

American people in their system of governance is at stake. Safeguarding that democratic system is our responsibility, and it is time we met it.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER (Mr. TALBENT). Under the previous order, the Senate will resume consideration of S. 2400, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of 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:

Bond Modified Amendment No. 3384, to include certain former nuclear weapons program workers in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program and to provide for the disposal of certain excess Department of Defense stocks for funds for that purpose.

Brownback Amendment No. 3235, to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

Burns Amendment No. 3457 (to Amendment No. 3235), to provide for additional factors in indecency penalties issued by the Federal Communications Commission.

Reed Amendment No. 3353, to limit the obligation and expenditure of funds for the Ground-based Midcourse Defense program pending the submission of a report on operational test and evaluation.

Bingaman Amendment No. 3459, to require reports on the detainment of foreign nationals by the Department of Defense and on Department of Defense investigations of allegations of violations of the Geneva Convention.

Warner Amendment No. 3460 (to Amendment No. 3459), in the nature of a substitute.

Dayton/Feingold Amendment No. 3197, to strike sections 842 relative to a conforming standard for waiver of domestic source or content requirement and 843 relative to the consistency with United States obligations under trade agreements.

Warner (for McCain) amendment No. 3461 (to the language proposed to be stricken by Amendment No. 3197), in the nature of a substitute.

Feingold Modified Amendment No. 3288, to rename and modify the authorities relating to the Inspector General of the Coalition Provisional Authority.

Landrieu/Snowe Amendment No. 3315, to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, and to provide for a one-year open season under that plan.

Levin Amendment No. 3338, to reallocate funds for Ground-based Midcourse interceptors to homeland defense and combatting terrorism.

AMENDMENT NO. 3338

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate equally divided in the usual form in relation to the Levin missile defense amendment. Who yields time?

The Senator from Colorado is recognized.

Mr. ALLARD. I yield 8 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I come to the floor today to strongly oppose the Levin amendment. This amendment would realign critical funds for the ground-based midcourse interceptors. The consequences of that decision, in my judgment, would be devastating. By reallocating those funds, Congress would effectively cripple the deployment and testing of the interceptors in Alaska. Let me hasten to add, that decision to go to Alaska with these interceptors was not a political decision. It was made by the scientists. But I support that decision, and I believe Alaskans do also.

Ballistic missiles are a serious threat to the United States, and our interests, forces, and allies throughout the world are threatened by them. The missiles our enemies possess are growing in range, reliability, accuracy, and number. A missile carrying nuclear, biological, or chemical weapons could inflict damage that would make the tragedy our country experienced on September 11 pale by comparison.

We cannot afford to ignore this threat. We must confront it, if we want to address the challenges that characterize our Nation's new security environment. The new security challenges of the 21st century require us to think and act differently.

With that in mind, the decision was made to field the ground-based midcourse system in Alaska. Alaska's location gives us a strategic advantage. Interceptors launched from Alaska will be capable of protecting all 50 States. If Congress rejects Senator LEVIN's amendment and remains committed to the ground-based midcourse program, the United States will be able to meet any potential threat from a rogue nation or terrorist group.

The Fort Greely interceptors are the centerpiece of our integrated, layered, national missile defense system. The funding contained in the 2005 budget is a downpayment on additional interceptors that will enable us to conduct additional flight testing and maintain industrial base production lines for key components of the ground-based system. Senator LEVIN's amendment cuts this funding.

The amendment also disregards what years of experience have shown—that it is wise to move into a deployment phase before the testing phase of a program has been completed. I remind Congress of the gulf war, when we fielded a number of systems that were under development at that time, including JSTARS. I personally witnessed that test in the deployment phase, in the testing phase, and early deployment of JSTARS in the gulf war. The Patriot missile was also tested in this way.

Over many years we enhanced the Patriot batteries that first saw action by 1991, by implementing a follow-on

enhancement program and replacing the original missile with a completely new interceptor.

Similarly, the B-52 bomber that first flew in 1952 is hardly the same aircraft that dropped the bombs over Afghanistan in the war against terror. The original B-52 gave us early intercontinental bombardment capability, and it was enhanced over time with hardware and software improvements that helped us meet evolving operational challenges. These examples are reminders that a requirement written into a system's development phase can quickly become irrelevant or yield a dead end. That is a lesson we must keep in the forefront of our minds as we confront today's dynamic security environment.

The time to move forward with the deployment of a ground-based midcourse operational capability is now. We must continue to improve the system. It must be allowed to evolve over time and take advantage of the breakthroughs in technology as they occur. Congress should follow the proven wisdom of experience and resist the urge to build to perfection a national security strategy that has never served us well.

That is exactly what this amendment would have us do—turn our backs on the proven wisdom of experience and wait until there is a tragedy to confront the national security threats we know are emerging now.

I urge the Senate to support the ground-based midcourse system and oppose Senator LEVIN's amendment.

Again, this system has been deployed in my State already in the test phase. We should continue that concept.

I yield back any time I have not used.

The PRESIDING OFFICER. The Senator from Colorado has 25 minutes 30 seconds remaining. The Senator from Michigan has 30 minutes remaining. Who yields time?

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the amendment which I am offering does not touch the first 20 interceptors. They are fully funded. They are going to be deployed before they are independently tested. The Senate decided that last week in a number of debates and in a vote on an amendment, the Boxer amendment. Whether it was the right decision or the wrong decision, time will tell, but nonetheless it is the decision and was the decision of this Senate that those 20 interceptors be deployed in those silos in Alaska prior to their being independently tested.

The question before us now is whether the added missiles—21 through 30, those interceptors that are paid for in this bill—are going to be provided or whether we will use that money, \$515 million, for a much greater need, to address a much more immediate threat, and that is the threat of loose nukes, the threat of nuclear fissile material

falling into the hands of terrorists, and also whether we will use at least some of that money to put more into the security of our borders, the security of our ports.

I will start with a CIA assessment that was made not too many years ago. It was made after September 11. There was an unclassified assessment made by the CIA as to what our greatest threat was. They were comparing the missile threat to the nonmissile threat. "Foreign Missile Developments and Ballistic Missile Threats Through 2015," was the title. They were looking at the missile threat. Here is the judgment:

The Intelligence Community judges that U.S. territories are more likely to be attacked with WMD using non-missile means, primarily because such means, 1, are less expensive than developing and producing ICBMs; 2, can be covertly developed and employed; 3, the source of the weapon could be masked in an attempt to evade retaliation; 4, probably would be more reliable than ICBMs that have not completed rigorous testing and validation programs; 5, probably would be much more accurate than emerging ICBMs over the next 15 years; 6, probably would be more effective for disseminating a biological warfare agent than a ballistic missile; 7, would avoid missile defenses. For all of those reasons, we have an assessment that non-missile means of delivery are a more serious threat than a missile means of delivery.

Now, the amendment I offered does not touch those 20 missiles that were part of that test bed announced last year. Last year, the chairman of our committee, Senator WARNER, said this body is authorized in moving ahead on 20 test bed sites, 16 in Alaska and the balance in California. That was the decision that we made last year—a 20-silo test bed site in Alaska and in California.

Now, this year, the administration said they want additional interceptors. It is those additional interceptors on which we are focusing.

My amendment would take \$515 million of the \$1.7 billion proposed for fiscal year 2005 and say let's put that \$515 million into far more needed, immediate purposes; in other words, to try to address this massive fissile material threat, the loose nuke threat, the dirty bomb threat, which everybody says is the most serious terrorist threat we face.

That is what this \$515 million should be spent on; also, security of our borders, security of our ports. Most of the containers coming into this country are still uninspected.

We still do not have a means of determining what is an explosive material at a distance. We must, if we are going to stop terrorists from blowing up themselves and us, be able to identify explosive material at a distance. We don't have that technology. My amendment would add money for that technology.

We had the near destruction of the USS *Cole* because a tiny boat was able to get next to it. If we could identify that explosive material at a distance before the explosion of the car bomb or

the suicide bomb or the little boat that almost blew up the USS *Cole*, we would be making ourselves far more secure. That is the kind of expenditure my amendment would provide. It leaves, I emphasize, \$1.2 billion in funding for interceptors, which is more than we have provided in any prior fiscal year. In 2002, we provided \$1.1 billion. In fiscal year 2003, we provided \$763 million. In 2004, we provided \$1.1 billion for interceptors.

If my amendment is adopted and we use this money to address the loose nuke issue and the other issues I have identified, we would still have \$1.2 billion for interceptors. Now, would there be an effect on testing? No, for two reasons. No. 1, there is no effect of this amendment on the funding for interceptors which are dedicated to flight tests. The only interceptors affected by this amendment are the deployed interceptors, 21 through 30. Those interceptors are not planned for flight testing.

We were told last night, many of you folks say you want testing, but then you cut interceptors that are going to be used for testing. Let me emphasize that none of the interceptors that we cut are going to be used for flight testing; they are not going to be launched. They are going to sit in those silos. They will not be launched. We just received that word, again, from the missile defense folks.

We asked them: Is it still your plan not to launch those interceptors from the silos in Alaska?

Their answer is: That is correct. That is not our plan for testing. We are not going to launch those interceptors. The interceptors used for testing will be used somewhere else. They are not going to be part of this test bed. We are not cutting those three test interceptor missiles that are going to be used for testing.

When we are all done, if this amendment is adopted, there would still be more spent on missile defense than on any weapons system in the history of this country in any single year. So the idea that somehow or other this is a devastating blow to missile defense is simply not correct. It is 5 percent of the missile defense budget request for this year. It is less than one-third of the interceptors, and none of the test interceptors. These are the extra missiles that were not asked for last year when we were assured by Senator WARNER that the test bed was for 20 silos in Alaska, mainly, and 4 in California.

Now, we talk about the greatest threats that we face. It seems to me that it is almost a consensus that the greatest threats we face come from the loose nukes. As a matter of fact, this body just adopted a Domenici-Feinstein amendment, and that amendment said we ought to fund what is called the Global Threat Reduction Initiative, which has recently been announced by Secretary Abraham.

Secretary Abraham, with great fanfare, announced the \$450 million Global Threat Reduction Initiative on May 26.

That is just a month ago—not even a month ago. Speaking to the International Atomic Energy Agency, Secretary Abraham said that this new effort, the \$450 million Global Threat Reduction Initiative, aimed at the loose nukes, aimed at this fissile material that is distributed around the world—any few kilograms or pounds of which fell into the hands of a terrorist could blow up a city—this new effort, according to Secretary Abraham will "comprehensively and more thoroughly address the challenges posed by nuclear and radiological materials and related equipment that require attention anywhere in the world, by ensuring that they will not fall into the hands of those with evil intentions."

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. LEVIN. I yield myself an additional 5 minutes.

Mr. President, the purpose of the initiative was to secure, consolidate, destroy, or return to the United States and Russia nuclear materials from around the world, concentrating on the least secure and the most dangerous materials first. Secretary Abraham committed the United States to dedicate more than \$450 million to this effort. Well, there is no money in the 2005 budget for the effort.

The words are there, the commitment is there, Lord knows the threat is there, but the money is not there. So in our bill, Senators DOMENICI, FEINSTEIN, and others—and I was a cosponsor—offered an amendment which authorized this new initiative about which Senator DOMENICI said the following:

Many of us have worked very hard to put together a program where we and other nations will go to work at ridding the world of proliferation of nuclear products from the nuclear age. We think it is an exciting approach. Eventually, we have to fund it and Presidents have to implement it. But the Senate would be saying today it is good policy to get the world concerned about getting rid of radioactive material from the nuclear age.

This amendment today does what Senators DOMENICI and FEINSTEIN said and this Senate said when we adopted their amendment, which is to fund the initiative. Not just to talk about it, not just to say words which are important, but to actually put dollars behind the words.

As Senator DOMENICI said in offering the amendment, which we adopted, which added this provision in this bill which authorized the Global Threat Reduction Initiative, this amendment:

[It]s aimed—

As his amendment was and is— at expediting global cleanout of nuclear materials and equipment that could represent proliferation risks.

He went on to say:

Even though we are making progress, the focus on terrorism over the last few years has substantially amplified the level of our concern. In the process, we have learned more about the complicated routes through which important equipment technologies, such as enrichment capabilities, has moved to unfortunate destinations.

Our focus on Russia was appropriate a decade ago. But it is very clear today that proliferation must be viewed as a global problem. We must broaden our programs so that they have a global impact, not only focused on the former Soviet Union.

The increased threat of terrorism should encourage us to seek new ways to expedite the management, security, and disposition of materials that could be dangerous to our national security if they were to fall into the wrong hands. These materials include a range of fissile materials, with highly enriched uranium and plutonium being the ones of greatest concern.

My amendment today would ensure that this real and immediate threat to our security is funded, that the money is there.

The money is being transferred from these extra missiles, missiles which have not been tested. If we decide we are going to proceed to deploy 20 untested missiles, so be it, but 21 through 30, not discussed last year when the test bed of the of 20 was described, but added this year, those additional missiles do not come close to being as important to our security as trying to help get rid of fissile and nuclear material that can fall into the hands of terrorists.

Secretary Abraham said, and the words were good:

We will take these steps because we must. The circumstances of a dangerous world have thrust this responsibility on the shoulders of the civilized world. We don't have the luxury of sitting back and not taking action.

We do not have that luxury, Mr. President. We do not have the luxury of not addressing that new global initiative that Secretary Abraham and the administration said was so important. We have a responsibility to look at how we allocate resources and to weigh the greater risks with the available resources.

It seems so obvious to me that when we compare what is provided in an additional 10 missiles, not tested and not to be used as part of a test—we do not touch any test missiles. We do not touch the 20 missiles in the test bed in Alaska and California. When we compare the funding of \$515 million for those additional 10 missiles, those extra 10 missiles not in the 20 silo test bed, with the critical need to obtain this fissile material and to secure it around the world before it falls into the hands of terrorists, it seems to me that the outcome should be very clear. We should put that \$515 million into securing that material, to obtaining that material, to securing our ports, and to doing some of the other homeland defense needs that are provided for in my amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used the 5 additional minutes. He has 14 minutes.

Mr. LEVIN. I thank the Chair, and I reserve the remainder of that time.

The PRESIDING OFFICER. The Senator from Michigan reserves the remainder of his time. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself 10 minutes.

I rise to strongly oppose the Levin amendment. Senator LEVIN proposes to cut \$515 million from missile defense and shift funds to a variety of homeland security and counterterrorism provisions. I urge my colleagues to oppose this amendment on a number of grounds.

First, it makes a false distinction between missile defense and homeland security. Missile defense is quintessentially homeland security. That is right, missile defense is homeland security. It protects our homeland from long-range missiles and the most destructive weapons on the planet.

Second, it makes a false distinction between missile defense and counterterrorism. Throughout the cold war, we were concerned with the balance of terror. Rogue nations with missiles and weapons of mass destruction will use those missiles and weapons to threaten and terrorize the United States, our allies, and our friends.

Third, it would do serious harm to the Missile Defense Program. The \$515 million cut in the Levin amendment is for the next 10 ground-based midcourse defense interceptors. Cutting these funds would break the production line for these missiles. It would cause the loss of key personnel, expertise, subcontractors, and suppliers, and then they would have to start all over again, with lead-in delays and extra costs to the program.

The Missile Defense Agency would have to reconstitute the production, requalify and recertify subcontractors and suppliers, and it would have to restart production. Losing these funds for a year could result in a long delay in fielding the next 10 interceptors—between 2 and 3 years after we would have fielded them, I am told—and result in restart costs of nearly \$300 million.

Those who oppose missile defense obviously would like to delay. That is what we have been arguing over the last few days. They would like to add costs and then come back and say how this program is not proceeding the way it should. This is an essential program. We should not have delays. We should do everything we possibly can to cut down unnecessary costs because of time delays.

Fourth, it would do serious harm to the defense of the Nation against long-range missile threats. The Missile Defense Agency's assessment is that delaying the next 10 interceptors would leave us critically short of assets in the 2007 timeframe to defend against known and potential threats.

We cannot talk about all the information that is available that informs Senators and how that judgment comes about, but it is available to all Senators, and if they have any questions about that, I urge them to get that information and review it.

And fifth, this amendment is inconsistent with national policy established

in legislation and signed into law by President Clinton. The National Missile Defense Act of 1999 established a national policy to deploy a national missile defense as soon as technologically feasible. It is feasible, and these additional interceptors are important to that effort. The Senate approved that act by a vote of 97 to 3, I remind Members of the Senate.

Furthermore, this amendment would move the funds to accounts that are already well funded. Again, I remind my colleagues in the Senate, this missile defense is homeland security.

I want to talk a little bit about these funds. For example, the President's budget includes \$47.4 billion for homeland security activities, not including ballistic missile defense throughout the Government, an increase of \$6.1 billion, or 15 percent, compared to last year, a \$26.8 billion increase to fiscal year 2002.

Being on the Budget Committee, I had an opportunity to do a comparison. Homeland security is getting far more percentage increase than any other agency the President proposed in his budget. Now we are piling in on top of that.

Funding for the Department's activities to counter terrorism has more than doubled in 3 years to \$10.2 billion. Of that amount, the President's budget request included \$8 billion in DOD programs for homeland defense. The committee's mark added more than \$300 million above the budget request.

All of the programs for which Senator LEVIN proposes to add funds in his amendment were funded either at or above the amount of the President's budget request. Many of the recommendations for increased funding in this measure are simply flawed.

For example, one of the first items recommends an increase of \$50 million in Air Force research and development to be allocated to NORAD for low altitude threat detection and response technology. This item appears to be directed at cruise missile defense, but it is not clearly enough defined to know how the proposed funding increase would be used. A \$50 million increase for ill-defined purposes would not be executable.

I note that the proposal was apparently justified on the basis that the NORTHCOM integrated priority list includes cruise missile defense. This proposed amendment also reduces one of the highest NORTHCOM priorities on its list—that is ballistic missile defense—by \$515 million, again reminding the Members of the Senate that missile defense is homeland security.

Finally, I have a letter that was sent to the chairman of the Armed Services Committee from Admiral Ellis, commander of the Strategic Command at Omaha, NE, the head military integrator for missile defense, who expresses his opposition to any cuts to missile defense funding. I will read this letter for the benefit of my colleagues.

DEAR MR. CHAIRMAN:

I am writing to express concern about possible efforts to cut funding from the President's FY05 budget request for continued fielding of missile defense capabilities, including additional Ground-based Interceptors. As the operational lead for Global Missile Defense, USSSTRATCOM supports the continued appropriate development of missile defense capabilities that will be incrementally fielded and improved under the evolutionary approach of Concurrent Test and Operations. It is especially important to our early success that we have funding support for the production of ground-based interceptors at a rate and quantity sufficient to sustain the evolutionary developmental approach, testing milestones, and our initial defense operational capabilities.

A reduction of interceptor funding would: (1) limit the capability and capacity of the Ballistic Missile Defense System to defend the U.S. against long-range missile attack, and (2) limit the opportunity to gain operational test experience as it will reduce the number of interceptors available to replace deployed interceptors subsequently used in operational testing.

He goes on to say he further appreciates the chairman's support to both develop and provide the Nation with a rudimentary missile defense capability and indicated that this letter was also forwarded to the ranking member of the Senate Armed Services Committee. So the sponsor of this amendment has seen this letter, which is from an individual whom I have had before my committee and somebody whom I highly respect. So there we have it, somebody who is part of STRATCOM giving us a clear reason for why we need to have those additional missiles.

In response to what the sponsor of the amendment said about whether all the missiles are going to be used, that was addressed in a full committee hearing on March 9 in which Senator LEVIN himself, the sponsor of the amendment, asked General Kadish, after he commented about the fact that the missiles would work: How many of the Fort Greeley ones would be launched?

General Kadish answered—and this is not new evidence or new facts that have been brought before the Armed Services Committee or even before the full Senate. General Kadish said: Eventually, all of them.

That response was further pursued by my colleague on the Armed Services Committee, who asked: They would be moved somewhere else, is that it?

General Kadish said: No. Well, they may—this is part of the ongoing planning. That is why we all get frustrated from time to time when we change our plans.

The current plan is to use all of those out at Fort Greeley.

The PRESIDING OFFICER. The Senator has used 10 minutes of his time.

Mr. ALLARD. I yield myself an additional 3 minutes.

Mr. WARNER. Mr. President, reserving the right to object, and I shall not object, will the Chair advise both sides as to the time remaining?

The PRESIDING OFFICER. There is 14½ minutes remaining now on the side of the Senator from Virginia and 14

minutes remaining on the side of the Senator from Michigan.

Mr. WARNER. I thank the Presiding Officer.

Mr. ALLARD. I will respond to the concerns that were raised by the sponsor of the amendment about what he referred to as "loose nukes," and from that same report which he quoted, I would point out that in the report it says the probability that a weapons of mass destruction armed missile will be used against U.S. forces or interests is higher today than during most of the cold war.

This is a real threat, and we should not be saying we have a higher priority on homeland defense or a higher priority on missiles. The fact is we are vulnerable in all areas. We need to address that, and we have been adequately addressing it with our funding for homeland security. Now we need to take care of missile defense and make sure we have adequately taken care of the threat with weapons of mass destruction through missiles that might be launched.

In response to a hearing we had earlier on the need for a missile defense test bed, I will share with my colleagues some testimony by Admiral Ellis, who is the commander of STRATCOM. I asked Admiral Ellis: Do you support the use of the missile defense test bed to provide limited operational capability, yes or no?

Admiral Ellis replies: Yes, sir. Yes, sir.

Then I asked him a further question: Does such a capability contribute to deterrence?

Admiral Ellis says: Absolutely.

Then I responded back: Does such a capability provide a useful strategic option?

Admiral Ellis says: Yes, it does.

Then I further questioned: Does such a capability raise the nuclear threshold?

Admiral Ellis says: It certainly does.

The fourth point I would like to talk about is the funding of the nonproliferation initiative. The biggest portion of Senator LEVIN's proposal adds \$211 million for a new nonproliferation initiative in the Department of Energy, but DOE cannot spend the funding it has already for nonproliferation. Right now, DOE has \$735 million in unobligated balances for nonproliferation programs, and Senator LEVIN's amendment would push that total up to nearly a billion dollars.

In summary, we are on the right track. The Armed Services Committee has received testimony both in my subcommittee as well as in the full committee and the testimony indicates we have a real need in missile defense and we are taking care of homeland security. I urge my colleagues to join me in opposing the Levin amendment.

The PRESIDING OFFICER. The Senator yields the floor.

Who yields time?

The Senator from Alabama seeks recognition.

Mr. WARNER. I yield 5 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SESSIONS. Mr. President, I thank the distinguished chairman of the Armed Services Committee, Senator WARNER, for his leadership. I support his position on this issue that is before us today, as well as that of Senator ALLARD who chairs the Strategic Forces Subcommittee of the Armed Services Committee where this matter is dealt with in depth. Both these Senators have worked on this issue for quite some time and have given it serious consideration. I believe they are correct. Indeed, I believe the Levin amendment runs counter to the policy of this Senate that has been established for some time. It is, I believe, now the fourth amendment of its kind, designed to erode the support and commitment we made to deploying a national missile defense system.

A number of years ago, in 1998 or so, this Senate in a bipartisan way adopted the Cochran-Lieberman amendment that declared it was the policy of the U.S. Congress that we should deploy a national missile defense system as soon as practical—not develop one, not research one, but to deploy it as soon as possible. That passed, I believe, with about 90-plus votes in the Senate and was signed by President Clinton. It represents the policy and commitment of the United States.

Over the years, we have moved toward that goal. We were told it could not be done. We were told a missile could not hit a missile in the air. We were told, yes, there may be a threat out there, but it probably is not very real, and even if it is you can't make the technology work. This is Star Wars. It goes back to some degree to the ridicule that was directed toward former President Reagan for his steadfast belief that this country needed to move from just trying to see how many missiles we can aim at our enemies, see how much threat we can focus on them, to the concept he believed was more peaceful, which would be to develop a system that would allow us to defend ourselves against attack. That is what we voted on, and we voted on it virtually unanimously. I think 90 percent plus of the Senators in this body voted for that amendment.

That is where we are today. Now we have here at the last minute, as this bill moves forward, one more attempt to drawdown money and to spend it on other things. Yes, there are a lot of needs in this country. You can go to education, you can go to health care, you can go to homeland security, you can go to a lot of things we believe we need desperately in America, but we are here to make choices. We made a commitment and a choice to field a national missile defense system.

I will point out that a lot of Americans probably do not know this system is working. The science is being proven

day after day. In fact, in September we will be placing in the ground in Alaska a national missile defense system that can help protect us from missile attack—not just from North Korea, but from an accidental launch. They could be effective in protecting this country, and as we go forward we will continue to improve this system.

As you test and develop this system, spiraling as we are doing now, then we may find we can develop a better radar system, we can develop a system that can be deployed on ships more effectively than what we have today. We may be able to develop a local land-based system. We may improve our computer system. We may be able to improve our guidance systems. We may be able to improve our ability to defeat even the most sophisticated attempts to confuse a national missile defense system. But it does not have to be perfect before we put it into place today. I say we are going to continue to do that.

I believe we are committed to going forward with this. It would be a terrible mistake to cut \$515 million from a system that is on track now to be effective and to be deployed. This will shut down the assembly lines. This will shut down the production that is ongoing. It is going to cost us much more money in the long run. It is not going to be good for our productive system. It is the kind of on-again, off-again political management of the production and deployment of systems that is not healthy for our Defense Department.

I see my time has expired. I thank the chairman for his leadership. I also oppose the Levin amendment.

The PRESIDING OFFICER. The Senator from Alabama yields the floor.

The Senator from Virginia has 5 minutes 5 seconds remaining.

Mr. WARNER. I thank our distinguished colleague from Alabama. He has been in the forefront of this debate for all the years he has been a member of the Armed Services Committee.

At this time, I think it would be fair we allow the distinguished proponent of the amendment to speak for a bit. Then I will follow, and I presume he would like to do a few minutes' wrap-up; is that correct?

Mr. LEVIN. That will be great. I thank my colleague.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. LEVIN. I thank the Chair. I will yield myself 6 minutes.

Mr. President, the threat we are talking about addressing in my amendment is not one of our domestic priorities. As important as those priorities are, it is not transferring money from missile defense to education or health care. It is transferring money from the next 10 missiles, untested, numbers 21 through 30, which were not stated to be

part of that 20-silo test bed which was presented to us last year, instead taking that money and using that money not for my project but for the administration's stated project of trying to address the "loose nuke" issue.

This is a program, this \$450 million program, the administration announced a few weeks ago in Vienna. With great fanfare, Secretary Abraham said we have to address the loose nuke problem around the world. Agreements were signed to counter a nuclear threat; \$450 million to prevent research materials going to terrorists as part of a global cleanup plan.

But there is no money in this program. So the Senate comes along a few days ago, and Senator DOMENICI and Senator FEINSTEIN, with the support, I believe, of most of us—surely mine—say we have to move in this direction. They authorize the program. But still no money. The words are there, but the money is not there.

We are talking about the money for a global program, not cleanup in Russia. That money has already been identified. This is for nuclear material around the world that we and the Russians have to identify and secure. That is what that \$450 million is. There is not a penny in this budget to secure that nuclear material.

The Russia task force of the Secretary of Energy said that the most urgent unmet security threat to the United States is the danger that weapons of mass destruction or weapons-usable material could be sold to terrorists and used against us. That was the so-called Baker-Cutler task force. Then they said the funding that is provided in the Department of Energy budget falls short of what is required to adequately address the threat.

We had the Harvard task force come forward and say the facts are that the amount of inadequately secured bomb material in the world today is enough to make thousands of nuclear weapons, that terrorists are actively seeking to get it, and that with such material in hand a capable and well-organized terrorist group plausibly could make, deliver, and detonate at least a crude nuclear bomb capable of incinerating the heart of any major city in the world. Securing the vast stockpiles of nuclear materials and weapons around the world is an essential priority for non-proliferation, for counterterrorism, and for homeland security. That is the issue we have to face. Are we going to fund this kind of program, or are we just going to talk about it?

The hundreds of millions of dollars which were identified by Senator ALLARD have nothing to do with this effort to secure nuclear material around the world. The money he identified has to do with a program to try to secure plutonium between ourselves and Russia, a program which is currently stalemated. That is something which hopefully can be worked out between the Russians and the State Department. But the money we are talking about

which was so widely proclaimed by Secretary Abraham as being forthcoming has not been forthcoming. There is no money in the budget for it.

It is the loose nuke material that exists around the world that threatens us more than any other single threat, and we don't have any money for it in here. The question is whether we are going to do it or whether we are going to add another 10 interceptors, numbers 21 through 30, add them to the test bed. That is the issue we face. Which is a higher priority for us? Again, I emphasize this amendment does not touch those 20 interceptors which are part of that test bed. We do not touch that. That debate was last week. That is not this amendment.

Last week, we decided we are going to deploy those interceptors. Even though they have not been independently tested, they will still be deployed. Maybe they will work, maybe they will not work, but they will be deployed. OK, that decision was made.

We are talking now about Nos. 21 through 30 and whether that \$550 million is better spent the way it is proposed in this budget, or to address the loose nuke problem around the world, to address our border security, to try to inspect the containers by the tens of thousands that come into this country, to put additional funds into new technologies to address how we can identify explosive material at a distance so we do not face a blowup of a ship like the USS *Cole*, a car bomber, or a suicide bomber. That is the issue, whether we are serious about the effort to address the greatest terrorist threats we face or whether we want to put another \$500 million into another 10 interceptors which have not yet been tested.

How much time remains?

The PRESIDING OFFICER. The Senator has used 6 minutes. The time remaining on the Senator's side is 7 minutes 45 seconds.

Mr. LEVIN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to our colleagues, I think the Senator and I can agree on this point that there is no vote on this current 2005 authorization bill of greater significance than the vote we will take momentarily.

I frame this vote as follows: The whole of America watched within the past few days the September 11 Commission, its Chairman, face the cameras and say, in response to the astonishment of the American people about the tragic events of September 11, we didn't foresee it, we didn't plan for it, we didn't fund for it, we didn't train for it, and it happened.

I say respectfully to my colleagues, that is precisely what this vote is all about.

The Senator laid down the priorities of the Central Intelligence Agency. I have them before me. I should repeat this one. They say the possibility that a WMD armed missile will be used

against the U.S. forces or interests is higher today than during most of the cold-war period.

Senator LEVIN and I have been partners for 25 years on this committee. We went through the cold-war era together. That is an astonishingly high expectation. True, the CIA put somewhat greater emphasis on a number of the programs that will be funded should the Senator's amendment pass, but the Senator would acknowledge to me, I think, that the administration, in sending forth this budget, covered those 10 programs. Six of those programs receive more money than asked for in the budget, and the remaining four programs were funded at the budget level.

He points out a most recent program raised by the Secretary of Energy. I share his concern, but the Secretary of Energy said that can be financed through reprogramming, which is a procedure we follow regularly.

In summary, we are at the crossroads momentarily of whether the Missile Defense Program that this Nation has been working on for these many years, that has been acted upon by the Congress in successive sessions, will continue.

While the Senator said we are not dislodging what has been done by the past Congress, I ask, why we should even go forward with those expenses if we are going to stop the program and gap it, gap it for an indeterminate period? Should we be able to put it together again after several years, at a minimum, who can assure the technical workforce that put together the first missiles will be there? Who can say the contractor wants to pick up, once again, the burden of trying to restart a program, given the background of the stop/start by the Congress if this Levin amendment is adopted?

This amendment will spread uncertainty into this program. The world will begin to say: America is not serious about missile defense.

Much of the technology of these programs for missile defense could well be used in future years by other nations that will recognize their vulnerability to the missiles. When we say "vulnerability," it is not necessarily limited to an aggressor firing, it could be an accidental firing. That has happened. I need only point out the tragic submarine experience. Both Russia and the United States have experienced errors with those magnificent platforms, causing death and destruction. Accidents happen even with the best of intent with military equipment.

We see China coming on, we see North Korea. I think there is no dispute as to their potential today.

We must look at ourselves and go back to that refrain of Lee Hamilton: We didn't plan, we didn't foresee, we didn't train, and it happened. A future generation of America can look on this Senate at this very moment and would have to see, henceforth, if this Nation ever experiences the type of attack to

which the Central Intelligence Agency says we are vulnerable.

I urge Members to stay the course and not send a signal that America has stumbled backward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we should stay the course. We have to address the threats that we know are the major threats. We are not doing that. The loose nuke threat in this world is the No. 1 threat against us. That is what we all believe.

Yet a \$450 million program to address those loose nukes is not funded in this budget. There is not a dollar for that program in this budget. We are told now that the Department of Energy will reprogram \$450 million. I would like to see that request come in from the Department of Energy. But we do not have that request, either.

What we do have, what we do know, is that the major threat we face is the loose nuke threat. That is what the experts at the Department of Energy tell us. We surely have to address the less likely threats. I could not agree with that more. We should address threats that are not as likely.

But, my heavens, to put nothing in this budget when we have adopted the Domenici-Feinstein amendment which says we will have this global program—there is no money authorized behind it in this budget. We have adopted the Domenici amendment. Senator DOMENICI is exactly right. This is the greatest threat we face, loose nukes. Loose nukes globally are the greatest threat we face. What he said is someday we have to put the funds behind it. That someday is now. We have to compare that threat which we all believe is the most certain threat against the less likely threat identified by the CIA, which is a missile attack.

Now it has been suggested that maybe we should then totally disband the missile defense we have in Alaska. That is not what this amendment is about. I want to emphasize that because it has been mischaracterized. This does not end missile defense in Alaska. Quite the opposite, it continues the funding for those first 20 missiles.

My dear friend from Virginia said last year that test bed is 20 missiles in Alaska. He asked Senator BOXER a few days ago whether this body last year "authorized moving ahead on 20 test bed sites, 16 in Alaska and the balance in [California]." And Senator BOXER said: "Yes." That is what we decided last year. It would be a 20-silo test bed site.

We do not disturb that in any way. We leave more money in this budget after the \$500 million is put into "loose nukes." We leave more money in there for interceptors than has been in any fiscal year budget. Mr. President, \$1.2 billion is left in the budget this year after my \$500 million subtraction. That is more than was there in 2004, 2003,

2002. Any of those years had less money for interceptors.

So the idea that somehow or other we are destroying a missile defense system—when we leave that test bed in Alaska the way it is, we leave the funding for it exactly the way it is, with 20 silos, the way it was stated to be last year, but what we are saying is: Do not add another 10. Do not add another 10 interceptors, not independently tested. We have been through that argument, but they are not tested missiles.

The money that goes into those 10 missiles can be used for a much greater threat, not just the "loose nuke" threat, but the threats that have been identified by NORAD and by the Northern Command. There are many unfunded needs we have listed from NORAD, including low-altitude threat detection and response technologies.

This is another one from the Navy which we fund. Let me read this because it goes right to the USS *Cole* issue. They have an unfunded program that would procure "mobile and shore Explosive Ordnance Disposal detachments to fill gap in required capability to detect chemical, biological, and explosive hazards during Improvised Explosive Device/Weapons Mass Destruction and Force Protection responses." So the Navy says they have an unfunded program need of \$21 million to try to identify explosives at a distance.

We all know—surely the chairman of our committee knows—what happened with the USS *Cole*. If we could have identified those little boats carrying explosives at a distance, we would not have had the damage and loss of life we had on the USS *Cole*.

So we have these real needs we would fund in my amendment. We have to compare that to the extra 10 interceptors, Nos. 21 through 30, that do not touch that 20-silo test bed in Alaska.

Mr. President, I ask unanimous consent that a number of documents be printed in the RECORD. One would be the NORAD statement relative to their shortfalls, some of which are funded in my amendment. Second would be two editorials, one from the Washington Post and one from the Los Angeles Times.

Mr. WARNER. Mr. President, I will not object, but I would state that the Department of Energy, addressing the "loose nuke" issue, says they expect to spend \$87 million on it this year, and they can't spend any additional money on it. So I think that should be stated likewise.

Mr. LEVIN. If it is \$87 million, despite the \$450 million which the Secretary of Energy announced, that \$87 million is not provided for in this authorization bill.

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

LOW ALTITUDE AIR DEFENSE OF NORTH AMERICA

NORAD is leading the development and employment of capabilities for the air defense of North America. Given the proliferation of advanced technologies and improvised delivery platforms operated by terrorist groups and others, on 13 June 2002 the Joint Requirements Oversight Council directed NORAD to develop the "Low Altitude Air Threat Defense of North America Capstone Requirements Document."

This critical homeland defense effort addresses the increasing gap between the growing danger from low altitude, low observable threats and NORAD's current air defense capabilities.

Such threats include cruise missiles, unmanned aerial vehicles, crop dusters, radio controlled low observable aircraft and ultralights.

Limited capabilities exist for fusing surveillance information and the effective engagement and elimination of these increasingly advanced threats launched from air, land or sea.

Emerging technologies should be examined to enable NORAD to detect, identify, track, engage and assess these threats.

There are two aspects to this NORAD-led multi-year effort, which is supported by U.S. Northern Command and the Joint Theater Air Missile Defense Organization:

a. Develop and write a Capstone Requirements Document. The Capstone Requirements Document will provide the overarching set of "plug and play rules"—called requirements—by which all systems, regardless of Service or interagency origin, are to be developed and/or employed in support of detecting, deterring and defending against low altitude air threats. That is, regardless of agency or Service of origin, the systems necessary for the full-spectrum air defense of North America must be interoperable in order to provide NORAD the actionable information it needs to defend against such low altitude air threats.

b. Complete development and evaluation of a suite of technologies. The following technologies have great potential for the successful detection of and defense against low altitude air threats:

Homeland Defense Battle Management Command and Control architecture—will ensure the requisite interoperability of systems to fuse sensor information and pass actionable information to NORAD command and control centers and defending forces;

Technologies for cruise missile detection and identification, including lightweight radar technologies;

Stratospheric airship;
Maritime surveillance;

Surveillance platforms and other sensors; and
Defensive weapons.

From: Nanette Nadeau.

Sent: Wednesday, May 5, 2004.

To: Evelyn Farkas, (Armed Services).

Subject: Anti-Terrorism/Force Protection.

HELLO EVELYN: Here is the information you requested on Anti-Terrorism/Force Protection (AT/FP). In our earlier conversation, you mentioned the FY05 \$209.2M AT/FP shortfall for Army Forces Command. Please be aware that USNORTHCOM's other components have AT/FP shortfalls as well.

ANTI-TERRORISM/FORCE PROTECTION (AT/FP)

U.S. Northern Command (USNORTHCOM) and its Service Components; people, installations, forward/deployed facilities and equipment are at increased risk of attack based on recent and emerging asymmetric threats. The Command should have the capability to deter and/or mitigate the risks of terrorist acts against people and property whether in-place or deployed. This includes a physical security program to provide detection (alarms/guards), hardening of structures, replacement of current explosive material detection and personal protection gear (various detectors, night vision goggles, etc.). The AT/FP program would also include resources to conduct anti-terrorism exercises, perform training and promote AT/FP awareness. FY05 AT/FP funding lines for USNORTHCOM's Service Components follow.

(In millions of dollars)

	Baseline	Shortfall
Army Forces Command	\$172.4	\$209.2
Marine Forces Atlantic	0.0	26.4
Air Force/Air Combat Command	0.4	14.0
Navy Forces Atlantic	128.7	82.5

Our first action on Thursday morning will be to provide you UNCLASSIFIED information on the FY05 \$13.3M shortfall for Consequence Management.

We appreciate all your support.

Thank you,

NANETTE A. NADEAU,
Chief, Legislative Liaison,
Commander's Action Group.

From: Nanette Nadeau.

Sent: Thursday, May 6, 2004.

To: Evelyn Farkas (Armed Services).

Subject: Consequence Management.

HI EVELYN: Here is the information you requested on consequence management.

CONSEQUENCE MANAGEMENT

USNORTHCOM, through its components, needs to be able to communicate with federal, state and local agencies to begin dam-

age control and minimize the effects of actual or suspected chemical, biological, radiological, nuclear or high explosive incidents, civil disturbances and other events, when directed by the President or Secretary of Defense. Currently, the Army National Guard (ARNG) has only limited capability to establish communications to support civil authorities. This degrades alternate site operations, High Frequency radio transmissions and prevents secure communications required during domestic support operations.

The FY05 consequence management funding profile for ARNG command and control networks follows:

ARNG: Baseline—\$2.4M; Shortfall—\$13.3M.

Hope this helps!

NANETTE A. NADEAU,
Chief, Legislative Liaison,
Commander's Action Group.

DEPARTMENT OF THE NAVY, OFFICE
OF THE CHIEF OF NAVAL OPERATIONS,
Washington, DC, March 1, 2004.

Hon. IKE SKELTON,

Ranking Member, Committee on Armed Services,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN SKELTON: In response to your letter of February 9, 2004, I am providing a list of unfunded programs to which additional funding could be applied. While the Navy is grateful for and has benefited from the increased resources recently provided by the President and the Congress, there still remain additional shortfalls that are detailed herein.

The Department's FY 2005 Budget continues to focus on our new defense strategy and emergent challenges of the 21st Century. The resources contained in this budget go far in helping us to maintain heightened readiness in uncertain times, to provide further investment in transformational programs, and to take care of our sailors and their families. However, the Global War on Terrorism and current operations incident to Operation Iraq Freedom continue to stretch our resources in many areas. Additionally, the road to attaining our shipbuilding and aircraft procurement program goals remains exceptionally challenging.

For FY 2005, Naval unfunded programs total \$2.5 billion. These unfunded items are listed under Enclosure (1).

As always, if I may be of any further assistance, please let me know. A copy of this letter is also being provided to Chairman Hunter and Warner, and Senator Levin.

Sincerely,

VERN CLARK,
Admiral, U.S. Navy.

Enclosure.

USN FY-05 UNFUNDED PROGRAM LIST (PRIORITY)

30	CH-46 ERIP Inventory Adjustment	APN	5.0	The CH-46 will be in service longer than initially projected due to V-22 program delays. The Engine Reliability Improvement Program is the engine reliability and performance solution to the H-46 #1 issue over the last 5 years. The program delivers an engine with twice the reliability of today's engine, is ahead of schedule and meets engine demand and operational readiness requirements from OIF. This funding provides (7) ERIP modifications.
31	LHD 8	SCN	106.0	Fully fund LHD 8 SCN shortfall as well as Ship Self-Defense System (SSDS), AT/FP, and Expeditionary Fighting Vehicle (EFV) support on ship. Funds IPVT shortfalls in TPX-42 and GCCS-M interfaces with SSDS Mk2; Implementation of USS COLE SRG recommendations; Collective protection system; Expeditionary Fighting Vehicle integration.
32	LHA(R)	SCN	250.0	Provides funding that will deliver a transitional platform fielding transformational capabilities.
33	5"/54 Upgrades on CGs	RDEN	10.0	As part of the CG Modernization program, upgrades existing 5"/54 gun to interface with upgraded fire control system and SPQ-9B radar. Allows use of Task Force Hip Pocket 5" rounds against small boats. Supports Sea Strike and Sea Shield pillars.
34	ARCI/Advanced Process Build Integration	RDEN	20.0	Additional funds needed to accelerate Acoustic Rapid COTS Insertion (ARCI) upgrades to 13 ships that will not get ARCI upgrades before deployment. Includes Adv. Processor Build (APB) 04 integration which includes High Frequency Tactical Control Sonar, AI&R-SPVA sensor and processing, real time reach back analysis and spectral trackers.
35	CHEM/BIO	MULTI	21.4	Procures systems for mobile and shore Explosive Ordnance Disposal (EOD) detachments to fill gap in required capability to detect chemical, biological, and explosive hazards during Improvised Explosive Device/Weapons Mass Destruction and Force Protection responses. Currently the EOD detachments are limited in this capability. Replaces 2800 CBD respirators that have exceeded service life plus 2-year extension. Allows USN/USMC aircrew to operate in CBRN threat environment until Joint Service Aircrew Mask is fielded in FY09.
36	ESSM on Large Decks	MULTI	34.2	Funds completion of Ship Self Defense System (SSDS) Mk2 and procurement of one CEC system, one SPQ-9B system, and one complete Re-architected NATO Seasparrow Missile System (RNSSMS) including a shipset and installation costs for two Mk29 (ORDALT) missile launchers.
37	AV-8B Engine Life Management Program	RDEN	5.0	The AV-8B Engine Life Management Program (ELMP) improves the F402 engine's safety and reliability to increase the Mean Time Between engine Removal (MTBR) from 275 hours to 800 hours, and to ensure the AV-8B will remain a ready and relevant combat aircraft until transition to the JSF (STOVL). Accelerated Simulated Mission Endurance Testing III (ASMET III) ensures engine test experience remains ahead of Fleet experience. \$2.0M will complete the remaining unfunded portion of the ASMET III test scheduled for FY2005. \$3.0M is required to reinstate the previously cancelled Engine Monitoring System (EMS) plan in FY 2005.

[From the Washington Post, June 11, 2004]
TOO SLOW ON NUKES

The group of eight industrialized nations took a couple of steps at their summit meeting in Georgia this week to prevent the proliferation of nuclear weapons. Urged on by the Bush administration, the leaders of Europe, Japan, Canada and Russia agreed to a one-year moratorium on supplying equipment for producing fissile material to countries that do not already have it. Mr. Bush seeks a permanent ban, which will be discussed in the coming months. The G-8 also announced seven new participants in its program for funding the securing of nuclear materials in the former Soviet Union and agreed to press more non-nuclear countries to accept expanded inspections by the International Atomic Energy Agency. The various initiatives followed several recent steps by the Bush administration—including a new \$450 million program to collect enriched uranium and plutonium from 40 countries around the world—that have added momentum to its efforts to prevent the spread of nukes to nations or terrorist groups.

This program nevertheless looks paltry in comparison with recent developments in the opposite direction. Both North Korea and Iran appear to be continuing with nuclear weapons development, overcoming ineffective containment efforts by the Bush administration and oft-divided groups of its allies. Next week the IAEA board will meet to consider a report that a formal Iranian commitment to freeze work on enriching uranium was never honored. It's not clear that all the nuclear equipment secretly produced and traded by the Pakistan-based network of Abdul Qadeer Khan has been tracked down: Some seems to have disappeared. Evidence has emerged, meanwhile, that North Korea already has exported nuclear technology, to Libya. Though Libya is dismantling its program, there is an obvious danger that North Korea will sell bombs or the technology for them to others. It's easy to fault the ineffective strategies for these threats pursued by the Bush administration or, in the case of Iran, by European governments. But it's also unclear whether any approach, from negotiation to military action, would succeed—though the effort at containment must go on.

What's odd in such circumstances is the relative sluggishness with which the world has attacked the part of the nuclear menace that is relatively easier to deal with, if equally frightening: that of "loose nukes" and the materials needed to make them. All the elements needed to manufacture a nuclear weapon are readily available in global markets, save the fissile core of highly enriched uranium or plutonium—and hundreds of tons of these materials are stored under insecure conditions in the nations of the Soviet Union and other countries. A decade-old U.S. program has safeguarded only 20 percent of the material in Russia and less than that elsewhere. According to a recent report by a team of Harvard University researchers, less fissile material was secured in the two years after Sept. 11, 2001, than in the two years before the attacks.

Though it is working harder at securing the loose nukes, the Bush administration is still giving this effort a fraction of the resources it is spending to deploy a missile defense system against a threat—a rogue state with an intercontinental missile—that does not currently exist. At the current rate of work, it will take 13 years to secure the remaining bomb-grade material in the former Soviet Union and more than a decade to collect it from other countries. Mr. Bush's challenger, Sen. John F. Kerry (D-Mass), has laid out a plan to complete the same job within

four years. The president could help his own political cause as well as U.S. security by matching that commitment.

[From the Los Angeles Times, May 30, 2004]
A BIGGER PERIL: DIRTY BOMBS

During the Cold War, the United States, under the Atoms for Peace program, and the Soviet Union actively exported nuclear materials abroad to friendly countries. The justification was that they were helping to promote the peaceful use of nuclear energy. Now the U.S. and Russia are reviving efforts to retrieve uranium before it ends up in a terrorist dirty bomb detonated in a major city.

On Thursday, in a deal that followed a welter of new terror warnings from the Justice Department, Energy Secretary Spencer Abraham signed a \$450-million agreement with Russia to retrieve nuclear materials.

Information about contributions to the global nuclear black market by top Pakistani scientist Abdul Qadeer Khan has prompted the administration to revive its lagging non-proliferation efforts. In a Feb. 11 speech, President Bush warned that "terrorists and terror states are in a race for weapons of mass murder, a race they must lose."

Yet, as a new Harvard University study obtained by the Washington Post reports, not enough is being done against such weapons. Less fissile material was put in safekeeping in the two years after Sept. 11 than in the two years preceding it. More than 40 countries could supply materials for an atomic weapon. The U.S. has spent billions since 1992 to secure nuclear materials, but bureaucratic wrangling has stalled many programs inside Russia. According to the General Accounting Office, even rudimentary safety measures to deter the theft of dangerous materials are lacking at many Russian nuclear labs. What's more, the Energy Department's own auditors warned in February that substantial caches of uranium produced here were "out of U.S. control."

Abraham's initiative states that the U.S. will retrieve radiological material it has sent abroad and earmarks \$100 million to aid Russian efforts. According to Atomic Energy Minister Alexander Rumyantsev, Moscow will remove uranium from 20 Soviet and Russian-built reactors in 17 countries. Russia also promises not to complete Iran's Bushehr nuclear power plant without a guarantee that spent fuel will be sent to Moscow.

Though Abraham's move is a welcome one, the Bush administration continues to waste far larger sums on a missile defense system intended to defend the country against nuclear missile attacks from rogue states or terrorists. For 2005, the administration's funding request is more than \$10 billion, about 22 times the cost of the Energy Department effort. Yet most experts agree that groups such as Al Qaeda are far more likely to produce dirty bombs than nuclear missiles. It makes more sense to invest in preventing nuclear materials from falling into the hands of terrorists than to pour billions into a system that has succeeded only in what amounts to rigged testing.

The Abraham initiative deserves credit as a cost-effective program against an immediate danger. Missile defense, on the other hand, is most effective as a profit center for the defense industry.

Mr. LEVIN. Mr. President, the Washington Post editorial says:

What's odd in these circumstances is the relative sluggishness with which the world has attacked the part of the nuclear menace that is relatively easier to deal with—

And they are comparing it to the North Korean transfer of technology; and that is the "loose nukes" and the

materials that are needed to make them.

The Post editorial says:

... [T]his Bush administration is still giving this effort a fraction of the resources it is spending to deploy a missile defense system against a threat—a rogue state with an intercontinental missile—that does not currently exist. At the current rate of work, it will take 13 years to secure the remaining bomb-grade material in the former Soviet Union and more than a decade to collect it from other countries.

Mr. WARNER. Mr. President, I would make an offer to my distinguished colleague, if he wishes to advance an amendment on the issue of the "loose nukes," to work with him to see whether, in this bill right now, we could take that one change, if you feel it is inadequately funded.

Mr. LEVIN. There is no funding. It is not just inadequate, we do not have funding for that \$450 million amount.

The PRESIDING OFFICER. All time on the amendment is expired.

AMENDMENT NO. 3457, AS MODIFIED

Mr. WARNER. Mr. President, I ask unanimous consent that the Burns second-degree amendment be modified with the technical changes at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3457), as modified, is as follows:

At the end of the matter proposed to be inserted, add the following:

(C) ADDITIONAL FACTORS IN INDECENCY PENALTIES; EXCEPTION.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)), is further amended by adding at the end the following:

"(F) In the case of a violation in which the violator is determined by the Commission under paragraph (I) to have uttered obscene, indecent, or profane material, the Commission shall take into account, in addition to the matters described in subparagraph (E), the following factors with respect to the degree of culpability of the violator:

"(i) Whether the material uttered by the violator was live or recorded, scripted or unscripted.

"(ii) Whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material.

"(iii) If the violator originated live or unscripted programming, whether a time delay blocking mechanism was implemented for the programming.

"(iv) The size of the viewing or listening audience of the programming.

"(v) Whether the obscene incident or profane language was within live programming not produced by the station licensee or permittee.

"(vi) The size of the market.

"(vii) Whether the violation occurred during a children's television program (as such term is used in the Children's Television Programming Policy referenced in section 73.4050(c) of the Commission's regulations (47 C.F.R. 73.4050(c)) or during a television program rated TVY, TVY7, TVY7FV, or TVG under the TV Parental Guidelines as such ratings were approved by the Commission in implementation of section 551 of the Telecommunications Act of 1996, Video Programming Ratings, Report and Order, CS Docket No. 97-55, 13 F.C.C. Rcd. 8232 (1998)), and, with

respect to a radio broadcast station licensee, permittee, or applicant, whether the target audience was primarily comprised of, or should reasonably have been expected to be primarily comprised of, children.”

“(G) The Commission may double the amount of any forfeiture penalty (not to exceed \$550,000 for the first violation, \$750,000 for the second violation, and \$1,000,000 for the third or any subsequent violation not to exceed up to \$3,000,000 for all violations in a 24-hour time period notwithstanding section 503(b)(2)(C)) if the Commission determines additional factors are present which are aggravating in nature, including—

“(i) whether the material uttered by the violator was recorded or scripted;

“(ii) whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material;

“(iii) whether the violator failed to block live or unscripted programming;

“(iv) whether the size of the viewing or listening audience of the programming was substantially larger than usual, such as a national or international championship sporting event or awards program; and

“(v) whether the violation occurred during a children’s television program (as defined in subparagraph (F)(vii)).”.

AMENDMENT NO. 3338

Mr. WARNER. Mr. President, I am sure my colleague would want to ask for the yeas and nays on his amendment.

Mr. LEVIN. Mr. President, I thank my good friend.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, prior to the vote going forward, it is my understanding the majority has been consulted, and the distinguished Democratic leader, following these votes, wishes to offer his amendment dealing with veterans health benefits.

Mr. WARNER. Mr. President, I certainly want to accommodate the leadership. But I spoke earlier this morning outlining what I understood was going to be the sequence of events in the morning. We certainly want to accommodate the distinguished Democratic leader, but one of our Members, for very special reasons, has to be absent this afternoon. He is a member of the commission on WMD, and he wished to rebut Senator DAYTON’s amendment, which would be a very short period of time this morning.

Mr. REID. How long does the Senator from Arizona wish to speak?

Mr. WARNER. I would say 15 minutes.

Mr. REID. The votes will probably be completed shortly after 11 o’clock. We at least hope that is the case.

Mr. WARNER. The two votes.

Mr. REID. Mr. President, I meant to say 12 o’clock, which does not leave much time for the Democratic leader.

Mr. WARNER. Could the Democratic leader then be recognized immediately after the luncheons?

Mr. REID. We would ask, then, that the Democratic leader be allowed to lay down his amendment, and that he would complete the debate at some subsequent time. And then if Senator MCCAIN—

Mr. WARNER. In other words, if I understand the request now, it is simply to come in and be recognized for the purpose of laying down the amendment so it is in the queue, and then we will proceed with the Dayton amendment and those matters we originally scheduled?

Mr. REID. That is right. I do not know about the Dayton matter originally scheduled.

Mr. WARNER. Apparently my leader would like to address this issue. We want to be cooperative and supportive of the procedural aspects of it. Could we proceed at least through the first vote and then, in that interim period, be able to provide an answer?

Mr. REID. That is fine. I will be happy to do that. But I see no prejudice to anyone if he is allowed to lay down his amendment.

Mr. WARNER. I share that, but any manager has to be cognizant of the needs of his respective leader. So we will proceed to the first vote, with an understanding there will be a modest period in between to hopefully resolve this issue.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3338. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—44

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

NAYS—56

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

The amendment (No. 3338) was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. CRAIG. 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 Virginia.

Mr. WARNER. Mr. President, I ask that the vote that is about to be taken be deferred in recognition of a need by the distinguished Democratic whip.

AMENDMENT NO. 3409

Mr. REID. Mr. President, I ask unanimous consent that the pending order be set aside and if there is a pending amendment that it be set aside, and I be allowed to offer for Senator DASCHLE amendment No. 3409.

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

Mr. WARNER. Mr. President, we return to regular order.

Mr. REID. Mr. President, does that amendment need to be reported?

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DASCHLE, proposes an amendment numbered 3409.

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

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

The amendment is as follows:

(Purpose: To assure that funding is provided for veterans health care each fiscal year to cover increases in population and inflation)

At the end of subtitle G of title X, add the following:

SEC. 1068. FUNDING FOR VETERANS HEALTH CARE TO ADDRESS CHANGES IN POPULATION AND INFLATION.

(a) IN GENERAL.—Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

“§320. Funding for veterans health care to address changes in population and inflation

“(a) For each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (b) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (c).

“(b)(1) The amount applicable to fiscal year 2005 under this subsection is the amount equal to—

“(A) 130 percent of the amount obligated by the Department during fiscal year 2003 for the purposes specified in subsection (c), minus

“(B) the amount appropriated for those purposes for fiscal year 2004.

“(2) The amount applicable to any fiscal year after fiscal year 2005 under this subsection is the amount equal to the product of the following, minus the amount appropriated for the purposes specified for subsection (c) for fiscal year 2004:

“(A) The sum of—

“(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

“(ii) the number of persons eligible for health care under chapter 17 of this title who

are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

“(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

“(3)(A) For purposes of paragraph (2)(B), the term ‘per capita baseline amount’ means the amount equal to—

“(i) the amount obligated by the Department during fiscal year 2004 for the purposes specified in subsection (c), divided by

“(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2003.

“(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

“(i) the Consumer Price Index (all Urban Consumers, United States City Average, Hospital and related services, Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

“(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

“(c)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (a) shall be all programs, functions, and activities of the Veterans Health Administration.

“(2) Amounts made available pursuant to subsection (a) are not available for—

“(A) construction, acquisition, or alteration of medical facilities as provided in subchapter I of chapter 81 of this title (other than for such repairs as were provided for before the date of the enactment of this section through the Medical Care appropriation for the Department); or

“(B) grants under subchapter III of chapter 81 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“320. Funding for veterans health care to address changes in population and inflation.”.

Mr. WARNER. Regular order.

AMENDMENTS NOS. 3235 AND 3457

The PRESIDING OFFICER. The Senate will resume consideration of amendment No. 3235.

Under the previous order, the Burns second-degree amendment No. 3457 is agreed to.

The amendment (No. 3457) was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBAC. Mr. President, I ask unanimous consent that Senator BYRD be added as a cosponsor to amendment No. 3235.

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

AMENDMENT NO. 3464 TO AMENDMENT NO. 3235

Mr. BROWNBAC. Mr. President, I call up amendment No. 3464, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The journal clerk read as follows:

The Senator from Kansas [Mr. BROWNBAC] proposes an amendment numbered 3464.

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

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

The amendment is as follows:

(Purpose: To increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language)

Strike page 1 line 2 through page 3 line 3 and insert the following:

SEC. . . BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the “Broadcast Decency Enforcement Act of 2004”.

(b) INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Notwithstanding subparagraph (A), if the violator is—

“(i)(I) a broadcast station licensee or permittee; or

“(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

“(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed \$275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$3,000,000 for any single act or failure to act.”; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking “subparagraph (A) or (B)” and inserting “subparagraph (A), (B), or (C)”.

(c) EFFECTIVE DATE.—This section shall take effect 2 days after the date of enactment of this section.

Mr. BROWNBAC. Mr. President, I ask for the yeas and nays on this amendment. This is the decency amendment that has been widely discussed.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3464. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—99

Akaka	Campbell	Dayton
Alexander	Cantwell	DeWine
Allard	Carper	Dodd
Allen	Chafee	Dole
Baucus	Chambliss	Domenici
Bayh	Clinton	Dorgan
Bennett	Cochran	Durbin
Biden	Coleman	Edwards
Bingaman	Collins	Ensign
Bond	Conrad	Enzi
Boxer	Cornyn	Feingold
Brownback	Corzine	Feinstein
Bunning	Craig	Fitzgerald
Burns	Crapo	Frist
Byrd	Daschle	Graham (FL)

Graham (SC)	Leahy	Roberts
Grassley	Levin	Rockefeller
Gregg	Lieberman	Santorum
Hagel	Lincoln	Sarbanes
Harkin	Lott	Schumer
Hatch	Lugar	Sessions
Hollings	McCain	Shelby
Hutchison	McConnell	Smith
Inhofe	Mikulski	Snowe
Inouye	Miller	Specter
Jeffords	Murkowski	Stabenow
Johnson	Murray	Stevens
Kennedy	Nelson (FL)	Sununu
Kerry	Nelson (NE)	Talent
Kohl	Nickles	Thomas
Kyl	Pryor	Voinovich
Landrieu	Reed	Warner
Lautenberg	Reid	Wyden

NAYS—1

Breaux

The amendment (No. 3464) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3465 TO AMENDMENT NO. 3235

The PRESIDING OFFICER. Under the previous order, Senator DORGAN is recognized to offer an amendment.

Mr. REID. I send the amendment to the desk on his behalf.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DORGAN, proposes an amendment numbered 3465 to amendment No. 3235.

The amendment is as follows:

In the amendment, strike all beginning on page 1, line 2, through page 3, line three, and insert the following:

SEC. . BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the “Broadcast Decency Enforcement Act of 2004”.

(b) PURPOSE.—The purpose of this section is to increase the FCC’s authority to fine for indecent broadcasts and prevent further relaxation of the media ownership rules in order to stem the rise of indecent programming.

(c) FINDINGS.—The Congress makes the following findings:

(1) Since 1996 there has been significant consolidation in the media industry, including:

(A) RADIO.—Clear Channel Communications went from owning 43 radio stations prior to 1996 to over 1,200 as of January 2003; Cumulus Broadcasting, Inc. was established in 1997 and owned 266 stations as of December 2003, making it the second-largest radio ownership company in the country; and Infinity Broadcasting Corporation went from owning 43 radio stations prior to 1996 to over 185 stations as of June 2004;

(B) TELEVISION.—Viacom/CBS’s national ownership of television stations increased from 31.53 percent of U.S. television households prior to 1996 to 38.9 percent in 2004; GE/NBC’s national ownership of television stations increased from 24.65 percent prior to 1996 to 33.56 percent in 2004; NewsCorp/FOX’s national ownership of television stations increased from 22.05 percent prior to 1996 to 37.7 percent in 2004;

(C) MEDIA MERGERS.—In 2000, Viacom merged with CBS and UPN; in 2002, GE/NBC merged with Telemundo Communications, Inc., and in 2004 with Vivendi Universal Entertainment; in 2003 News Corp./Fox acquired

a controlling interest in DirecTV; in 2000, Time Warner, Inc., merged with America Online.

(2) Over the same period that there has been significant consolidation in the media industry the number of indecency complaints also has increased dramatically. The largest owners of television and radio broadcast holdings have received the greatest number of indecency complaints and the largest fines, including

(A) Over 80 percent of the fines proposed by the Federal Communications Commission for indecent broadcasts were against stations owned by two of the top three radio companies. The top radio company alone accounts for over two-thirds of the fines proposed by the FCC;

(B) Two of the largest fines proposed by the FCC were against two of the top three radio companies;

(C) In 2004, the FCC received over 500,000 indecency complaints in response to the Superbowl Halftime show aired on CBS and produced by MTV, both of which are owned by Viacom. This is the largest number of complaints ever received by the FCC for a single broadcast;

(D) The number of indecency complaints increased from 111 in 2000 to 240,350 in 2003;

(3) Media conglomerates do not consider or reflect local community standards.

(A) The FCC has no record of a television station owned by one of the big four networks (Viacom/CBS, Disney/ABC, News Corp./Fox or GE/NBC) pre-empting national programming for failing to meet community standards;

(B) FCC records show that non-network owned stations have often rejected national network programming found to be indecent and offensive to local community standards;

(C) A letter from an owned and operated station manager to a viewer stated that programming decisions are made by network headquarters and not the local owned and operated television station management;

(D) The Parents Television Council has found that the "losers" of network ownership "are the local communities whose standards of decency are being ignored;"

(4) The Senate Commerce Committee has found that the current fines do not deter indecent broadcast because they are merely the cost of doing business for large media companies. Therefore, in order to prevent the continued rise of indecency violations, the FCC's authority for indecency fines should be increased and further media consolidation should be prevented.

(d) INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Notwithstanding subparagraph (A), if the violator is—

“(i)(I) a broadcast station licensee or permittee; or

“(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

“(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed \$275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$3,000,000 for any single act or failure to act.”; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking “subparagraph (A)

or (B)” and inserting “subparagraph (A), (B), or (C)”.

(e) NEW BROADCAST MEDIA OWNERSHIP RULES SUSPENDED.—

(1) SUSPENSION.—Subject to the provisions of paragraphs (d)(2), the broadcast media ownership rules adopted by the Federal Communications Commission on June 2, 2003, pursuant to its proceeding on broadcast media ownership rules, Report and Order FCC03-127, published at 68 FR 46286, August 5, 2003, shall be invalid and without legal effect.

(2) CLARIFICATION.—The provisions of paragraph (1) shall not supersede the amendments made by section 629 of the Miscellaneous Appropriations and Offsets Act, 2004 (Public Law 108-199).

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 3465) was agreed to.

AMENDMENT NO. 3466 TO AMENDMENT NO. 3235

(Purpose: To protect children from violent programming)

The PRESIDING OFFICER. Under the previous order, Senator HOLLINGS is recognized to offer an amendment.

Mr. REID. I send an amendment to the desk on behalf of Senator HOLLINGS.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. HOLLINGS, proposes an amendment numbered 3466 to amendment No. 3235.

(The amendment is printed in today's RECORD under “Text of Amendments.”)

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The amendment (No. 3466) was agreed to.

AMENDMENT NO. 3235

The PRESIDING OFFICER. Under the previous order, the Brownback amendment, as amended, is agreed to.

The amendment (No. 3235) was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. The Burns amendment, likewise.

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

AMENDMENT NO. 3457

Mr. BURNS. Mr. President, I am pleased that amendment No. 3457 was accepted by unanimous consent in the Senate today. While I fully support the underlying Brownback legislation, I have offered a second-degree amendment to protect the interests of small broadcasters who should not be punished for events outside of their control. The amendment agreed upon simply calls on the FCC to consider the size of the stations in question as well as whether they had anything to do with producing the offensive content in question.

I applaud the efforts of my colleague from Kansas, Mr. BROWNBACK, for his

leadership on the issue of broadcast decency, and I am fully supportive of his legislation. This legislation gives the Federal Communications Commission the tools they need to go after those responsible for exposing our children to indecent material.

With the recent trend of indecent events in the media, it is time to raise the current fine levels in order to prompt stations to more carefully screen their programming. These higher fines are appropriate for most stations. However, if the fines are too high for a local Montana broadcaster, it could well force them to close up shop.

In Montana, we have numerous stations that are so marginally profitable that the only reason they remain on the air is because the good citizens of their communities refuse to let them go dark.

For example, in Scobey, MT, townspeople regularly buy “stock” in KCGM because the community is so small that, in the words of manager Dixie Halvorsen, “there is no reason for anyone to buy advertising in this station. We have but one local market, one drug store, and one feed store. They buy time with us because they want their local news and their local high school sports and the local legion baseball and the local weather . . .”

Plentywood is much the same. KATQ has a local advisory board that oversees the operation of the station. It is made up of members of the business and non-profit community to ensure that their local stations remain on the air.

Nearly two-thirds of the radio stations in Montana are small market “mom and pops.” In Libby, MT, Duane and Peggy Williams operate KLCB-AM and KTNY-FM with the help of several part-time stringers and some high school students. Libby has a depressed economy and is a Superfund site. When the EPA held meetings and hearings with all of us in the Congressional delegation, along with the Governor and other State and Federal officials, Duane and Peggy interrupted their entire programming for the day to cover the issue.

It is not at all inconceivable that during these hours of live broadcasts, an upset citizen might utter a word or phrase that could be considered indecent under this provision of the law. An excessive fine would mean the end of Duane and Peggy's stations and dreams and the end of local radio in Libby.

And there are hundreds, perhaps thousands, of people like Duane and Peggy who do not deserve such treatment for simply trying to do what is best by their communities.

Examples such as this are why I introduced the amendment that was agreed to today. This amendment outlines mitigating factors that the Commission shall consider when determining the degree of a fine that will help shield smaller stations from an unnecessarily strong financial blow.

I thank Mr. BROWNBACK for taking the lead on this important piece of legislation, and I am pleased that my colleagues have recognized the importance of the small-market station amendment.

Mr. TALENT. Mr. President, today I rise to make a few remarks about my vote today for Senator BROWNBACK's amendment regarding broadcast indecency. I supported this amendment as modified by the Burns second-degree amendment because it includes protections for small market stations. Combined, the Burns and Brownback amendments would curb the broadcast of indecent material without unjustly penalizing local broadcasters who unknowingly transmit it.

I have spoken with Missouri broadcasters who worry that the stand-alone Brownback legislation would subject them to large fines for merely transmitting a program containing indecent material, like that contained in the Superbowl halftime show, without their knowledge of the indecency. Combined, the Burns-Brownback amendments would not place broadcasters in this situation since it requires the Federal Communications Commission to consider several factors including knowledge in determining whether to levy a fine, and how much that fine should be.

Under current law, local broadcasters are essentially liable for everything that comes across their airwaves, even a Janet Jackson-type incident that they are downstream from and have had no opportunity to review. This quasi-strick liability standard is simply not fair, and that is one reason why I believe the law should be changed.

The Burns amendment in particular corrects this unfairness by requiring the FCC to consider factors in assessing fines including whether the material was scripted or recorded and whether the violator had a reasonable opportunity to review the script or recording, thereby demonstrating that the violator had knowledge that the indecent, obscene or profane material would be aired or, otherwise, had a reasonable basis to believe that live or unscripted programming would contain indecent material. In determining culpability, the FCC would be required to consider mitigating factors including whether the licensee had a reasonable opportunity to review the programming or had reason to believe it may contain obscene, indecent, or profane material. I believe these provisions address local broadcasters' concerns and protect them from arbitrary FCC enforcement.

I support the Burns-Brownback amendments because of these provisions, but I am still concerned about the phenomenon of congressional overreaction to current events. Like many other parents, I feel that this year's Superbowl halftime show contained indecent material and that those responsible should be held accountable. After the Superbowl, hundreds of Missou-

rians contacted my to share similar views. There seems to be a tendency among elected officials to respond to such a strong outpouring of support by not only trying to fix the problem, but by trying to fix it in a way that swings the legislative pendulum too far in other directions, to over-regulate. I do not believe that these amendments as combined go too far, but if they do I want to hear from Missouri broadcasters and work with them to address their concerns.

I thank Senators BURNS and BROWNBACK for their hard work on this legislation, and for addressing my concerns.

Mr. WARNER. We are moving along quite well. All are in agreement with great cooperation on both sides. We are about to proceed to the amendment, the "Buy America" from our colleague on the committee. The Senator from Arizona on this side is ready.

Mr. REID. Will the Senator yield?

Mr. WARNER. Yes.

Mr. REID. Senator DAYTON indicated he wishes to speak for a short period of time. The Senator from Arizona does not usually speak very long. Does the Senator have any idea how long he will talk?

Mr. MCCAIN. No longer than 10 or 15 minutes.

Mr. REID. We can complete all debate on this amendment. Senator DAYTON said he would not speak for more than 5 or 10 minutes following the Senator from Arizona, and that would complete debate on the amendment.

Mr. WARNER. Except the Senator from Virginia would like about 3 minutes to wrap up at the conclusion.

Mr. REID. Totally appropriate.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent I be allowed 15 minutes for my substitute, the Senator from Minnesota be given 10 minutes in response, and the Senator from Virginia, 3 minutes, followed by a rollcall vote.

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

The Senator from Arizona.

AMENDMENT NO. 3461

Mr. MCCAIN. Yesterday, Senator WARNER called up a substitute amendment. I ask unanimous consent the substitute amendment be called up for its immediate consideration.

The PRESIDING OFFICER. The amendment is pending.

Mr. MCCAIN. My reasons for offering this substitute amendment are simple. It will be very harmful if we allow the Dayton amendment to be adopted in its original form. It is harmful to the Department of Defense, our soldiers in uniform, our domestic defense industry, and, not least, the American taxpayer.

The amendment I am offering in the form of a substitute would grant waiver authority for the application of a domestic source or content requirement with a country that has signed a dec-

laration of principles with the United States. This substitute amendment aims to assure that the Department of Defense, charged with protecting our national security, is not limited in its ability to carry out the functions the American public is depending on it to do.

The Dayton amendment would give preferential treatment to U.S. suppliers and does not accomplish the more important objective, which is to provide our troops with the best product for the best price. It may not sound like much on first consideration, but it would have far-reaching consequences on national security efforts and violate many of our trade agreements with respect to defense procurement.

Despite the good intentions of the proponents of the "Buy America" amendment, if it passed in its current form, it could have consequences to our Nation, impacting jobs and our economic prosperity. Further, it would harm our relationships with our allies and coalition partners and our collective prosecution of the war on terror.

As for the international considerations of the Dayton amendment, it is isolationist and go-it-alone. Currently, the United States enjoys a trade balance in defense exports of 6 to 1 in favor with respect to Europe, and 12 to 1 with respect to the rest of the world. I don't think there is any doubt if we restricted what we would buy from other nations, they would then, in return, respond. If we pass the Dayton amendment without modifications, our allies will retaliate, and the ability to sell U.S. equipment as a means to greater interoperability with NATO and non-NATO allies would be seriously undercut. Critical international programs such as the Joint Strike Fighter Program and the Missile Defense Program would likely be terminated as our allies reassess our defense cooperation.

There are many examples of a trade imbalance that I can point to. I mention one government: The Dutch Government, over a 4-year period, purchased \$2.5 billion in defense equipment from U.S. manufacturers, including air refueling planes, Chinook helicopters, Apache helicopters, F-16 fighter equipment, missiles, combat radios, and various equipment. During that same period, the United States purchased only \$40 million of defense equipment from the Dutch. So there is a \$2.5 billion procurement by the Dutch Government for American equipment and \$40 million of equipment of the United States bought by the Dutch. Recently, the Defense Ministers of the United Kingdom and Sweden pointed to similar situations in their country.

In every meeting regarding this subject I am told how difficult it is to buy American defense products because of our protectionist policies and the strong "Buy European" sentiment overseas. The Ambassadors of the United Kingdom, Netherlands, and Denmark, allies that provided forces in

Iraq, recently sent letters to the Armed Services Committee expressing their strong support for the underlying title 8 in the Defense Authorization Act.

The letters support the Commission on the Future of the National Technology and Industrial Base, the conforming standard for waiver of domestic source or content requirements, and consistency with U.S. trade obligations under trade agreements.

Over the last few years we have sold 18 variants of aircraft, 19 types of missiles, as well as ground and naval equipment, through the Foreign Military Sales Program. These defense systems were manufactured in 39 States across America. Companies such as Raytheon, Lockheed Martin, Bell, Northrop Grumman, Missile Research Corporation, Sikorsky, Pratt & Whitney, General Dynamics, American General, and American Truck Corporation are contributing to the trade surplus we have in the defense technology market.

I want to point out also that in fiscal years 2003 and 2004 there was \$482 million worth of military equipment purchased in the State of Minnesota; \$482 million, Lockheed Martin; and Raytheon, 20 Stinger missiles. Lockheed Martin, by the way, sold those weapons systems to Japan, and Raytheon, the Stinger, to Turkey.

I will read from a couple letters we have received from various countries and the U.S. Chamber of Commerce and others on this issue.

There is no one under more assault than the British Prime Minister for his continued unwavering support of our effort in Iraq. The British Ambassador wrote:

If approved, the measures proposed under Title VII would be an important step forward towards improving interoperability across the full range of our mutual defence cooperation.

The Netherlands Ambassador says:

Although not directly related to the above referenced proposals, allow me to share with you the idea that in our perception, part of the discussion which is seen by some as the danger posed by foreign dependency can be satisfied by bilateral Security of Supply agreements which can be negotiated as more detailed arrangements under a Declaration of Principles. . . .

As you know, Mr. President, we have Canadian troops fighting alongside Americans in Afghanistan.

The amendment offered by Senator DAYTON sends the wrong message to U.S. allies by deleting language in the Committee's bill that would encourage and support international defense cooperation and ultimately benefit U.S. taxpayers and American troops.

Every nation that is working with us and fighting alongside the United States is deeply concerned about this issue. It is hard for me to understand why we would want to propose legislation which would put this impediment to our relationship with our allies right now, when we are desperately seeking more cooperation and more effort on behalf of freedom.

The Danish Ambassador says:

. . . it would be very difficult to understand and explain if Denmark were to face new restrictions in the industrial cooperation with the U.S. Especially in light of our participation in Iraq since the beginning of the military operations and the continued presence of 500 Danish troops—one of the largest contingents in both absolute numbers and certainly in proportion of population.

We are in tough times right now. The last thing we need to do is throw sand in the face of our allies, particularly our European allies who are fighting alongside us in Iraq and Afghanistan, Bosnia, Kosovo, and other parts of the world. I would hope that the substitute would be agreed to, and I would point out again the U.S. Chamber of Commerce, as well as the National Defense Industrial Association and the Aerospace Industries Association, the Secretary of Defense, and others have spoken strongly on this issue.

Let me quote from the U.S. Chamber of Commerce letter:

On behalf of the U.S. Chamber of Commerce, the world's largest federation, representing more than 3 million businesses, I am writing to express serious concerns for two Buy American-related amendments for consideration during Senate debate on the National Defense Authorization Act. These sections represent important steps in Department of Defense transformation plans as it is filed.

So I would hope we would also understand the Senate needs to go into these negotiations with a strong position, given the position of the House Armed Services Committee authorization. So I hope we will adopt the amendment. I ask for its enactment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 3197, AS MODIFIED

Mr. DAYTON. Mr. President, I ask unanimous consent that the amendment be set aside, and I call up my amendment 3197 and ask unanimous consent that my amendment be modified with the changes that are at the desk.

Mr. WARNER. Mr. President, reserving the right to object, the modifications are at the desk. We have examined them, and there is no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is modified.

The amendment (No. 3197), as modified, is as follows:

Beginning on page 172, strike line 11 and all that follows through page 176, line 12.

Mr. DAYTON. Mr. President, I thank the chairman for his concurrence.

Mr. President, I want to say at the outset, as I said yesterday, but in the absence of my colleague from Arizona, I have the utmost respect for him and also for those who take a different position on this issue. But I am a little perplexed at the dire consequences that are being asserted if my amendment were to be adopted, because my amendment simply strikes language that is in the bill before the Senate which is itself modifying current law.

My amendment simply takes us back to current law. My amendment simply takes us back to the principles and the policies and the standards and the law in the Buy American Act, which has been in effect in this country for 70 years. So I am astonished that these dire consequences are being asserted on something that has been in existing law for 70 years, that has benefited companies represented by the U.S. Chamber of Commerce and the National Defense Industrial Association, that may have certain members that have exported jobs and instead set up bases of operation in other countries, including those affected by this amendment.

So there may be those who have that particular financial interest for their own companies involved, but, overall, as the Senator from Arizona pointed out, national defense and military equipment are areas of our trade where we enjoy a surplus. So it seems evident that the policies and the laws of this country affecting both "Buy American"—which provides exemptions for the Secretary of Defense in just the circumstances that the Senator from Arizona cited: if there are not products available that are of the right quality, if there is a delay in obtaining them, if the prices are not competitive, if there are any factors at all that would harm our ability to provide for our national defense or to supply our fighting men and women who serve us so heroically around the globe—if there were anything at all that were an impediment to them getting the best equipment, getting the most advanced equipment, in a timely basis, at a competitive price, then the Secretary of Defense, under the current law, is entitled and has the authority to make a waiver and grant an exception.

But this "Buy American" law has said—for 70 years, under six Democratic administrations and five Republican administrations, until this administration started to object to it—try to buy American because if you buy American, you strengthen America by supporting American companies producing products in the United States of America, employing American citizens, providing jobs in this country.

It is this administration which seemingly has very little concern about that job base. Given that we have lost, since President Bush took office, in the last 3½ years, over 2½ million manufacturing jobs in this country—that is, 2½ million Americans who were holding those jobs when President Bush took office, who are now without those jobs. Maybe some have found lesser paying service sector jobs, but many of them are unemployed and have been for a long time. Under those circumstances, you would think this administration would be unwilling to adopt any violations of the Buy American Act that would have the consequence of costing more American manufacturing jobs or not recovering some that would otherwise be possible.

to be recovered for the benefit of American citizens, for the benefit of American companies. But evidently that is not a concern.

I appreciate that Senator McCain has, by his proposed substitute amendment—and I would support that if my own were not successful—reduced the number of countries that are going to be given this special treatment, this special advantage under the existing armed services language—section 842 that I propose to strike—and has stated that the countries that will be given this special exemption are those that have signed statements of principle with the United States rather than memoranda of understanding regarding U.S. purchases from those countries.

I am a little perplexed that the Senator from Arizona cited letters in support of his position from the countries of Canada and the Netherlands because, according to the information I have been provided, those two countries do not have statements of principle signed with the United States, so they would not be included. In fact, they would now be excluded by Senator McCain's proposed substitute amendment. As I understand it, the countries that have signed these statements of principle include Australia, Norway, Denmark, the United Kingdom, Sweden, Spain, and Italy. I am pleased that the number of countries then that would be exempted from "Buy America" are only 7, as opposed to 21 before, but those are still 7 countries, frankly, that enjoy, on an overall basis, a sizable trade surplus with the United States.

In other words, this country, if you take all goods and services, imports far more products from those countries, buys more products made in those countries than we export to those countries. One of the few exceptions to that is the sale of military equipment. That is to our advantage. That means we are exporting more than we are importing. That means we have more jobs generated in the United States to produce those goods and products than we are importing in return. But on an overall basis, taking all products—commercial, industrial, agricultural, and services—we are paying more money to import goods and services from those countries than we are exporting.

So why are we willing to sacrifice one of the very few sectors in which we enjoy a trade surplus and give that up by agreeing to buy the same amount of product from them as we sell to them in this one sector and then leaving all others aside? If we want to take that approach, if we believe, as those countries do, that these kind of reciprocal agreements are valuable to them, as they are, because they provide jobs in those countries, why don't we make that requirement for everything we import from those countries? Or better yet, why don't we make that agreement for everything we import all over the world? Because as the latest figures show, we are running a world trade def-

icit that now exceeds on an annual basis \$550 billion a year. That is \$550 billion that leaves the United States to buy foreign products. Here we are, in one of the few sectors where we enjoy an export surplus, prepared to give that up on the basis of getting contracts or selling products to those countries.

I can understand why those countries who wrote those letters of support would do so because that kind of agreement benefits them. But we are not making laws—or we should not be—and we are not making trade policies—or we should not be—that benefit Canada, the Netherlands, Denmark—with all due respect, important friends and allies as they are—any more than they pass laws or make trade policies that benefit the United States to their own disadvantage. So if they are not prepared to do so, and they should not, why would we do so when we should not?

My goal is not to change current law; my goal is to stay with current law. It is to strike the language in this bill that would create these additional exceptions, that would allow other companies in other countries to gain contracts that are for goods and services that are now produced in the United States by American companies, employing American workers, paying taxes in American communities that benefit our schools, our local governments, our State and Federal Government, but, most importantly, that provide jobs for American citizens, the same as current law. I am not asking for any more protectionism. I am not asking for any more of anything affecting trade policy or trade agreements than exists under current law. I am simply asking my colleagues not to go further.

I ask my colleagues—at a time when we have lost over 2.5 million manufacturing jobs under President Bush and his administration—not to go further, not to cost us more manufacturing jobs, but to take a stand on behalf of those who are working in American industries today, those who want to return jobs to American industries tomorrow. Let's stick with current law. That is what my amendment does.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia has 3 minutes.

Mr. WARNER. Mr. President, to go directly to the comments the Senator just made, as he and I were in our colloquy the other day, I pointed out that at the present time the United States, in the last fiscal year, sold \$63 billion in defense sales and only purchased \$5 billion. My point is, the Senator is going after the wrong target, the wrong segment of the industry by this amendment, because it will create greater loss of jobs if we go after that trade surplus that is in defense right now. That is why we plead with our colleagues to leave this sector of trade untouched. I believe it is very important we do that.

The second thing that concerns me, and it is somewhat technical, in drawing up this bill, I gave specific instructions to the staff to preserve the sanctity of that part of "Buy America" which I and I think everybody in this Chamber supports, the Small Business Act, where 23 percent of the dollars for small businesses have to go, the shipbuilding, the blind and the handicapped, and the Berry amendment. Yet when the Senator modified his amendment, this section up here was taken out. That is caught up, and takes it out also.

It seems to me it is important for the Senate to reaffirm the sanctity of those four categories of trade as being purely "Buy America" and let them stay. But the Senator has taken out the work of the committee when we put it in there. That is what troubles me.

Lastly, we have here another communication from the Secretary of Defense of Great Britain, who is so explicit, he says:

... efforts by Administration officials to introduce unnecessarily restrictive language into US/UK cooperative armament and research MOUs are a potentially serious blow to US-UK relations in the defence equipment co-operation field. They would put us under pressure domestically—

That is, before the parliament, their parliament would now begin to examine this tremendous trade surplus that we have with relationship to Great Britain

—to review our own policies and to consider whether we are prepared to continue to place significant defence contracts with US suppliers in the face of what could only be seen as a demonstrably uneven playing field. The mutual operational, technological, and industrial benefits we have enjoyed over years of equipment cooperation could quickly evaporate with both of us being losers, and with obvious political ramifications.

I say to my good friend, I recognize his intention to try and help America save jobs, but his amendment addresses the wrong sector of trade. He could do serious damage to a surplus we are generating with additional jobs in the United States as it currently exists.

I yield the floor.

The PRESIDING OFFICER. All time on the amendment has expired.

VOTE ON AMENDMENT NO. 3461

The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 54, nays 46, as follows:

The result was announced — yeas 54, nays 46, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—54

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

NAYS—46

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Graham (FL)	Nelson (NE)
Biden	Harkin	Pryor
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Byrd	Johnson	Rockefeller
Carper	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Voivovich
Dodd	Levin	Wyden
Dorgan	Lincoln	
Edwards	Mikulski	

The amendment (No. 3461) was agreed to.

AMENDMENT NO. 3197

The PRESIDING OFFICER. Under Senate precedent, the accompanying Dayton amendment to strike is moot.

Mr. ENSIGN. 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. 3467 TO AMENDMENT NO. 3315

Mr. ENSIGN. Mr. President, I call for regular order with respect to a Landrieu amendment numbered 3315 and offer a second-degree amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 3467 to amendment No. 3315.

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

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

The amendment is as follows:

(Purpose: To provide a fiscally responsible open enrollment authority)

On page 9, strike lines 12 through 22, and insert the following:

(8)(A) The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(i) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to

participate under chapter 73 of title 10, United States Code;

(ii) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(iii) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(B) Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(C) In this paragraph, the term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

Mr. WARNER. Mr. President, if I might, on the resumption of the Senate consideration of this bill, that will be following the taking of the annual picture. At this time, the understanding is Senator DASCHLE will be recognized for the purpose of bringing up his pending amendment. I inform the Senate of that situation.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 1:23 p.m., recessed until 2:41 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Democratic leader is recognized.

AMENDMENT NO. 3409

Mr. DASCHLE. Mr. President, I ask for the regular order with respect to amendment No. 3409.

The PRESIDING OFFICER. The Senator has that right. The amendment is now pending.

AMENDMENT NO. 3469 TO AMENDMENT NO. 3409 (Purpose: To assure that funding is provided for veterans health care each fiscal year to cover increases in population and inflation)

Mr. DASCHLE. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3468 to amendment No. 3409.

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

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. Mr. President, in 1898, as the Spanish-American War drew to a

close, then-COL Theodore Roosevelt warned his Rough Riders about the reception they would receive once they returned home:

The world will be kind to you for 10 days. Everything you do will be all right. After that, you will be judged by a stricter code.

We have come a long way in the treatment of our veterans, and our recent commemoration of Memorial Day, our dedication of the World War II Memorial, the observance of the 60th anniversary of D-day, attest to the gratitude our Nation feels toward the men and women who have defended our freedom. Ultimately, the real test of our gratitude, however, is not found in parades or ceremonies. The real test is whether we honor our promises and provide our veterans with the help and benefits they need.

Sadly, we are not meeting that test. In recent years, large numbers of veterans have seen their health care delayed or denied outright. The reason is clear: Our system for funding the VA is broken. The VA's enrolled patient population has grown 134 percent since 1996, while appropriations have risen only one-third as quickly.

The President's task force to improve health care delivery for our Nation's veterans, created by President Bush through Executive Order 13214, reported a significant mismatch in VA between demand and available funding. That mismatch is translated into lengthy waiting lists, forcing hundreds of thousands of veterans to wait for months, even years, to see a doctor, increased out-of-pocket payments resulting in veterans paying six times more for their health care than when this President took office, from \$200 million in 2001 to an expected \$1.3 billion next year, and new enrollment restrictions.

Last year, Secretary Principi ruled that 200,000 priority 8 veterans could no longer enter the VA health care system. If nothing is done, the Congressional Budget Office now predicts the number denied access through this one policy will grow to 1.5 million by the year 2013. The Bush administration refuses to acknowledge the system is broken and preaches a policy of "demand management."

Let's be clear, demand management means taking any and all steps necessary to restrict the number of veterans treated by the VA, including rationing care, sending the bill collectors after veterans, and blocking enrollments. The principle of demand management says to the veteran: Take your health concerns somewhere else because we cannot help right now.

That is not a policy, that is a disgrace, and it is time we reject that principle that governs the care we offer our veterans today. Veterans have a fundamental right to health care, and we have an obligation to ensure that the VA has the resources to provide them. The answer to the VA health care crisis is simple: We need a new funding system that will allow us to provide health care to every American