

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. Mr. President, I believe we can have the discussions on the substance of amendment No. 3384 as we work with the managers on both sides and perhaps the Finance Committee to make sure we have the appropriate offset.

The amendment I wish to address, and I know Senator HARKIN and Senator TALENT will address it, is the Energy Workers Special Exposure Cohort Designation Act of 2004, which I will be offering on behalf of myself, Senator HARKIN, and Senator TALENT.

It will designate former nuclear production facilities in Missouri and Iowa as special exposure cohorts under the Energy Employees Occupational Illness Compensation Program Act of 2000. This was a very compassionate act designed to provide lump sum payments of \$150,000 to people who had worked in the nuclear weapons production program from 1942 to 1967—way before we understood the dangers of radiation—and who suffered very high levels of radiation and have now been diagnosed, suffered, and many have died from multiple cases of cancer.

This problem was brought to my attention by Denise Brock, whose father had died while waiting for the bureaucracy to work through the steps set up under the program to qualify for that particular \$150,000 compensation.

There are a very convoluted set of steps that have to be followed unless you are in a special cohort. There were four States that were designated as having needs that automatically qualified these workers.

We have found upon research that the exposure to the workers in Missouri was in many instances the highest exposure in any place. My colleague and I have met with those workers. Eight workers came into my office with Ms. Brock last spring, in May. Since then, three of them have died. They had multiple cancers. A brave fellow that I met when I met with the group in St. Charles County several months ago, Jim Mitalski, wheelchair-bound because cancer was in his right foot, had at least three other cancers. I am sad to say he slipped into a coma yesterday. His doctors suggest this may be his final coma. He has not been compensated.

The Mallinkrodt workers, who worked at the St. Louis downtown site from 1942 to 1958 and moved out to the Weldon Springs facility in St. Charles County, which operated until 1967, were exposed to levels of radionuclides and radioactive materials that were much greater than the current maximum allowable Federal standards. Many workers were exposed to 200 times the recommended levels of maximum exposure.

The chief safety officer for the Atomic Energy Commission during the Mallinkrodt St. Louis operations described that as one of the two worst plants with respect to worker exposures. Workers were excreting in excess of a milligram of uranium per day, which caused kidney damage.

A recent epidemiological survey found excess levels of nephritis kidney cancer from inhalation of uranium dust.

The Department of Energy has admitted that those Mallinkrodt workers were subjected to risks and had their health endangered as a result of working with these highly radioactive materials.

The Department of Energy reported that workers at the Weldon Springs feed materials plant handled plutonium and recycled uranium which were highly radioactive. NIOSH admits that the operation at the St. Louis downtown site consisted of intense periods of processing extremely high levels of radionuclides. The institute has virtually no personnel monitoring data for Mallinkrodt workers which would be necessary for them to reconstruct the dosages to make them qualify under the act. Under these circumstances, I believe simple justice and equity demands that we provide assistance for these severely ill workers and for their surviving families.