

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

Mr. STEVENS. Mr. President, I have a package we have approved as managers of the bill. I ask unanimous consent that the Chair lay before the Senate amendments 1996, 1887, 1895, 2017, 1925, and 1889. It sounds as though I am reading birthdays.

When the Chair is ready, I will proffer a unanimous consent request when those amendments are before us.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Mr. STEVENS. We do not want to offer them en bloc. We want to offer them one by one.

The PRESIDING OFFICER. The clerk will report.

AMENDMENT NO. 1996

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Ms. MIKULSKI, proposes an amendment numbered 1996.

The amendment is as follows:

(Purpose: To provide that, of the amount made available under title III for the Navy for other procurement, up to \$3,000,000 may be made available for the Joint Aviation Technical Data Integration Program)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading “OTHER PROCUREMENT, NAVY”, up to \$3,000,000 may be made available for the Joint Aviation Technical Data Integration Program.

Mr. STEVENS. I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment (No. 1996), as modified, is as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading “OTHER PROCUREMENT, NAVY”, up to \$3,000,000 may be made available for the Joint Aviation Technical Data Integration Program.

Mr. STEVENS. Mr. President, this is an amendment offered by Senator MIKULSKI for the Joint Aviation Technical Data Integration Program.

Mr. INOUE. No objections.

Mr. STEVENS. There is no objection.

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

question is on agreeing to amendment No. 1996, as modified.

The amendment (No. 1996), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1887

Mr. STEVENS. I call up amendment No. 1887.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SALAZAR, proposes an amendment numbered 1887.

The amendment is as follows:

(Purpose: To rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation)

At the appropriate place, insert the following:

SEC. _____. (a) RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking “have a death gratuity paid” and inserting “have fallen hero compensation paid”.

(2) In section 1476(a)—

(A) in paragraph (1), by striking “a death gratuity” and inserting “fallen hero compensation”; and

(B) in paragraph (2), by striking “A death gratuity” and inserting “Fallen hero compensation”.

(3) In section 1477(a), by striking “A death gratuity” and inserting “Fallen hero compensation”.

(4) In section 1478(a), by striking “The death gratuity” and inserting “The amount of fallen hero compensation”.

(5) In section 1479(1), by striking “the death gratuity” and inserting “fallen hero compensation”.

(6) In section 1489—

(A) in subsection (a), by striking “a gratuity” in the matter preceding paragraph (1) and inserting “fallen hero compensation”; and

(B) in subsection (b)(2), by inserting “or other assistance” after “lesser death gratuity”.

(b) CLERICAL AMENDMENTS.—

(1) Such subchapter is further amended by striking “Death Gratuity;” each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting “Fallen Hero Compensation;”.

(2) The table of sections at the beginning of such subchapter is amended by striking “Death gratuity;” in the items relating to sections 1474 through 1480 and 1489 and inserting “Fallen hero compensation;”.

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

Mr. STEVENS. This is Senator SALAZAR’s fallen hero compensation amendment, which we have agreed to.

Mr. INOUE. We support it.

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

not, the question is on agreeing to amendment No. 1887.

The amendment (No. 1887) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1895

Mr. STEVENS. I call up amendment No. 1895.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BINGAMAN, for himself and Mr. DOMENICI, proposes an amendment numbered 1895.

The amendment is as follows:

(Purpose: To make available \$3,000,000 from Research, Development, Test, and Evaluation, Air Force, for assurance for the Field Programmable Gate Array)

At the appropriate place, insert the following:

SEC. _____. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE”, up to \$3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

Mr. STEVENS. This is Senator BINGAMAN’s amendment for field programmable gate array. I have a modification which I send to the desk.

The PRESIDING OFFICER. Is there objection to the modification? If not, the amendment is so modified.

The amendment (No. 1895), as modified, is as follows:

At the appropriate place, insert the following:

SEC. _____. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE”, up to \$3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

Mr. STEVENS. I ask for approval of the amendment.

Mr. INOUE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1895, as modified.

The amendment (No. 1895), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2017

Mr. STEVENS. I call up amendment No. 2017 and send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BENNETT, proposes an amendment numbered 2017.

The PRESIDING OFFICER. Is there objection to the modification? If not, the amendment is so modified.

The amendment (No. 2017), as modified, is as follows:

(Purpose: To make available, from amounts appropriated for the Research, Development, Test, and Evaluation, Army account up to \$1,000,000 for the Chemical Biological Defense Material Test and Evaluation Initiative (PE 0605602A)

In the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading “Research, Development, Test, And Evaluation, Army”, up to \$1,000,000 may be used for Chemical Biological Defense Material Test and Evaluation Initiative.

Mr. STEVENS. This is Senator BENNETT’s amendment for chemical biological defense. We have accepted it as modified.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 2017, as modified.

The amendment (No. 2017), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1925

Mr. STEVENS. Mr. President, I call up amendment No. 1925.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. ISAKSON, proposes an amendment numbered 1925.

The amendment is as follows:

(Purpose: To provide that, of the amount made available under title IV for the Army for research, development, test, and evaluation, up to \$1,000,000 may be made available for an environmental management and compliance information system)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY”, up to \$1,000,000 may be made available for an environmental management and compliance information system.

Mr. STEVENS. Mr. President, this is Senator ISAKSON’s amendment for funds for environmental management. I ask for its consideration.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1925.

The amendment (No. 1925) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1889

Mr. STEVENS. Mr. President, I call up amendment No. 1889.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SANTORUM, proposes an amendment numbered 1889.

The amendment is as follows:

(Purpose: To provide that, of the amount made available for research, development, test and evaluation for the Army, \$2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY”, \$2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

Mr. STEVENS. This is Senator SANTORUM’s amendment for hypothermia life support. I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1889), as modified, is as follows:

(Purpose: To provide that, of the amount made available for research, development, test and evaluation for the Army, up to \$2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY”, up to \$2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

Mr. STEVENS. I ask for consideration of the amendment.

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

Mr. INOUYE. No objection.

The PRESIDING OFFICER. If not, the question is on agreeing to amendment No. 1889, as modified.

The amendment (No. 1889), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily so that I may offer an amendment.

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

AMENDMENT NO. 1992

Mr. BYRD. Mr. President, more than 2,000 years have passed since Cicero

said, “Endless money forms the sinews of war.”

Let me repeat what I have said. More than 2,000 years have passed since Cicero, a great Roman senator, said, “Endless money forms the sinews of war.”

How astute he was to point that out and how little the times have changed. Today, the United States is engaged not just in one war but two wars. The first of the two wars began 4 years ago when our country was invaded. Our country was attacked by 19 hijackers sent on their deadly mission by Osama bin Laden. That war continues today in Afghanistan. That is a war that was thrust upon us. That was a war in which the United States was invaded by 19 hijackers, not one of whom was from Iraq—not one. That war, as I say, was thrust upon us. The United States was invaded. The United States was attacked and thousands of Americans lost their lives. That is the war that I support. That is the war that I supported from the beginning.

But there is also another war, a war which the United States started, a war in which the United States was the attacker. We didn’t wait to be attacked; we attacked another nation. We invaded, the United States invaded another nation that did not pose a threat, a direct and immediate threat to our national security. We, the United States, invaded another country that did not act to provoke our invasion.

Since March 19, 2003, our troops, Americans troops, have been sent into the breach in Iraq, a country which had no connection—none—no connection to the September 11 attacks on our country. I was against our policy with reference to the invasion of that country, Iraq. I was against that. That country did not pose an immediate threat to our national security, no. I said so then and I was right. No weapons of mass destruction were found. No weapons of mass destruction have been found to this day there in Iraq.

I hold no brief for Saddam Hussein, but we acted under the unconstitutional doctrine of first strike. The first strike doctrine, that is the doctrine that we followed. That is the doctrine that got us into Iraq. It is unconstitutional on its face. Why? Because the Constitution says Congress shall have power to declare war.

How can it be constitutional if a President, one man, Republican or Democrat or independent or whatever, can declare war if Congress has nothing to say about it, if Congress has no opportunity to debate it?

I do not question the inherent power of any President to defend our country. Congress may be out of town. Congress may be in recess. If we are invaded, of course, he has the power to act. But that was not the case here.

I and 22 other Senators voted against shifting that power to declare war, that constitutional power to declare war from the Congress to a President,

and that law is still on the books. It has not been repealed.

We can talk about that at another time, but let me say today, these two wars have cost the lives of many Americans. In the first war, the one being fought in Afghanistan and elsewhere against Osama bin Laden, 243 American troops have given their lives in the line of duty. I support our efforts in that war. I have done so from the beginning.

In the second war, the war in Iraq, 1,934 young men and women have perished. I disagree with the policy that sent our troops to Iraq, but I join with all other patriotic Americans in supporting the men and the women who have been sent to Iraq. I don't support the policy that sent them there, but I support those men and women. They went, they heeded the call, they did their duty, and they are still doing their duty. Of course I support them. I join with all other Americans in supporting them and honoring those men and women who have paid the ultimate price in service to the United States.

In addition to lives lost, these wars have also cost our country a fortune, a colossal fortune in our national wealth. According to the Congressional Research Service, the Congress has already appropriated \$310 billion to pay for these two wars. The Defense Appropriations Committee bill being debated now in the Senate adds another \$50 billion to that figure. Most observers believe that tens of billions more dollars will be required in a matter of months. Who knows, before it is all over, we may find that the ultimate cost in Treasury may amount to \$1 trillion. Who knows, when we think of all the things that must be done. We have to replenish the equipment that has worn out, that has rusted, that has been destroyed—the military equipment. Our own military people will have their requests in this year, next year and the next year and the next year, for money to replace that equipment.

Could we fight another war if we should be invaded today? Would we be prepared to fight another war? Could we?

If these estimates are accurate, the cost of the wars in Iraq and Afghanistan could easily exceed \$400 billion by early next year—\$400 billion. That is \$400 for every minute since Jesus Christ was born. That is a lot of money, isn't it?

Once again, "Endless money forms the sinews of war."

That is simply the visible part of the cost of the war. We are slowly, slowly but surely, coming to realize that there are financial costs to the war that are buried deep within the Government's ledgers. In June, the Department of Veterans Affairs admitted to a major shortfall in its budget. Working together with Senator CRAIG and Senator MURRAY, I supported an amendment to add \$1.5 billion in emergency funds to the veterans health care budget. My colleagues and I then worked to add \$1,977,000,000 to the VA budget for the fiscal year 2006.

Why? Why? Why is the VA running short of funds?

Part of the reason lies in the fact that the administration did not budget enough funds to take care of troops coming home from these wars with serious injuries. But there is more. These injured veterans have earned compensation from the VA for their wounds.

According to the Defense Department, more than 15,000 troops have been wounded in Iraq and Afghanistan. Congress is yet to see a full estimate of the costs of these veterans' benefits.

There is also the matter of revenue that the Government coffers will never see because of the deployment of our troops to these wars. Troops serving in combat zones are exempt from income taxes. National Guardsmen and reservists often must do without their higher civilian pay during their deployment. No one would argue that wounded veterans should not receive compensation from the VA or the troops in war zones ought to pay taxes while they are risking their lives for our country. But the American people are not being told about these hidden costs of these wars. Why? Why is that?

The fact is, the administration has never provided the Congress with a budget estimate of what the war is costing the American taxpayers. Some may argue that the budget resolution passed in Congress by the thinnest of margins included \$50 billion for the cost of the wars in Iraq and Afghanistan. That is true. That money is in there. The \$50 billion also appears in this appropriations bill. But that estimate is just a number made out of whole cloth. The President did not request a single dime for the wars in his budget estimate submitted to Congress in February—not one thin dime, not even one copper penny. Instead, Congress picked a number out of thin air—\$50 billion—and stuck it in the budget resolution.

That number is not backed up by any number crunching, any careful analysis, or any budgetary data. It doesn't even match up with the numbers prepared by the Congressional Budget Office, which estimates that \$85 billion will be required to fight these wars next year, nor is that \$50 billion paid for. This \$50 billion is simply added to our national debt, a debt that will have to be paid by our children and our children's children.

I say one more time, "Endless money forms the sinews of war." I am quoting Cicero, of course.

The administration needs to budget for the wars in Iraq and Afghanistan. It should not be sufficient for Congress to pick a number out of a hat, appropriate funds to match that number, and hope that our troops will be taken care of. The administration needs to step up to the plate and tell Congress and the American people how much it expects to spend on the war, what the money will be used for, and how our Nation is going to foot the bill. It may be easier

said than done, but we ought to do our best.

To some observers, the importance of budgeting for the war may seem like a furor over how much paper should be pushed around in Washington, DC. Although the terms used in this debate are arcane—how many people outside the beltway know anything, or much at least, about emergency supplementals, the budget process, or outlays and budget authority—the principles are vitally important to our country.

There is an important principle that a country must share the burdens of war among its citizens. Think back to World War II and what was asked of the American people in that conflict: victory gardens, daylight savings, gasoline rationing, and on and on. We do not see anything like that today. Quite the opposite. For the first time in American history, our Nation has cut taxes during a time of war.

The wars in Iraq and Afghanistan have forced great sacrifice.

Let me say that again.

These wars—the war in Afghanistan, which I support, the war in Iraq, which I have never thought we should engage in—have forced great sacrifice among those who serve our country, and their families as well. Our troops risk life and limb while their spouses, their parents, and their children pray for their safety and for their return home. It is these troops and their families who have had so little relief from the burdens of these wars.

Last year, Congress passed a law to compensate Americans for spending up to \$1,000 out of their own pockets to send body armor, boots, gloves, and other equipment to troops serving overseas. But the Pentagon still has not implemented this law, giving short shrift to those who have done the most to support our troops. These families have not been recompensed for their support of the troops. Why is the Defense Department bureaucracy so slow to implement this law? Why? Why is the Defense Department bureaucracy so slow to implement this law? It ought to be a priority to help these Americans who have done so much to help our troops.

The sacrifices demanded by the two wars in Iraq and Afghanistan are falling disproportionately on the few. The President has said our Nation is at war. No. Our Nation is not at war. Our military is at war. Yes. The National Guard, the men and women in the military, they are at war but not the Nation. We scarcely hear much about it.

Our troops are shedding their blood, and their families are doing so much to support them. Meanwhile, the average American goes about his day-to-day business with little interruption, only to pause in solemn reflection upon the occasional news report about the tragic death of another soldier from his community.

When Winston Churchill rallied his country in World War II, he urged the British to "defend our Island, whatever

the cost may be, we shall fight on the beaches, we shall fight on the landing grounds, we shall fight in the fields and in the streets."

It was a call not just to English soldiers to fight but for the country to share the burden of the struggle.

What a stark contrast to the wars we are in today in which so little is asked of the American people compared to what is demanded of our military personnel. In light of the incredible toll of these wars on our country, it is time to rethink that unfair balance of sacrifice.

Three times before, the Senate has voted to urge the administration to budget for the cost of the wars in Iraq and Afghanistan so that there may be a debate about how the President intends to spread the sacrifice fairly among all Americans. Three times, the Senate has voted to urge the administration to budget for the cost of the wars in Iraq and Afghanistan, and three times that call has not been honored, it has been dismissed. The enormous cost of keeping hundreds of thousands of troops fighting in two wars, each of them half a world away, continues to be a black hole in the President's budget.

Congress and the American people keep hearing the same old line: The administration cannot budget for the cost of the war because the true cost is unknowable. The Secretary of Defense, Mr. Rumsfeld, when he was asked about the cost, said the cost is unknowable. Of course, he is right. It is unknowable, but surely the administration has some estimate somewhere. Surely the Defense Department has some estimate, and it has had some estimate—some estimate of what the war was going to cost.

We have heard that the cost is unknowable. We have heard that many times before. But it strains one's belief to argue that the Secretary of Defense, with legions of bureaucrats and accountants at his disposal, cannot make an estimate of how much it will take to support our troops for the fiscal year that began last week. With 18,000 American troops in Afghanistan and 149,000 troops in Iraq who are risking their lives each and every day, one would think that the Pentagon could muster the courage to estimate how much money it will take to support our fighting men and women. We are talking about an estimate.

The amendment that I offer to the Defense appropriations bill again states the sense of the Senate that the President should budget for the war. We have been at these two wars a long time now. I could understand how he might not be able to budget for the first few months of a war, but we have been at these wars a long time and we still see no budget for them. Still the American people do not know. Whatever is requested of the Congress, the administration does it with supplemental appropriations bills. There are not very thorough hearings on supplemental appropriations bills. They say:

We spent this much and we have to appropriate.

The American people do not realize the cost of these wars. So let me say again, the amendment I offer to the Defense appropriations bill states it is the sense of the Senate that the President should budget for these wars. President Roosevelt did it for World War II, President Johnson did it for Vietnam, President Clinton did it for Bosnia, President Bush did it for Kosovo, and it is time to do it for Iraq and Afghanistan.

Let the American people know how much of their hard-earned tax dollars will be needed for these wars. Let Congress debate how these costs must be borne. Let our Government take a responsible approach on how we pay for our troops in the field.

I urge my colleagues to once again support the President, support my amendment, and urge the President to budget for the war.

Mr. President, I ask unanimous consent that Senator FEINGOLD may have his name added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

AMENDMENT NO. 1992

Mr. BYRD. Mr. President, I call up amendment No. 1992.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1992.

Mr. BYRD. 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 express the sense of the Senate on budgeting for ongoing military operations in Iraq, Afghanistan, and elsewhere overseas)

At the appropriate place, insert the following:

SEC. _____. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108-87), the Department of Defense Appropriations Act, 2005 (Public Law 108-287), and the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, includ-

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) In section 1024(b) of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (119 Stat. 252), the Senate requested that the President submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year.

(5) The President has yet to submit such an amendment.

(6) The Department of Defense Appropriations Act, 2006, as reported to the Senate by the Committee on Appropriations of the Senate on September 28, 2005, contains a bridge fund of \$50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(7) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 cost of ongoing military operations in Iraq and Afghanistan could total \$85,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the amendment to the budget of the President for fiscal year 2006, requested by the Senate to be submitted to Congress not later than September 1, 2005, by section 1024(b) of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, is necessary to describe the anticipated use of the \$50,000,000,000 bridge fund appropriated in this Act and set forth all additional appropriations that will be required for the fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

Mr. BYRD. I have indicated the purpose of the amendment and the intent of the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, did the manager of the bill have something?

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. It would be the intent of the managers of the bill to indicate to Senator BYRD that we would be pleased to accept that amendment when the time comes. We will leave up

to Senator BYRD when he wants to have the vote.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. STEVENS. The Senator indicated he would be willing to have the amendment considered at this time.

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

The amendment (No. 1992) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. This is similar to an amendment we have carried in the bill before. We appreciate the Senator's position. It is the position of the Senate. The President has decided otherwise, but we hope next year the regular Defense bill will include the moneys for the ongoing war on terrorism.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from the great State of Alaska for his statement. I thank the very great Senator from the State of Alaska for his statement and his support. I also thank our colleague on this side of the aisle, the other manager of the bill, Senator INOUE, for his support.

Incidentally, may I say I guess I am the only remaining person in Congress who voted for the entry of both Alaska and Hawaii into the Union. Praise God, I did that in each case. These are two fine Senators, two of the greatest.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me begin by paying my respect to the Senator from West Virginia, Mr. BYRD, who has for several years now on the subject of Iraq been perhaps the most forceful and eloquent and prescient Member of the Senate with respect to the events there. He has been consistent. He has been strong. All Members in the Senate are enormously respectful of his voice and his leadership on this issue.

I know for the Senator from West Virginia, the years I have been here, there has been no more stalwart, dedicated, reliable defender of America's interests anywhere in the world. There has been no one who has stood up more for our young men and women in uniform. I know this journey he has taken with respect to his feelings about the war were not easy, and they were contrary in some ways to that long record on the surface. But it is when you get below the surface and look at some of the continuity of his thinking about the Constitution, about our obligations as Senators, and about the fundamental reasons why you send young men and women to fight anywhere that you see that, indeed, what he is fighting for now is as consistent with what he has fought for throughout his record and career in the Senate. I thank him for that and pay my respect to him.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts for his observations, for his loyalty to his country, for his service to his country, and for the costs to his human self. For that great service, I thank him. And I thank him for the statement he has just made.

Mr. KERRY. I thank the Senator.

AMENDMENT NO. 2033

Mr. KERRY. Mr. President, I ask unanimous consent that we set aside the pending amendment, and I call up amendment numbered 2033.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. KENNEDY, Mr. REED, Mr. DORGAN, Mr. JEFFORDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. CORZINE, Mr. KOHL, Mr. BAYH, Mr. DURBIN, Ms. CANTWELL, Mrs. CLINTON, Mr. BAUCUS, Mr. REID, and Mr. SCHUMER, proposes an amendment numbered 2033.

Mr. KERRY. 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 for appropriations for the Low-Income Home Energy Assistance Program)

At the end of title VII, insert the following:

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.), \$3,100,000,000, for the unanticipated home energy assistance needs of 1 or more States, as authorized by section 2604(e) of the Act (42 U.S.C. 8623(e)), which amount shall be made available for obligation in fiscal year 2006 and which amount is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. _____. Congress finds the following:

(1) An imminent emergency is confronting millions of low-income individuals in the United States who are unable to afford the cost of rising energy prices.

(2) Prior to the devastation caused by Hurricanes Katrina and Rita in the Gulf Coast region of the United States, individuals in the United States were facing record prices for oil, natural gas, and propane. Hurricane Katrina damaged platforms and ports and curtailed production at refineries in the Gulf of Mexico, the source of almost 1/3 of United States oil output, further raising energy prices.

(3) The Short Term Energy Outlook report of the Energy Information Administration of the Department of Energy states that the ranges for expected heating fuel expenditure increases for the winter heating season of 2005-2006 are—

(A) 69 percent to 77 percent for natural gas in the Midwest;

(B) 17 percent to 18 percent for electricity in the South;

(C) 29 percent to 33 percent for heating oil in the Northeast; and

(D) 39 percent to 43 percent for propane in the Midwest.

(4) According to the National Energy Assistance Directors Association, heating costs for the average family using heating oil are projected to hit \$1,666 for the 2005-2006 winter

heating season. Those costs would represent an increase of \$403 over those costs for the 2004-2005 winter heating season, and an increase of \$714 over those costs for the 2003-2004 winter heating season. For families using natural gas, prices are projected to hit \$1,568 for the 2005-2006 winter heating season, representing an increase of \$611 over those costs for the 2004-2005 winter heating season, and an increase of \$643 over those costs for the 2003-2004 winter heating season. States need additional funding immediately to help low-income families and seniors to ensure that they can afford to heat their homes.

(5) The Mortgage Bankers Association expects that steep energy costs could increase the number of missed mortgage payments and lost homes beginning later this year.

Mr. KERRY. Mr. President, this amendment is cosponsored by Senators KENNEDY, JACK REED, DORGAN, JEFFORDS, MIKULSKI, LAUTENBERG, CORZINE, KOHL, BAYH, DURBIN, CANTWELL, CLINTON, SCHUMER, BAUCUS, HARRY REID, DAYTON, STABENOW, HARKIN, COLEMAN, SNOWE, DODD, LEVIN, and BINGAMAN. I ask unanimous consent that all of their names be added to the amendment as cosponsors.

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

Mr. KERRY. Mr. President, I know there is a reluctance, and I understand it, by the managers of the bill to have an amendment on a subject that does not fit neatly and squarely and automatically under the bill. As they know, the number of legislative opportunities here are very few now, and we are on the appropriations track. This amendment has been authorized already, so it is authorized. The question is what we are going to do to effect it.

This is an amendment to deliver \$3.1 billion of emergency funding—I emphasize “emergency” funding—to the Low-Income Heating and Energy Assistance Program.

The tight natural gas market and the devastating impact of the recent hurricanes have resulted in what everyone knows and feels in their pocketbooks are unusually high fuel prices and very high fuel price forecasts for the foreseeable future. According to the Energy Information Agency, families are going to pay about 77 percent more for natural gas in the Midwest, 18 percent more for electricity in the South, and 33 percent more for heating oil in the Northeast. Heating oil costs for the average family using heating oil are expected to hit about \$1,066 during the upcoming winter. That is \$403 more than last winter, and it is \$714 more than the winter heating season of 2003-2004.

Rapidly rising energy costs have an incredibly negative impact on the ability of low- and even middle-income but fixed-income individuals to be able to meet their demands. High prices are forcing working families to choose warmth over other basic necessities, or in the South, in certain seasons, obviously, cool. Those are tough choices to make. The National Energy Assistance Directors' Association found that 32

percent of families sacrificed medical care last year in order to be able to meet those prices, 24 percent failed to make rent or meet mortgage payments, and 20 percent went without food for at least a day. We have a whole bunch of people in America who are giving up food or rent or medical care in order to be able to pay for the home heating oil.

Hurricane Katrina is a stark reminder of precisely what happens when the Government does not prepare ahead of time for disaster. We have an opportunity now to prepare ahead of time. If we do not act now, families are going to be forced to choose between medical care and heat during the winter. That is just around the corner. In November, it begins to get cold in a lot of States. The fact is, having to choose between a warm house or a full stomach for your children is not a choice anyone in America, the wealthiest nation on the face of the planet, wealthiest industrial nation, ought to welcome.

The number of households receiving what is known as the LIHEAP assistance has increased from about 4.2 million in fiscal year 2002 to more than 5 million this year, which is the highest in 10 years. LIHEAP applications are expected to increase very significantly this winter. Yet the funding levels for LIHEAP are not keeping pace. LIHEAP's buying power is significantly less than when it was established. According to the Government's Consumer Price Index, what cost \$100 in 1982 cost just shy of \$200 in 2004. Using the CPI calculation for inflation, that means that a \$1.8 billion appropriation for LIHEAP in 1982 should have been a \$3.7 billion appropriation in 2004. LIHEAP currently serves less than 15 percent of those people who are eligible in the country.

I understand this amendment can be blocked procedurally. I know that. I hope that will not happen. It is a bipartisan amendment. It is not my preference to attach it to this bill, but it is our only option with the recess coming up in a few days. After the comments of the Secretary of Energy this week that the administration has no plans of asking Congress for more money, we have no choice but to say this is on the congressional agenda, this is on our radar.

I urge my colleagues to support this bipartisan amendment to add \$3.1 billion for LIHEAP in the fiscal year 2006 appropriations bill. It is emergency funding. It does not require an offset as a result. It is an emergency. It is the amount we have authorized. It represents the amount we need. It is critical funding to avoid a looming but absolutely preventable crisis for millions of American families who have been hard hit by the additional costs of fuel oil and the diminishing affordability of home heating oil as the winter approaches.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2005

(Purpose: To curtail waste under the Department of Defense web-based travel system)

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be laid aside and call up Coburn amendment No. 2005.

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

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2005.

At the appropriate place, insert the following:

SEC. _____. None of the funds appropriated by this Act may be obligated or expended for the further development, deployment, or operation of any web-based, end-to-end travel management system, or services under any contract for such travel services that provides for payment by the Department of Defense to the service provider above, or in addition to, a fixed price transaction fee for eTravel services under the General Services Administration eTravel contract.

Mr. COBURN. Mr. President, this is an issue that came to my attention not long after I was sworn in as a Senator. I hope the American public pays attention to the system I am getting ready to describe because way too many things in the Federal Government are bought this way.

The goal of the Defense Travel System was a worthy goal. It said: We travel so much, we ought to have a system that gets us the best fare and can do that on a routine basis so we can save money when Defense Department employees travel. They contracted with a firm to develop that system. It was not necessarily a competitive bid contract either.

What this amendment does is prohibit money from being spent on operations and further development of the system because, quite frankly, it does not work. It works less well than any private travel system that is out there now. It works less well than the GSA's travel system.

We are now close to \$500 million being spent with one contractor to develop a system that does not work. The system did not work at the first development stage, which cost \$47.3 million, and the Defense Department bailed them out. It did not work. It has never met the requirements or the efficiency or the savings that it was supposed to meet.

It is kind of similar to one of those things you get into and you keep hoping it will work, keep hoping it will work, and then it does not work. Well, the American taxpayers are now on the hook for almost \$500 million.

The Defense Department does not even own this program. That was re-

cently changed so the contracting law could be avoided, in terms of going after this contractor on it, because it was not competitively bid, because it was not managed properly.

When you review the DTS system, in 2002, the DOD Inspector General said it should be shut down unless a cost-benefit analysis was prepared that showed the worthiness of its continuation. No analysis has ever been conducted. That was in 2002, and we had only spent about \$100 million on it. We are now at \$500 million. There is no cost-benefit analysis that has been done. Every Defense Department employee can travel cheaper following some other system than this system. We do not own it. We keep paying for it. We keep paying for the development of it.

The American taxpayers are getting hooked, and yet when we are finished with it, we are still not going to have a system that is as good as what is in the private sector. It is a boondoggle, at best.

Program Assessment and Evaluation testified they were unable to complete an analysis because the DTS office had not even kept enough documentation of their own expenditures to make a reliable assessment.

We have big contracting problems in the Defense Department, and this is the best example I know of that ought to be eliminated tomorrow.

At the end of the seventh year of an 8-year contract, a cumulative total of 370,000 travelers had utilized DTS out of 5.6 million annual DOD travelers. So for \$500 million, over the 7 years, we have had 370,000 travelers. It has cost us \$1,500 per ticket, not counting the price of the air fare.

There is not anybody in America who would look at this, with any common sense, and say we ought to continue this boondoggle.

The utilization rate for the current calendar year under the Defense Travel System is at 15 percent. That means only one in eight employees of DOD uses this system to buy a ticket. And then they do not always get the best price.

In order to break even with the costs of DTS annualized—in other words, its annual cost—90 percent of DOD employees would have to use it. They are not using it. DTS costs \$40 to \$50 million per year in operations and maintenance. Orbitz does not come close to it. The GSA accounting system does not come close to it. None of them come close to it. Yet we are continuing to spend \$50 million of the American people's taxpayer dollars before we get the first ticket. So it is a system that does not work. It is broken. The contracting mechanism is broken. Yet we still have people who are going to come to the floor to defend a system that is broken.

Travel executive Robert Langsfeld testified at the hearing that DTS performed less effectively than any—any—civilian e-travel system. We have \$500 million in it, and it is unending on what we are going to have, and it still

works worse than any private e-travel system. We have spent half a billion dollars.

The Federal Government has also spent this money on a system that is not even reliable. It might work one day and does not work the next. It might get you the best fare, it might not.

Unlike DTS, GSA e-travel contracts do not pay operations and maintenance for the programs. They only pay a per-transaction fee.

So for what was a good idea that turned sour, we continue to pour unspoiled milk on soured milk, and it becomes soured milk. So we continue to spend money on it.

The Government still does not own DTS, as I said. It is an intellectual property—computer software and source codes. Last year, Judge George Miller of the Federal Court of Claims decided he would not even look into allegations of violations of the Competition in Contracting Act because the software and source codes are owned by the contractor. So if the contract were opened for bidding and another bidder was awarded the contract, the Government would have nothing left but a \$500 million loss.

But last week, before the hearing, the contractor promised to transfer ownership of this intellectual property to the Defense Department at the end of the contract period, if requested. The reason for this, obviously, is to maintain the fiction that the open bidding on the contract in 2006 is on the level. It is not. There is no open bidding. It violates the very laws that were put on the books to try to maintain competition in contracting. Ownership of DTS bounces around to wherever it is most convenient for avoiding serious scrutiny.

One of the secret changes in the contract that was alleged to have violated the Competition in Contracting Act was the shift from a fee per transaction, as we do with all the civilian e-travel systems, to a cost plus guaranteed profit for the contractor. That has proven they are inept at developing a system. So now we have even changed the contract. Now that we spent \$500 million on it, we are now going to change it. We are not going to hold them accountable. We are going to guarantee them a profit for incompetency and inefficiency. It is fair to have Defense contractors reimbursed on the same terms as civilian contractors and agency contractors who are doing the same thing. My amendment will permit that, and only that, a cost per service.

Another secret contract change was an agreement by the Government to pay \$43.7 million that had been spent in development costs by the original contractor. We got absolutely nothing for that money. It just covered the losses suffered by the contractor in trying to do something they were not capable of doing, and they are still not capable of doing, rather than to go into the pri-

vate sector and buy one that was already developed.

This is money the Government was not obliged to pay under the original contract, but we paid it anyway. We paid it anyway—\$47 million. We are trying to pay for Katrina now. We are trying to fund the war in Iraq. We have a \$500 million boondoggle that does not work, and we will have people defend that on the Senate floor. The fact is, they can't compete. That is what the testimony of the GAO is. That is what the testimony of everybody is. They do not even compete. And now they are only at a 15-percent utilization rate.

Failure carries no negative consequences when we contract this way. When we contract this way, we violate our oaths as the defender of the taxpayers of this country to spend their money wisely. I know I am up against a powerful defense contractor as I attack this process. I want to support our defense contractors. I want to make sure they are there to help us fight and win and defend our freedoms, both here and abroad. But this is the kind of garbage that needs to come out of the contracting system. It is the kind of thing that we need to put on the floor and say: Defend this. Defend it. You cannot defend it. It is indefensible that we would spend a half a billion dollars trying to get an e-travel system, when they are out there working nine times better than anything this program has developed.

I am hopeful the Members of this body, and the American public, more importantly, will call this body, will secure this body's attention on issues just like that. If we are going to not steal from our grandchildren, then we have to be about cleaning up the contracting process in the Pentagon. This is a good first step in doing that.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. Does the Senator withhold?

Mr. COBURN. I withdraw my request.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I salute the Senator from Oklahoma. We have been in Iraq for over 3 years. We have been asking for investigations of these no-bid contracts to these large companies. We have to have Congress accept its responsibility with oversight hearings. More oversight hearings have been held by party caucuses in the Senate than by actual committees looking at these same companies we think are profiteering and ripping off taxpayers.

Congress has a responsibility, too, not just the Department of Defense. We have a responsibility in the Senate. We ought to bring this message to both of our caucuses and say, When are we going to have oversight hearings on those contracting with the Pentagon and making millions of dollars and not making us stronger as a nation?

I salute the Senator from Oklahoma. It is a delicate subject. He has the courage to bring it before us.

IRAQ

Mr. DURBIN. Mr. President, I have come to the floor to talk about Iraq as well. I come each and every week. The reason I came the first week was that back home in Illinois someone said: I watch a lot of C-SPAN. Why don't you talk about the war in Iraq? Why doesn't anybody come to the floor and talk about the men and women dying over there? Shouldn't that be brought up every day in the Senate—our sons and daughters, husbands and wives, the bravest and best are dying every day in Iraq?

I thought to myself: How can we be in the middle of a war and go about business as usual on Capitol Hill? We should be talking about this every single day because the war goes on every single day.

This morning, the Pentagon released these figures as of 10 o'clock: 1,942 Americans have been killed in Iraq; 14,902 have been wounded. I have been to these hospitals—Walter Reed, the veterans hospitals back in the Midwest—and I have seen these brave men and women who have come home wounded and, trust me, many of those wounds are extremely serious. They have come home with amputations, serious head injuries, and psychological scars.

Since the Iraqi elections last January, which were greeted by all of us with a great deal of praise for the bravery of the Iraqi people, since those elections took place, 507 of these American soldiers have died, 507 funerals in America. The numbers keep climbing. Some days it is one at a time. Other terrible days it is five or six. Mr. President, 1,942 Americans killed in Iraq; almost 15,000 wounded.

So I will keep coming to the floor to address this issue, to make sure we never forget these men and women and the sacrifice that they, their families, and people who love them make every single day.

I don't want to pretend for a moment this was brought up to me over the weekend. I don't want to pretend for a moment this is the only death and suffering in Iraq. There are innocent Iraqi people who die every day as well. We cannot even put a number on it. I said to my staff: Go to the United Nations, go to the Red Cross, go to some group and tell me how many Iraqis have died since our invasion of Iraq.

They cannot come up with a number. Some estimates are very different. The Brookings Institution, which is recognized as a nonpartisan research organization, puts the estimate between 14,000 and 24,000 Iraqis who have been killed since the start of the war. Others have estimates that go much higher. We don't know. We don't know how many innocent people have died as a result of this war or how many died because of criminal violence.

Iraqis still die every day. Just this last week, we had three coordinated car suicide bombs that went off in a single marketplace. You have seen the

photos. You have seen the people, crushed with grief—the mothers, the friends, and fathers, standing next to the mutilated corpses of these victims. These bombs that were detonated recently were staggered to explode at different times so they killed as many innocent people as possible. This is a tactic we have seen over and over again in Israel. Now it has come to pass in Iraq on a regular basis. It is despicable, it is depraved conduct. It is an example of inhumane cruelty.

These attacks on American soldiers and on the innocent Iraqis underline the importance of our mission there and the need for us to be prepared to bring this to the right conclusion. We need to have better training and equipment of the Iraqi security forces and Iraqi police. They must not only have the capability to defend themselves, they must have the will to defend themselves.

Last week, General Abizaid, Commander of the Central Command, and General Casey, Commander of United States and coalition forces in Iraq, testified before Congress. They disclosed a piece of information that had been classified for a long period of time, but they finally brought it out to the American people, and we can speak to it on the floor. It is a piece of information we have known from our classified briefings for some time, and it is this: Of over 100 battalions of Iraqi Army forces in existence today in Iraq, exactly 1 battalion is ready to fight independently—1 out of over 100. That is an incredible number. Billions of dollars that we put in there, promises to the American people that Iraqi soldiers will stand and fight so our soldiers can come home, and as of last week, these two generals testified in open session that one battalion is combat ready as an independent force.

President Bush has said over and over: As Iraqi forces stand up, we will stand down. There is only one Iraqi battalion. That is about 1,000 soldiers. Only 1 battalion standing up; 146,000 American soldiers standing up. They are trying to bring peace to a country that is obviously not ready to defend itself and may not be for a long time.

Many Members on this side of the aisle and the other side are stating very clearly that we need assessments, not platitudes, when it comes to the situation in Iraq. We need to know how many Iraqi forces must be trained so we can start bringing home American troops. We need to know when this administration expects we will reach that number. The fact is over the last 6 months, despite all the promises that have been made, still only one battalion is ready to fight, and the American people need to know the cost, not just in these graphic human terms, but in terms of dollars being spent: \$5 billion a month in Iraq. We appropriated \$18 billion for the reconstruction of war-torn Iraq, and I remind my colleagues that when we debated that, I don't recall a single Senator coming to

the floor and saying: We have to cut spending in some other area before we rebuild Iraq. No, they save that argument for the rebuilding of America after Hurricane Katrina. But we put the \$18 billion in place.

Yet when you read the press accounts of the average families in Iraq today, they tell you that life is so much worse than it was a few years ago—no electricity, no sewage, no regular water, no security on the streets, fears that their children will be kidnapped on the way to school. They are trying to leave if they can find a way out. That is the real situation in Iraq on the ground today despite the heroic efforts of our men and women in uniform. Our men and women in uniform have not failed; the political leaders have failed—failed to come up with a plan which said after Saddam Hussein is gone, this is how we will end this war. Sadly, we were not prepared to answer that question, and our soldiers have paid the price.

I am told the President this week will be giving a speech to America about Iraq. It is time for some answers, specific answers, and it is time for accountability. Let's get beyond the generalities. We are talking about real human lives—our sons and daughters—and we need specific answers.

I respectfully suggest the President ought to address four issues: First, how many Iraqi forces must be capable of operating on their own before we can start bringing American soldiers back home, and how soon will we reach those goals?

Second, what specific measures will the Bush administration take before and after the October 15 constitutional referendum to forge the necessary political consensus and reconcile the growing sectarian and religious differences?

Three, what efforts has President Bush made or will he make to bring in broader international support? The coalition of the willing has been shrinking ever since the invasion of Iraq. It is American soldiers and some British soldiers and a few others willing to stand and fight and secure this country. What is this administration doing, if anything, to bring in Muslim forces so we can blunt the criticism that we are somehow a force of occupation, unwelcome in this Muslim country?

Fourth, how should the American people assess the progress in reconstructing Iraq? What are the tangible results of the billions of dollars American taxpayers have provided for Iraq? How is this money being accounted for?

I made the point earlier to the Senator from Oklahoma that we have yet to have a serious oversight hearing about the no-bid contracts in Iraq. Haliburton, all of the names we have heard over and over again, multi-million and billion-dollar contracts, and we won't even ask the hard questions as to whether the money is being well spent. We are shirking our responsibility, our congressional oversight responsibility.

I hope the President goes beyond generalities in his speech. Let's get down to specifics. Let's say to the American people and the soldiers they love: This is our plan for bringing our troops home from Iraq.

I hope this speech is an announcement that we have a new strategy, a strategy for success, a strategy for our soldiers to come home. Staying the course is not a new strategy. I hope on Thursday the President speaks truth to the American people. I hope he offers honest and realistic assessments of what we face.

On October 15, the people of Iraq will vote on a constitution. If it passes, there will be parliamentary elections in December. If it is rejected, the constitutional process will start all over again in December.

There is a lot of speculation about what might happen. A constitution alone is not going to stop the violence, but if the constitution can lead to a unified country or the notion of nationhood making any sense, then that constitution is a step in the right direction.

Sadly, this nation of Iraq is a nation of many different groups who have yet to show us they can come together, and until they do, it is unlikely we can bring our troops home.

There were 23 of us in the Senate who voted against the use-of-force resolution; 23 of us—1 Republican and 22 Democrats who had serious questions about this decision by this administration to invade Iraq. Many of us felt we needed a broader alliance. Many of us felt the information given to the American people prior to the invasion was misleading about weapons of mass destruction, nuclear threats, and alliances with al-Qaeda.

Sadly, in the 3 years since, we found that information was just plain wrong. Information given to the American people to ask them to give their sons and daughters in combat was just plain wrong. And here we stand today.

Iraq is a diverse place. The war has made the differences among religious and ethnic groups so much more than they were even before our invasion. To add to these internal tensions, I know there are many neighbors of Iraq who don't want to see that nation succeed. It is a mean neighborhood, no question. Syria, Iran, and others clearly are fomenting trouble, making a terrible situation even worse.

The enemies of Iraqi progress in unity would like to see this division and chaos continue. The Sunnis, the Shi'as, the Kurds, and 24 other recognized groups have the future of Iraq in their hands. The question is whether they believe they have the possibility of becoming a nation and defending themselves.

Many Sunnis did not participate in the last election to choose those who wrote the constitution. We have been told as late as today that they are rewriting the constitution 10 days before the election in the hopes of winning Sunni support.

It is hard to believe this is going to result in what we hope for, but I pray it will. A stable Iraq, moving forward, controlling its own destiny, is the best thing for that country and the best thing for America.

There are a lot of reasons why the Sunnis oppose the constitution. They represent 20 percent of the population, but they represent about 90 percent of these insurgents who are causing these attacks every day, killing innocent Iraqis and our men and women in uniform. Most Sunnis are not insurgents; they are peace-loving people. But they are being overrun by forces they cannot control.

There is a fight over oil. The oil is primarily in Shi'a and Kurdish territory. The Sunnis resent that fact. They want to make certain the riches of that country are shared.

The constitution postpones a lot of critical decisions to a later date, but this constitution is the fundamental underlying law that could guide Iraq in its future.

I am told that when we take a look at the militias and forces in Iraq, we find they are basically split into different factions. Only one battalion combines Iraqis. The others are Kurdish battalions and Shi'a battalions and Sunni battalions. It does not give a positive feeling about this nation moving forward toward one common country.

I hope we can see the changes that are being proposed in this constitution result in its passage and support by all of the different forces that can make Iraq a nation on its own feet.

Secretary of State Colin Powell told President Bush before the war: You break it, you buy it. That is not entirely true. We may well have broken Iraq from what it once was, but we cannot and do not own it. We are unwelcome tenants at this moment in that country, but we need to start thinking about when we will return, and we need to have the hope and the aspirations of the people of Iraq in our minds and be prepared to accept them.

President Bush has a chance tomorrow to tell us that there is a new course, a course that will stop the killing of innocent American soldiers, a course which will avoid those who are wounded and suffering as a result of this war in Iraq, and a course which will bring to an end quickly the insurgency which kills so many innocent Iraqis.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that at 7:30 today, the Senate proceed to votes in relation to the following amendments in the order listed, provided further that no second-degree amendments be in order to the amendments prior to the votes. The first is the Warner amendment No. 1955, which is defense of germaneness; the second is Bayh amendment 1933; the next is McCain amendment 1977. Provided further that there be 6 min-

utes equally divided for debate prior to each of the above ordered votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator from Illinois.

(Several Senators addressed the Chair.)

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. If I might just make a parliamentary inquiry of the Chair. Our distinguished colleague from Connecticut has been waiting for a period of time. I wish to respect that, but I ask following his remarks if the Senator from Virginia could be recognized for the purposes of a colloquy with the Senator from Michigan, Mr. LEVIN.

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

The Senator from Illinois.

Mr. DURBIN. I am not sure if I still have the floor. I say to my colleague from Connecticut that I will speak for about 10 or 12 minutes and then will yield the floor.

Mr. DODD. I ask unanimous consent that I follow my distinguished colleague from Illinois.

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. WARNER. Did we understand that the Senator from Illinois wants another 15 minutes?

Mr. DURBIN. That is right.

The PRESIDING OFFICER. The Senator had the floor and has that right.

Mr. WARNER. Yes, of course, I recognize that. I was just trying to be informed as to how the rest of us can plan our schedules. The Senator from Connecticut might well desire what period of time?

Mr. DODD. I would say to my colleague, I hope maybe it is 15 minutes or so. Depending upon the reaction of the chairman and the ranking member of the committee, maybe even less time than that. I will try to be brief because I know the Senator from Virginia and the Senator from Michigan are interested in having a colloquy.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, in the interest of keeping business moving, I am going to yield the floor at this point and return at a later moment. I will let the Senator from Connecticut take the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 1970

Mr. DODD. Mr. President, I thank my colleague from Illinois for his graciousness. I thank my colleague from Virginia as well for his consideration, and I will try to be brief.

I call up amendment No. 1970 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1970.

Mr. DODD. 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 improve the authority for reimbursement for protective, safety, and health equipment purchased for members of the Armed Forces deployed in Iraq and Central Asia)

At the appropriate place, insert the following:

SEC. _____. (a) REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES FOR DEPLOYMENT IN OPERATIONS IN IRAQ AND CENTRAL ASIA.—

(1) IN GENERAL.—Subject to subsections (d) and (e), the Secretary of Defense shall reimburse a member of the Armed Forces, or a person or entity referred to in paragraph (2), for the cost (including shipping cost) of any protective, safety, or health equipment that was purchased by such member, or such person or entity on behalf of such member, before or during the deployment of such member in Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom for the use of such member in connection with such operation if the unit commander of such member certifies that such equipment was critical to the protection, safety, or health of such member.

(2) COVERED PERSONS AND ENTITIES.—A person or entity referred to in this paragraph is a family member or relative of a member of the Armed Forces, a non-profit organization, or a community group.

(3) REGULATIONS NOT REQUIRED FOR REIMBURSEMENT.—Reimbursements may be made under this subsection in advance of the promulgation by the Secretary of Defense of regulations, if any, relating to the administration of this section.

(b) PROTECTIVE EQUIPMENT REIMBURSEMENT FUND.—

(1) ESTABLISHMENT.—There is hereby established an account to be known as the “Protective Equipment Reimbursement Fund” (in this subsection referred to as the “Fund”).

(2) ELEMENTS.—The Fund shall consist of amounts deposited in the Fund from amounts available for the Fund under subsection (f).

(3) AVAILABILITY.—Amounts in the Fund shall be available directly to the unit commanders of members of the Armed Forces for the making of reimbursements for protective, safety, and health equipment under subsection (a).

(4) DOCUMENTATION.—Each person seeking reimbursement under subsection (a) for protective, safety, or health equipment purchased by or on behalf of a member of the Armed Forces shall submit to the unit commander of such member such documentation as is necessary to establish each of the following:

(A) The nature of such equipment, including whether or not such equipment qualifies as protective, safety, or health equipment under subsection (c).

(B) The cost of such equipment.

(c) COVERED PROTECTIVE, SAFETY, AND HEALTH EQUIPMENT.—Protective, safety, and health equipment for which reimbursement shall be made under subsection (a) shall include personal body armor, collective armor or protective equipment (including armor or protective equipment for high mobility multi-purpose wheeled vehicles), and items provided through the Rapid Fielding Initiative of the Army, or equivalent programs of the other Armed Forces, such as the advanced (on-the-move) hydration system, the

advanced combat helmet, the close combat optics system, a Global Positioning System (GPS) receiver, a gun scope and a soldier intercommunication device.

(d) LIMITATION REGARDING AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, and health equipment purchased by or on behalf of any given member of the Armed Forces may not exceed the lesser of—

- (1) the cost of such equipment (including cost); or
- (2) \$1,100.

(e) OWNERSHIP OF EQUIPMENT.—The Secretary shall identify the circumstances, if any, under which the United States shall assume title or ownership of protective, safety, or health equipment for which reimbursement is provided under subsection (a).

(f) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts for reimbursements under subsection (a) shall be derived from any amounts authorized to be appropriated by this Act.

(2) EXCEPTION.—Amounts authorized to be appropriated by this Act and available for the procurement of equipment for members of the Armed Forces deployed, or to be deployed, to Iraq or Afghanistan may not be utilized for reimbursements under subsection (a).

(g) REPEAL OF SUPERSEDED AUTHORITY.—Section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118. Stat. 1857) is repealed.

Mr. DODD. Mr. President, this is old business in the sense of what I am bringing up was a matter considered a little over a year ago on similar legislation. I regret that I have to come back again this year. My colleagues voted unanimously a year ago to adopt this amendment or an amendment very much like it. The other body as well agreed to this amendment during conference between the two bodies. It became the law of the land.

The amendment basically said that for those men and women in uniform serving in Iraq and Afghanistan who purchased—or family members, neighbors, or others—essential equipment that they needed in their role as service men and women, it would be reimbursed up to a maximum amount of \$1,100 over a relatively limited period of time. The amendment was straightforward, clear-cut, and enjoyed the strong support, I might add, of the chairman of the Armed Services Committee, Senator WARNER, as well as others who believed this was the right thing to do.

At the time, the Pentagon objected to the amendment, offered talking points against it, and said it was unmanageable to have a reimbursement program for equipment that our service men and women were having to either buy themselves or having bought for them by family members or others.

Over the last year and almost a half, I have had some 15 or 16 exchanges and correspondence with the leadership of the Pentagon. Up until today, and I mean literally this afternoon, there had been almost no response to this requirement of law. As of today—and I will get to this in a minute—they have

decided to issue some regulations. It is not a coincidence that they are offering those proposed regulations the very day I am offering the amendment again on the floor. There is an old expression, “I was born at night but not last night,” and I would love to believe that this was strictly a matter of timing, but I am concerned that basically there is still a resistance to the idea that our service men and women ought to be receiving the kind of equipment they need, particularly in a war zone.

As we all know, and again I am stating the obvious, we are at war. The safety and protection of our troops in the field could not be a more serious issue for every single one of us. So why is it that the Pentagon has repeatedly failed to adequately equip these men and women? As far back as June of 2003, the military was regularly reporting that up to a quarter of the troops deployed to Iraq were short of critical body armor needed to protect themselves from shrapnel and AK-47 fire.

Just this last June, the Marine Corps Inspector General estimated that 30,000 marines in Iraq needed twice as many heavy machine guns, more fully protected armored vehicles, and more communications equipment to perform their operations successfully than they were getting. Let me repeat: 30,000 marines in Iraq need twice as much heavy equipment in some areas as they are getting.

The Army has had so many troubles mass-producing body armor that it eventually lost as many as 10,000 armored plates as reported by the Army Inspector General’s Office.

Most frustrating of all is that as casualties mounted due to roadside bombs or, in DOD parlance, the improvised explosive devices, IEDs, we found that the Pentagon had gravely underestimated the necessary armor needed to protect Army and Marine ground vehicles.

At a Senate Armed Services Committee hearing in March of 2004, Acting Army Secretary Les Brownlee—a good friend of mine, I might add—testified that the Army had not made fortifications of humvees a priority, saying:

We simply were not prepared for that kind of counterinsurgency that attacked our convoys.

As a result of all of these failures, our soldiers, our sailors, our airmen and marines, were forced to take matters into their own hands in far too many cases.

As early as 2003, the Army’s own Soldier Systems Command reported that soldiers, particularly infantrymen, were paying an average of \$400 each out of their own pockets for their equipment that their civilian leaders had failed to provide them. Again, the Soldier Systems Command reported those statistics and that the figure did not even include personal body armor that was being purchased. Because they saw the Pentagon failing our troops, servicemembers and their families have all pitched in to pay for protective gear,

even vehicle armor, so they did not have to see their own people going off to war without the equipment they need to keep safe.

Things seemed to come to a head when in December of 2004 a soldier asked Secretary Rumsfeld about having to sift through garbage dumps for scrap metal for Army vehicle armor. The Defense Secretary cavalierly replied:

You have to go to war with the Army you have, not the Army you want.

Of course, we all recall the reaction of the public to that statement. It was very negative, to put it mildly.

Two weeks ago, my office received a call from a constituent I will call Gordon, his first name. Gordon is a good American. He is a former mayor of a small town in Connecticut and a Vietnam veteran. He asked that he be identified only by his first name because he is afraid of retribution against his son. His only son is a lance corporal, recently deployed in Iraq, in the U.S. Marine Corps.

A loyal Republican, Gordon is not looking for Government handouts or to be challenging the President of the United States. He just wants his son to be safe. That is why last month he contacted the online store Diamond Back Tactical and ordered combat gear for his son totaling \$683.36. His purchase included lower back double-plated body armor, CAT NAPP body armor for the lower torso and pelvis area. He willingly paid for the order in full, as would any parent, I suggest. But why is it that this family had to place a purchase order on their own? And how can we bear to let good Americans such as Gordon pay this price when there should be regulations on the books providing reimbursements for these kinds of purchases if we are not going to make them on behalf of these young men and women ourselves?

Last week, I met another marine, SGT Todd Bowers, now a reservist attending George Washington University, who has already pulled two tours in Iraq. On his last deployment, Sergeant Bowers said he was fired on by a sniper. It was not the gear provided by the Marine Corps that saved his life but, rather, a \$600 rifle scope that his father had just purchased at a gun show in Arizona and a pair of goggles he himself bought for \$100. The bullet from the insurgent’s gun lodged into Sergeant Bowers’ scope rather than his skull, and the goggles guarded his eyes from scattering shrapnel. Thank goodness Sergeant Bowers’ father made these purchases. But why is it these concerned parents had to make these purchases on their own? And what about the hundreds of military families without the resources to buy these items? Are we going to allow these sons and daughters, husbands and wives in uniform to go without the battlefield equipment that is essential for their safety?

This is not a new issue. In fact, we have been sounding the alarm to Secretary Rumsfeld and the Pentagon’s

leadership for several years now. To address inadequate equipment supplies, in 2003, I proposed an amendment to the emergency supplemental appropriations bill to resolve \$322 million in shortfalls in critical health and safety gear, identified by the Army itself, including body armor, camelback hydration systems, and combat helmets. Unfortunately, the administration opposed this legislation, and the amendment was defeated along party lines.

Last year, we tried a different approach—requiring the Pentagon to reimburse military personnel, their families, and charities that bought equipment for military servicemen in Iraq and Afghanistan. Fortunately, in June of 2004, despite ardent objections, I might add, of the Department of Defense, this body approved that amendment 91 to 0.

On October 9, 2004, this body approved the final version of that bill, and the President signed it into law, including a requirement for the Secretary of Defense to implement a reimbursement program by February 25 of this year. It is now October 5, 2005, nearly a year after this provision became the law of the land, over 7 months after the Defense Department was required by law to set up a system for the troops to receive compensation for the protective gear they purchase for use in combat, equipment they bought because the Government failed to provide it. All of this time has passed and still the administration has failed to comply with the law.

My office has made dozens of contacts to the Pentagon, both in phone calls and in letters, and still we heard nothing back and still little action has been taken. Maybe they thought they could just ignore the law or that I might just go away. Instead, under pressure from renewed press interest on this issue, the Defense Department finally issued early guidelines—guess when. Today—for implementing the reimbursement program just over 7 months late.

The regulations are incomplete, with provisions for reimbursement for only a select few items. If one needs any proof that DOD is once again coming up short, all one needs to do is look at the list of reimbursement items. It does not include the gun scope that saved Todd Bowers' life. It does not include the gear that Gordon bought for his son. It does not even include items that were purchased in an attempt to protect humvees with what has been called "hillbilly armor," as depicted by this New York Times story in May of 2004.

In this story, a community in New Jersey went out as a community and bought a lot of this body armor to use on the floor of humvees to protect the young men and women from their own State from those problems, such as bombs going off that were taking so many lives. This goes back to that date. They would not be included in the list provided by the Pentagon.

As I understand it, there are still no plans for each of the military services to actually enforce these regulations. The Pentagon's leadership has done everything in its power, unfortunately, to stop this measure from being implemented, either by circulating talking points against my amendment last year or merely failing to implement the statute as it was enacted a year ago. Why should they stop now, I ask?

In their talking points to Congress last year, the Department of Defense actually said that it "set an unmanageable precedent," and that it would actually "encourage servicemembers and their loved ones to purchase equipment on their own."

Such arguments seem absolutely appalling to me. It is the Pentagon's failure to equip our soldiers that is causing servicemembers to go out and buy equipment, not legislation promoting reimbursement for gear that should have been provided anyway. If only the Defense Department's leadership had kept its commitment to protect our troops, I would not be taking the measures I am taking today.

I regret to say I am telling only part of the story. It seems not only the Pentagon miscalculated what the needs are of our troops, but it also underestimated the need to fix the problem in short order. At the time I originally introduced my amendment, in June of 2004, the Pentagon leadership pledged they would have all the equipment needs addressed by July 31, 2004. All troops deployed in Iraq and Afghanistan would have adequate protective gear, they claimed. All appropriate vehicles would have the necessary body armor, they said. And according to the Pentagon, all our deployed soldiers, sailors, airmen, and marines could rest assured that their equipment needs would be met. We therefore crafted our amendment to reimburse troops for purchases only made between September 11, 2001, and July 31, 2004.

But, as many military members and their family members such as Gordon or Todd Bowers will tell you, private purchases of critical gear are still occurring every day. We owe it to our troops to make sure that they are adequately compensated for these purchases. For all of those reasons, I introduced this additional legislation that I hope will move this Government into action.

Let me briefly describe what it does. First, since Secretary Rumsfeld has demonstrated an inability or unwillingness to comply with the law, we take out of his hands the requirement to devise the reimbursement program, and instead we leave it up to the individual troops' unit commanders to decide which equipment need is worthy of reimbursement. If the unit commander thinks it is necessary, they can say reimburse for it. If they say no, you don't get reimbursed. Leave it to your unit commanders. No one knows the needs of our troops better than the commanders deploying alongside our fighting men and women.

Rather than waiting for some bureaucrat at the Pentagon to decide what kind of armor our soldiers and marines should be entitled to, it is far more appropriate, in my view, to leave that up to their company commanders or squadron leaders.

My colleagues should have no objections to this requirement, since they endorsed the unit commanders' discretion in the original version of the amendment that was unanimously passed by this body in 2004.

Second, as I have already stated, in spite of the Pentagon's assurances, the military has not yet met the troops' armor and equipment needs so the legislation I am offering today will allow reimbursement for equipment purchases made at any time in support of operations Iraqi Freedom or Enduring Freedom, not just the period between September 11, 2001, and June 31, 2004, as originally recommended by the Department of Defense.

Words cannot adequately express this Senator's frustration that in the year 2005, the most powerful nation on Earth cannot even see to it that its military personnel have the safety equipment they need while deployed in harm's way. I believe we owe it to our troops to do the right thing and to pass this measure. This legislation has already received the endorsement of several national military organizations, including the Veterans of Foreign Wars, the Military Officers Association of America, National Guard Association of the United States, and the Enlisted Association of the National Guard.

I particularly thank Retired Brigadier General Green for his strong endorsement of this bill, along with Retired Master Sergeant Kline of the Enlisted Association of the National Guard for their strong endorsement. They appeared with me a few days ago at a press conference in which I announced I was going to offer this amendment and gave very strong statements in support of this effort.

Again, I do not want to take up a lot of time. We have already adopted this amendment a year ago, virtually the same amendment. I regret I am back again more than a year later urging similar action. But, again, I point out it has taken far too long for some response to this. Again, if the problem were over with, if it were not ongoing, I would not offer the amendment. I would be disappointed the administration or Pentagon did not comply with last year's law but, as I testified, we have problems every single day in this area. The Pentagon needs to get to business on this.

Today they have all of a sudden come up with a proposed set of regulations, but I point out no gun scopes, no humvee protection, no GPS receivers, no radios. These and other items that are being purchased by our troops are included on our list. It is a step in the right direction but occurring on the very day I am offering the amendment

is not mere coincidence, in my view. I thank them for their action today, but we need to do more.

I urge the adoption of this amendment. I hope my colleagues will make this a unanimous vote here to support the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I commend my colleague from Connecticut.

Mr. STEVENS. Will the Senator yield for a procedural matter?

Mr. WARNER. I yield the floor.

Mr. STEVENS. Just to correct an error to the RECORD.

Mr. WARNER. Certainly.

AMENDMENTS NOS. 1895, 1996, 2017

Mr. WARNER. Mr. President, I have sent modifications to the desk on amendments 1895 for Senator BINGAMAN, 1996 for Senator MIKULSKI, and 2017 for Senator BENNETT. I didn't know the amendments had already been sent to the desk.

I ask unanimous consent these amendments, as submitted, be agreed upon and not the modifications I sent to the desk.

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

The amendment (No. 1895) was agreed to.

(The amendment is printed in the RECORD of September 29, 2005.)

The amendment (No. 1996) was agreed to.

(The amendment is printed in the RECORD of October 4, 2005.)

The amendment (No. 2017) was agreed to.

(The amendment is printed in the RECORD of October 4, 2005.)

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 1970

Mr. WARNER. I commend our distinguished colleague from Connecticut. I would say, knowing him through these many years and enjoying a warm and cordial friendship, his indignation was in full control and modest in comparison to other periods, but he is absolutely right. Were I in his position, I would be indignant about the fact that you have tried assiduously to urge the Department to follow the law which I was privileged to work with you in putting into effect last year. That law was Section 351 of the Defense bill last year. It set forth, as the Senator has in this bill, much the same relief for the men and women of the Armed Forces who, on their own initiative, have gone out and expended, and indeed their families have contributed, sums of money.

I am very much in favor of this. I hope the managers of the bill will see fit to accept it. But I do urge upon the managers and my colleague from Connecticut that consideration be given to a clause which was in the law last year. I will read it:

The protective safety or health equipment was purchased by the member during the period beginning on September 11, 2001, and ending on July 31, 2004.

That enables some period of time within which we have an understanding of what was involved in the expenditures. We, in the legislative body, call that a sunset provision. It is not found in the pending amendment.

Having had modest service myself, as a sailor and so forth, inconsequential though that be, I know a little bit about the life of a service person. The modern GI, this generation, I guess as great as any generation we have ever witnessed in the history of the country—believe me, leave it to them and they can figure out a lot of things that presumably are better than provided by the military.

The Senator pretty well restricted himself to those essential things with which I agree. But if we leave this open, we enable these young men and women, proudly wearing the uniform today, to buy a whole lot of things. Next thing you know we are going to have an open door for a lot of things to be purchased.

A wrong, in my judgment, was done in the early procurement system of this equipment, failure to have it, failure to deliver it in a timely way to some of our troops, and you have made that clear today, as have other Senators on the floor. But I say, I do believe consideration should be given to some terminal date—maybe through 2006—in which to give the military the chance to make certain that everything that can protect the life is there, and there is no requirement for these young people to go out and purchase it on their own.

Mr. DODD. If my colleague will yield.

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my friend, the chairman of the Armed Services Committee, for his support. You were tremendously helpful. At a time when the Pentagon was resistant, the chairman of the committee and others stood up and said we should do this—regrettably, we should be doing this.

We have done two things a little differently in this amendment. The chairman pointed it out. One, we removed the decision from the Pentagon to the field commander to make a decision on what is reimbursable or not, on the theory, as a squadron leader or platoon leader, field commander, they are in a better position to decide whether or not an item a soldier may purchase should be reimbursable, rather than someone at the Pentagon who would not have a firsthand knowledge of the kind of equipment.

Second, we limit the amount that can be collected. This is not an unlimited amount. Some of these items would be in excess of the limitations we put in the amendment. That is what we had last year.

Third, I am willing to consider some outlying date. The reason we limited it last year was because of the assurances we had been given that, in fact, the problem no longer existed. In fact, it

still exists. I am prepared to accept an appropriate time, 2006 or something.

I hope we do not have to come back to this amendment, but the idea of having some outside date as a parameter, I am willing to accept that.

Mr. WARNER. Mr. President, if I could regain the floor?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I urge the adoption of the amendment in hopes that the distinguished colleague from Connecticut, with two extraordinary veterans of military life, can sit down and work this out in a mutually satisfactory manner.

Mr. President, under the unanimous consent agreement, we have been recognized, the Senator from Virginia and the Senator from Michigan, to conduct a colloquy?

Mr. STEVENS. Mr. President, we would like to dispose of this amendment if it is possible.

The PRESIDING OFFICER. Does the Senator from Virginia yield?

Mr. WARNER. We yield for the parliamentary desire.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I am constrained to say that even back in World War II we bought some of our own stuff and thought the Government should pay for it. No one did. The question is, How much should we be able to spend? We will work it out. I urge the Senator to allow us to adopt this now by voice vote so it will not be involved in the cloture process tomorrow.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1970) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. DODD. 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 is recognized.

AMENDMENT NO. 1955

Mr. WARNER. Mr. President, I note the presence on the floor of my distinguished colleague, the ranking member of the Armed Services Committee.

During the course of yesterday, the distinguished chairman of the subcommittee on appropriations, Mr. STEVENS, and myself participated in a parliamentary situation, whereby the Senator from Virginia sent an amendment to the desk. It was actually filed. I asked it be called up and it was.

At that time, there was an objection interposed by the Senator from Alaska, referring to the CONGRESSIONAL RECORD of today, at page S10967.

We went through the parliamentary situation, whereby I desired to have the amendment considered. The Senator from Alaska objected. Whereupon, I raised the question of germaneness to the amendment, and it was referred to the Parliamentarian.

I would like to read exactly what the Parliamentarian stated on this occasion. I stated: “the Parliamentarians have advised,” and I stress that word “advised”—“the Parliamentarians have advised” that in the Parliamentarians’ opinion “there is sufficient language in the House bill to permit Senator WARNER to assert the defense of germaneness with respect to his amendment numbered 1955.”

I ask, at this moment in time, a parliamentary inquiry. Has the Senator from Virginia correctly stated what was put forth to the Senate through the Chair? And, if so, what is the nature of the vote that is now before the Senate?

The PRESIDING OFFICER. The Senator has adequately stated the statement that was made with respect to that issue.

The Senate will vote whether or not the amendment is germane under the provisions of rule XVI.

Mr. WARNER. Would that be as requested by the Senator from Alaska?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I thank the Presiding Officer. I thank the Parliamentarian.

I took this action, frankly, on behalf of the men and women in the Armed Forces. Our Nation is engaged in war—a war on terror with two very major engagements, one in Afghanistan and the other of larger proportions in Iraq.

We have men and women in far-flung posts all over the world, men and women on the high seas, men and women back here training, and the men and women of the Armed Forces and their families look to the Congress of the United States to provide for their needs. That is clearly set forth as our responsibility in the Constitution.

The Committee on the Armed Services was established by this body for the purpose of examining the President’s budget, examining a wide realm of other issues that come before us, and preparing each year a bill known as the authorization bill for a certain year—in this case it is 2006. Our committee did that and unanimously reported out favorably to the floor that bill. That bill was taken up by this body and debated for a series of days. Some 30 amendments by colleagues were accepted. They are part of the amendment that is now pending and is the subject of this vote this evening.

There came a time when it was the judgment of the majority leader and the Democratic leader that this bill would be taken down to give a higher priority to appropriations bills. That is a leadership decision. Thereafter, Senator LEVIN and I worked with our leadership in an effort to get our bill back at a specific place on the calendar so that it could be considered by the Senate. It had been our hope that that opportunity would have been given to us prior to the appropriations bill. All of us who have been privileged to work on these bills through the years—this is the 27th year in which I have been privi-

ileged to work. The same number of years of my colleague—recognize the value of the authorization bill being passed prior to the enactment of the appropriations bill.

Given that situation, realities are such that we were not able to get it up. We are now faced with the need to exercise every option under the rules to get our bill considered. Although it is an extraordinary procedure and it has only been done once in 1988, I think we at this juncture, given the indefinite time in which our bill could be taken up, and the short period in which, presumably, the Congress is going to remain in session, have to seize this opportunity at this time to have our bill considered in conjunction with the appropriations bill.

For that purpose, I filed the amendment, amended it to take out section B which relates to the Department of Energy, and section C which relates to MILCON, leaving section A which is those provisions which dovetail and support many provisions of this appropriations bill which is pending here today.

I have heard the distinguished managers of the appropriations bill time and time again in previous years, as in this year, explain the desirability of having the authorization bill acted upon prior to the appropriations bill.

I readily acknowledge to the managers of the appropriations bill the essential requirement to get passed as quickly as possible—hopefully, before this recess—the requirements for the ongoing financial needs of the Department of Defense. They are critical.

I have not put this on to that bill as a dilatory measure. And to expedite consideration of the authorization bill, I carefully selected a series of amendments, originally numbered 110 amendments, and filed them at the desk in two managers’ amendments, the purpose of which was to say to our colleagues they are your amendments. Senator LEVIN and I have reconciled such differences as existed such that we both now agree—the Senator from Michigan and the Senator from Virginia—that they are ready for enactment on our bill through the vehicle traditionally used of a managers’ amendment requiring just one single vote, if necessary. We can perhaps incorporate them into the underlying bill—but one vote on these packages.

Given the changes in circumstances of germaneness, it was necessary for the Senator from Virginia to prepare a third amendment, which I will now file with the clerk. It is permissible under the unanimous consent, and I send to the desk about 100 amendments, which, in the judgment of myself and others, are germane to the bill. Therefore, I send that to the desk.

Mr. STEVENS. Mr. President, reserving the right to object, I am not sure that is in order. I would like to reserve the right to object to this when the Senator is finished.

Mr. WARNER. Mr. President, at this point in time, parliamentary inquiry:

Does not the standing unanimous consent allow a Senator to file an amendment in the second degree?

The PRESIDING OFFICER. The amendments in the second degree may be filed. They are not subject to—

Mr. STEVENS. Parliamentary inquiry: I thought we had an understanding that there would be no amendments filed after a specific time. This is a second-degree amendment. We did not permit second-degree amendments at that time.

Mr. WARNER. Mr. President, I have to say in fairness that I have checked with the Parliamentarian each step of my procedure yesterday and today. I have checked, and it was the interpretation given to me, as frequently given to Members of this body by the Parliamentarians, that the unanimous consent did not prohibit, as the Chair just announced, the filing of second-degree amendments.

Mr. STEVENS. That was not my understanding.

The PRESIDING OFFICER. The Chair advises that the transcript will be reviewed, and the Chair also advises that he is not aware of a prohibition of filing second-degree amendments at this time.

Mr. WARNER. Could the Chair repeat that a little louder, please?

The PRESIDING OFFICER. The Chair advises the Senator from Virginia that the transcript will be reviewed, and the Chair, as of this moment, prior to reviewing that, is unaware of the prohibition on second-degree amendments.

Mr. WARNER. I thank the Presiding Officer.

The PRESIDING OFFICER. Against the filing of second-degree amendments.

Mr. WARNER. Yes. That is precisely what I asked the Presiding Officer to accept, and I think your ruling is consistent with the request of the Senator from Virginia.

We can proceed.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. LEVIN. In terms of the content of the package—

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. WARNER. Mr. President, I yield for a question.

Mr. LEVIN. Without losing his right to the floor, I want to see if I can clarify what I understand to be in the package which was sent to the desk. My understanding is on the underlying amendment which the Senator filed and which I cosponsored that the sections of our Defense authorization bill relating to energy and to military construction have been removed.

Mr. WARNER. That is correct.

Mr. LEVIN. And that the purpose of this package is to remove any amendments relating to those two subjects from the managers’ package.

Mr. WARNER. The Senator is correct. I would add that it was for the

purpose, at a subsequent time if the Senate enables this amendment of the Senator from Virginia and the Senator from Michigan jointly put up, which is our annual authorization bill, that we would then ask this amendment be brought up of 101 amendments by our colleagues and be attached to our authorization bill by having one vote, if necessary, on one amendment, which encompasses by management procedure 100 amendments by our colleagues.

The PRESIDING OFFICER. The Senator from Virginia is still recognized.

Mr. WARNER. I yield for a question.

Mr. STEVENS. There is still a unanimous consent request before the Senate.

Mr. WARNER. No. I have not made one, I say to the Presiding Officer.

The PRESIDING OFFICER. There is a unanimous consent request before the Senate. The Senator from Alaska is reserving the right to object, and that unanimous consent is asked for. Is there objection to the unanimous consent by the Senator from Virginia?

Mr. STEVENS. I still reserve the right to object because I don't understand what the Senator is doing. The Senator filed a portion of the Defense authorization bill as an amendment. He then filed a separate package of amendments—some 80 amendments—to that amendment. Now he has filed another set of amendments—as amendments to what?

In any event, we thought we had an understanding that there would be no second-degree amendments filed under this procedure.

Mr. WARNER. Mr. President, if I may try—

Mr. STEVENS. I would prefer the Chair rule.

Mr. WARNER. I say to the distinguished Senator from Alaska that the Chair has ruled that the—

Mr. STEVENS. Then I object. I just object.

Mr. WARNER. If I could clarify what I am trying to do—

Mr. STEVENS. Does the Chair understand that I object to the unanimous consent request?

The PRESIDING OFFICER. The Chair's understanding is that the Senator from Virginia has the right to file amendments for printing and that they be called up.

Mr. WARNER. The Chair is correct.

The PRESIDING OFFICER. He is not proposing those amendments at this time. Therefore, it does not require unanimous consent to have that done.

Mr. STEVENS. What the procedure is doing is making sure that an amendment is offered by every Senator in the place. The two Senators who are not managers of the present bill are offering their package as managers of their bill in order to get support of the Senate to attach this amendment in the first place. It is a procedure I have not seen in my 38 years here in the Senate, and I object to their procedure. But I may not be able to be heard on it. I be-

lieve this is a very odd procedure. Now the two Senators are saying they are the managers of the bill and they are going to accept 108 amendments to our bill. We haven't even read them. We don't know what they are. We don't know how many more amendments will likely come to these amendments.

I yield the floor.

Mr. LEVIN. Mr. President, will the Senator yield for an inquiry without losing his right to the floor?

Mr. WARNER. Yes. I yield for a question.

Mr. LEVIN. I wonder if I could inquire—

The PRESIDING OFFICER. The Senator from Virginia has a perfect right to submit amendments to be printed. They have not been called up. Therefore, they are not in order at this time to be offered, but they may be submitted for printing.

Mr. WARNER. Mr. President, that is the request of the Senator from Virginia. I thank the Presiding Officer.

Mr. LEVIN. If the Senator will yield for a question without losing his right to the floor, my understanding of the amendments which have just been printed is those are amendments to the Senator's amendment, not to the bill.

Mr. WARNER. I beg your pardon?

Mr. LEVIN. Is my understanding correct that the amendment which was just sent to the desk to be printed are amendments to Senator WARNER's amendment, not amendments to the bill itself?

Mr. WARNER. Mr. President, that is correct. In the event the Senate concurs in the position of both of us with regard to the forthcoming vote and the Senate agrees as to germaneness, it is my intention to call up my amendment, which is the 2006 armed services bill, and at that time to put on it a managers' amendment—jointly, the two of us—which is the third pending amendment at the desk. We will discard the other two amendments because this third amendment has been carefully drawn to have those amendments, as the Senator from Michigan said, those amendments relative to part A, which constitutes the amendment at the desk at this time. It will be the subject of a vote, and not parts B and C.

Mr. STEVENS. Parliamentary inquiry: Are not these amendments that the Senator struck from the amendment as he offered it—there is a section B and C now of the authorization bill, which was struck from the amendment? That was the understanding. They would not be offered.

The PRESIDING OFFICER. The Chair has no knowledge of the substance of the amendments.

Mr. WARNER. Fine.

This third amendment I have filed is simply a consolidation drawing from the first amendment of 80-some amendments, and the second, I think, was 18 to 20. Only those amendments in this third filing are ones relative to part A. All amendments relative in the earlier

packages—the first and the second I filed—basically were part A, but there were some relevant to parts B and C, so I removed those. Because if there is a challenge at the time I bring it up—assuming the Senate in its vote sustains the judgment of the Senator from Virginia and others that there is germaneness in our underlying amendment—then I seek to amend that with this third package which constitutes only amendments related to part A, such as if there is another challenge on germaneness I will not be burdened down by sections B and C.

In no way does this third filing in any way try to restore parts B or C. To the contrary, it takes out all amendments which are related to B and C, so hopefully if I have a further challenge on germaneness, it can be sustained, that they are germane.

Mr. LEVIN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. LEVIN. To try to clarify this, what the Senator from Virginia calls part 3 is a skinned-down version of 1 and 2, eliminating from 1 and 2 those provisions which might violate the understanding which existed that there would not be any provisions in this package that related to the energy piece and to the MILCON piece. The effort being made by the Senator from Virginia, as I understand it, is not to add something into this part in violation of an understanding, but is to make sure that parts 1 and 2—that this modification complies with the understanding that the Senator from Alaska and the Senator from Virginia had; is that correct?

Mr. WARNER. Mr. President, the statement is correct.

I would not use the word "understanding."

Mr. LEVIN. I apologize for that statement.

Mr. WARNER. The Senator is exercising his rights in a very courteous way throughout.

Mr. LEVIN. But in terms of the representation of what was in the package, it did not contain in packages 1 and 2 anything relative to the Energy and MILCON bills. The effort of this printed package is to make sure the proposed amendments to your amendment comply with your representation.

Mr. WARNER. Mr. President, that is correct. The third filing consists of amendments only relative to part A in the hopes—if we have another challenge at the time we try to amend it. So now the Senate is faced with a tough call on this vote. I fully appreciate for my colleagues the difficulty of trying to evaluate how Members should vote.

In all fairness, this Nation is at war. The men and women of the Armed Forces are watching ever so carefully what the Congress is doing. I am fearful if we do not avail ourselves of this opportunity to put our bill on—which has been done once before—and hopefully add those amendments which are very important to many Senators, that

this could be misconstrued not only at home, not only abroad by the men and women of the Armed Forces, but indeed there could be some puzzlement throughout the world as to where is the Congress in supporting the men and women of the Armed Forces.

This is a critical time. We must do it. I say to my good friend, it is not an effort in any way to undermine the Senator's efforts to get this appropriations bill through. By the incorporation of these 100 amendments, together with the 30-some amendments which have already been adopted by the Senate the previous time we had this bill on the floor, there will not be forthcoming a massive number of amendments which in the end could result in a further drawing out of the time needed to have this body exercise its judgment on the appropriations bill.

I plead with my colleagues to have an understanding of the imperative nature to act upon this bill promptly. It underlies much of what the Senator is trying to do in the appropriations bill. It is needed authorization language.

I see my colleague who has joined me in this, if the Senator wishes to go ahead. Does the Senator have a question?

Mr. LEVIN. I thought the unanimous consent request would be a colloquy.

Mr. WARNER. That is what we have, a colloquy.

Mr. STEVENS. How long will the colloquy go on? It has been going on 30 minutes—20 minutes, anyway.

The PRESIDING OFFICER. No time has been offered.

Mr. LEVIN. I assure the Senator from Alaska I will be brief. I simply join in the plea.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I join the Senator from Virginia in making a plea to our appropriators here, the managers on the bill, to understand the situation in which we find ourselves. That is, we had a bill in the Senate which the Republican leader decided for reasons which were very clear at the time that the bill would be pulled down. It was left in limbo. And the request is whether we will now have an opportunity to vote on a bill which does so much for the men and women in the military. We cannot think of any other way we can bring up the authorization except by offering it as an amendment to the appropriations bill, which is pending.

It has met the threshold of germaneness, we are assured. The Senate will decide whether it is germane. But the Parliamentarian has advised the Senator from Virginia that it meets the threshold.

So now with the provisions in this bill—the pay provisions, the special pay provisions, the bonuses, the death gratuity enhancement, the increased life insurance, the health care provisions, the TRICARE provisions—we

could go on and on—there are critically important provisions in this bill to the men and women in the military.

We have men and women in the military with their lives at risk in Iraq and Afghanistan and now we have an additional responsibility in the gulf. We have so much at stake. Usually appropriators and the authorizers have been able to work together. I hope that will continue now. Somehow or other I hope we will be able to figure out a way—

Mr. STEVENS. Will the Senator yield?

Mr. LEVIN. If I can finish the sentence.

I hope we can find a way consistent with the wonderful relationship which has existed between appropriators and authorizers in the defense area, that we can find a way to get this authorization bill before the Senate. We have tried to get it freestanding, without success. This is an opportunity to bring this bill to the Senate.

As the Senator from Virginia said, we have over 100 items which have been cleared. That is not done for any sinister reason. That is done for a very simple way to expedite this bill so that the appropriators are not confronted with 100 amendments. The appropriators should not be confronted with an authorization bill where there are 150 amendments pending.

The Senator from Virginia and this Senator have tried very hard to accommodate Senators on both sides of the aisle so we could help the appropriators, so we could represent to the appropriators that we would not be confronted with 100 or 150 amendments, but that a managers' package would be able to resolve most of those amendments. That has been done. It has been done in good faith.

I hope that somehow or other the managers of this bill can find a way to help us bring this bill to the floor. There will not be more than perhaps a dozen amendments that would be offered to this bill, we think, because we believe we can work out most of the other amendments. That is my plea to the appropriators and to our good friends, the Senators from Alaska and Hawaii.

Mr. WARNER. I will be glad to yield for a question.

The PRESIDING OFFICER. The Senator from Michigan maintains the floor.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my colleague.

We have worked these many years together and we have tried to work in the spirit of what is best, as our managers of the appropriations bill, for the men and women of the Armed Forces. I plead, give not just the managers a chance, but give the Senate, I say to our managers, the chance to show that they are not going to come up here with a whole lot of amendments to drag this appropriations bill down, trying to attach those amendments to our amendments.

We have worked hard for weeks to compile this list of 100 amendments. We do not know of any others out there—there are some, but not massive numbers—that are going to come in and literally capsize this appropriations bill. Give it a chance. After a day or so here, if the leadership finds factually that the Senate is taking steps, and is within their right to try and put second degrees on, and that is an impediment to finishing the bill by Friday, I am sure we can sit down with the two leaders and work out a solution.

I simply say, give us not just a chance but give the Senate as a body a chance to show responsibility to enact the annual authorization bill.

AMENDMENT NO. 1977

Mr. President, I endorse strongly the McCain amendment. I have been a co-sponsor from the beginning. I have looked into this situation. At one time when I was privileged to be Secretary of the Navy when the war in Vietnam came to an end, I dealt extensively with the prisoner issue and their families in that tragic era of our history. I have had some insight into this situation which enables me to give the strongest possible endorsement to this amendment by the Senator from Arizona, a very respected member of this Senate and a man with an extraordinary record in the armed services of the United States.

The McCain amendment provides us with the opportunity to better ensure our Nation's military does not repeat the errors, faults and misdeeds we have seen occur at military detention facilities overseas as we fight this war on global terrorism.

As General Abizaid told us last week this will be a long war against terrorists and our Armed Forces must have clear and understandable standards.

The McCain amendment has two parts of equal vital importance, both critical. The first establishes clear rules for the conduct of our soldiers, sailors, airmen, and marines involved in interrogation operations. It does not add new approaches or techniques, it merely takes Army doctrine which is our clearest guidance on conduct of interrogations and makes it our military standard as set forth in the Army Manual.

Clearly the Constitution gives Congress a role to play in the creation of rules pertaining to the treatment of detainees. Article 1, section 8 provides that the Congress shall have power to make rules concerning captures on land and water, and also to make rules for the government and regulation of the land and naval forces. Rules for treatment and interrogation of detainees clearly falls within this authority given to Congress by the Constitution.

The second part of the McCain amendment speaks to American values. It tells our soldiers, sailors, airmen, and marines, our allies, and the rest of the world that the cruel, inhuman, and degrading treatment or punishment are not part of the American character.

Our standards against cruel, inhuman, and degrading treatment or punishment are deeply rooted in our Bill of Rights. Ultimately it is our uniquely American character that must be embedded in our American way or war.

Mr. LEVIN. I ask unanimous consent I be listed as a cosponsor of the McCain amendment relative to the treatment of detainees.

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

Mr. LEVIN. Mr. President, I support the McCain amendment on interrogation standards because it protects our troops. Major General Fay, in his investigation into the role of military intelligence in the prisoner abuses at Abu Ghraib, found that DoD's development of multiple policies on interrogation operations for use in different theaters or operations confused Army and civilian interrogators at Abu Ghraib.' This confusion over what standards applied contributed to the horrific abuses of detainees. This confusion has put our troops at risk of being subjected to abusive treatment should they ever be captured.

Senator MCCAIN's amendment would protect our troops by establishing a single, uniform standard for interrogations. This is consistent with the recommendations of Major General Fay. Senator MCCAIN's amendment also requires that detainees in U.S. custody shall not be subjected to cruel, inhuman, and degrading treatment or punishment. This is consistent with the high standards to which our military is trained, with how we expect our soldiers to be treated if they fall into enemy custody, with our international obligations, and with our cherished values as Americans. I urge my colleagues to support the McCain amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. WARNER. If I could make certain I still remain a cosponsor of the McCain amendment that is now the pending amendment.

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

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, the majority leader laid out a plan for the consideration of the Defense authorization bill. It was before the Senate for 4 days or a little bit longer. There were over 200 amendments offered to that bill and it was brought down.

The Senator from Virginia, the chairman of the Committee on Armed Services, came to me and asked if I would object if they put their bill on this bill with a time agreement, with specific amendments with time limits on each amendment. Senator INOUYE and I discussed that and we said we would have no objection.

We were then informed that was not possible. The Senator from Virginia said he would like to offer his amendment to this amendment for the purpose of putting pressure on the major-

ity leader to make an arrangement to call up this bill.

I urged him not to do that, as a matter of fact. We met off the floor and he said he was going to do it. He indicated he was going to delete a portion of that bill as he offered it. He did not inform me that the reason for that deletion was because the Parliamentarian had advised him that the bill would be subject to a point of order on the basis of germaneness if he did it. So he eliminated the two provisions of the bill that might be subject to germaneness. The Parliamentarian has now advised that the Senator from Virginia has a right to raise the defense of germaneness and the Senate will vote on that at 7:30.

Beyond that, the concept now of bringing in 108 amendments to the bill when there are still amendments outside—I ask unanimous consent that we adopt the amendments offered by the Senator from Virginia and that no further amendments from the authorization bill be permitted to this bill.

Mr. LEVIN. I object.

Mr. STEVENS. That proves it. The Senators do not know how many of the other 200 amendments are going to come out here on this bill. I have stated time and time again this bill must be passed and sent to conference before we leave this week. We will not leave this week until we finish this bill. I have told the Senate time and time again the emergency supplemental is attached to this bill for Iraq and the war on terror and Afghanistan. Those items must be approved by the President no later than November 15.

We had a supplemental for the past fiscal year, 2005. This is the supplemental for 2006, and 2006 started October 1. We have a continuing resolution we are operating on for the basic operations of the Defense Department, but there is no continuing operation for the supplemental for Iraq and Afghanistan and the war on terror.

This must be passed. The Committee on Armed Services knows this. The Senator from Virginia, I must correct. Never before in history has a bill been offered to the appropriations bill and been subject to amendment.

We have taken the authorization bill twice during my time on the Appropriations Committee in full, already agreed to by the committee, and taken it to conference. We have never accepted a portion of a Defense authorization bill and left it open to amendment. Why? The Senate can see right now why. The managers have not reached an agreement on their bill. The committee has not reached an agreement on their bill.

The bill is subject to amendment, and there are over 200 amendments at the desk now that were filed against the armed services bill. They have picked out 108 of them, and they have approved them. They never consulted with us on what they did, but they have approved them and offered them now as an amendment. As they offer

the amendment, there are other amendments that come in now because of the circumstance of how many they have picked out and the ones they have not picked out.

Does the Senator believe Senators who offered other amendments that you will not accept will not come here and ask us to accept them? No. They know that. And Senator LEVIN said there may be some out there, 10 or 12. Well, how long are 10 or 12 amendments going to take when you are on the authorization bill and we are not handling that bill; they are.

I think the Senate has to realize the procedure we are in now. If we start down this road, then every time there is a Defense appropriations bill someone who has not gotten a bill passed in terms of another 1 of the 12 subcommittees—there are 13 on appropriations—is going to come in and say: We want to put our bill on your bill, but, by the way, it will be subject to amendment. You can call up your bill. We can't call up our bill because it is not ready to be called up.

Now, an armed services bill, when it comes here, is a great bill. It takes a long time. We know how long it takes. Our bill usually takes—one year it took 3 hours. Most years it takes less than a day. Why? Because we are a bipartisan subcommittee. When this bill came out of the subcommittee, it came out unanimously. Not one Senator voted against it. When it came out of the full committee, it was unanimous. Not one Senator voted against it.

The two of us have run a bipartisan team now since 1981. This is the first year that this has been done. I hope the Senate says: We do not want to do it this way because this is opening the door to an entirely new process of using a bill that must be passed as a vehicle to take on a bill that cannot be passed. If they could pass their bill, they would have done it. They would have proved to the majority leader they had amendments, and they could have agreed to them.

That is not our problem. That should not be the appropriators' problem. We have a timeframe. We have 13 bills. We are supposed to get them all done once each year. We have had years when we did not even have an authorization bill, and we survived it. We have had many years where they passed their bill months after we passed the Defense appropriations bill, and we survived it.

But this year—this year—because we are at war, this is absolutely wrong, absolutely wrong. I hope the Senate listens to me. We have to pass this bill before we leave to go home for this recess for these holidays next week. If we do not, we do not have the ability, once we get back, to pass it and then get to conference and then get it to the President in time for the money to be available to use to support our people in the field.

Now, people say: Well, wait a minute, you can reprogram money. We are in a period of a continuing resolution.

There is no money that can be reprogrammed. You cannot reprogram money now. We do not have 2006 money to reprogram. There is no emergency money to reprogram. The emergency money is in part of this bill that has to be passed.

Now, I am getting a little mad. I do not mean to be too mad, but I mean to be very angry and disturbed at the process. The Senator from Virginia and the Senator from Michigan know better than to do this. You know better than to do this. It is time for us to realize we have soldiers and sailors, marines, the Coast Guard in the field now. The money to support them is running out. The reason it has not run out is because we did reprogram some money before September 30 we had available then. There is no more money to reprogram to take care of this war.

Now, I do not know how I can express it any more bluntly than that. I hope the Senate will listen to us and vote against this concept that this bill is germane to this bill to start with. It is not germane. It is a whole authorization bill minus the MILCON and energy portions. But it is still the whole authorization bill, which is subject to amendment. As I said, there are over 100 amendments out there that Members have filed already against this bill.

Now, I will be pleased to take this, if there are no more amendments. That was the understanding to start with: We would take their bill if they had a time agreement, a time to vote for certain on it. I think we have gone too far.

My friend from Hawaii—I do the shouting; he does the thinking—may want to say something more. But I tell you, I am really basically deeply concerned about the future of our men and women in uniform if we treat their money portion of this process this way. This is the authorization process. This is policy. We went into that on another amendment today. I don't know much about all the precedents in terms of the Geneva Conventions and what is in the Army Field Manual. Those amendments—I respect the Senator from Arizona. The Armed Services Committee people do. We know what is in here for money.

The Senator's bill does not pertain to money. It does have some authorizations, but that is all right. They can be passed later after we pass our bill. No one is going to be harmed. But there is going to be a great deal of harm if we do not get this bill passed and sent to conference and get it to the President soon after we get back from this recess.

Now, I do not know how we can do anything more than just say, once again, the Senator from Virginia has embarked on a course that has never been done before. He said it had been done. It has never been done. Never before has a part of an authorization bill been introduced to this bill, or any other bill for that matter, that was subject to amendment. We do not operate that way. I can remember tak-

ing a bill that stood off the floor that far because it had so many authorization bills in it that could not get through, but we took them because they were ready, complete. They were complete. They were ready to go, and they took them in an omnibus bill.

But this is not an omnibus bill. This is one bill. This is a bill for the appropriations for the Department of Defense for the fiscal year 2006, plus the emergency supplemental funding for the war in Iraq, Afghanistan, and the war on terror. Under those circumstances, I am appalled that the two Senators would proceed this way. And I tell the Senator from Virginia, our friendship is very close to the brink—very close to the brink—because I believe my job is to get this bill passed, and get it passed as a bill we know we can go to conference on, and get it done and be ready when we get back.

If we were to take this portion of this bill, the Defense bill, to conference, we could not finish the conference until they were finished. And that is definitely not proper.

I yield to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, much as I would prefer to have amity and comity on this floor and be able to accommodate the concerns of my dear friend from Virginia, I must say that I fully agree with my chairman, Mr. STEVENS of Alaska. This procedure will set a terrible precedent, one that we will regret in the years to come.

If you look at it very carefully, it will take away some of the rights of people with minority views. So I would hope that another step be taken—I do not know what it is—where we can resolve this matter. I would hope the leadership of the Senate realizes the seriousness of what we are confronting at this moment. It affects the future of this land, and I am not being dramatic.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I say to my two very dear and old friends, I tender any apologies, but I have acted strictly in accordance with the rules, exercising the right that any Senator has. I feel it is imperative because we are a nation at war. We have diligently tried to get up our bill, and this is an option I felt under the rules was open to me, and I have followed it.

There was a time, as Senator STEVENS did correctly state—and he was correct in his statements—that we had hoped there would be an agreement between the two sides on what few remaining amendments to our bill, over and above the 100-plus that are in the amendment up here, could be acted upon expeditiously. I still feel there are but a few amendments out there and that we can—Senator LEVIN and I—resolve them.

I know parts B and C are essential to be enacted into law before this session concludes. I would assume at some

point in time the leadership will enable us to bring up sections B and C, at which time such other amendments as colleagues may have can be brought forth and resolved at that point in time.

But I think it is imperative to act now on the core section of the armed services bill. I would hope our colleagues would see that we are giving the whole Senate a chance—not just the managers of the bill but the whole Senate a chance—to show the men and women of the Armed Forces, the people of this Nation, that we can, in these times of emergency, act in a bipartisan way to reconcile a problem such as this, and that if our amendment remains, after the vote at 7:30, and is brought up, that there will not be forthcoming a deluge of amendments which, in effect, would impair the ability of these two managers to get this essential piece of legislation acted upon prior to the commencement of the recess, and that there will be a future time with parts B and C, when they will be able to bring forth such additional amendments as they believe are necessary to be enacted in the 2006 armed services bill; that is, sections B and C would be the tree on which those amendments could be affixed.

So I say to my good friend, I have acted as I feel duty calls. You have stated very clearly the facts. And now I entrust the Senate to make the decision that is right for the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, my last word on this, before we come on the 6 minutes before the vote at 7:30, will be this: There are two packages of amendments before the desk. Under any normal procedure, Senator INOUYE and I would review those amendments. We have not seen them. We have not even gotten a copy of them. Normally we would have had a copy of them, at least. But we do not know how many of those are in conflict with our own bill.

The two Senators have acted as managers of a part of our bill because they offered their bill as an amendment. What procedure is this? How can we assure the Senate what is in this bill? How can we even be prepared to go to conference on this bill when we do not know what is in those two packages? There are three portions here. We know what is in the part A, which was part of the authorization bill, but these amendments, we don't know what they are. We may have already accepted some of them. I do not know.

But I think it is really a strange procedure that anyone would suggest, by offering an amendment, that control over the bill go to members from other committees and, in doing so, they clear amendments that we will have to defend in conference, theoretically, as Members of the Senate, but we do not know what is in them. No one knows what is in them. Normally, a package like that, if they had their bill out

here, the Defense authorization bill, they would have a bill in front of us, wouldn't they? As a matter of fact, I think the rules require it. But now there are amendments offered at the desk, and I do not think they have given anyone a copy of the amendments.

I think this procedure violates the rules of the Senate. I am not going to get into the problem of that yet because we are going to vote on germaneness. Germaneness does not eliminate the points of order we may have against those amendments later. But as a practical matter, this is a really odd procedure, and one that is bound to, as the Senator from Hawaii said, lead to processes in the future that will be totally unmanageable.

I urge the Senate to think about this as we approach the vote at 7:30 p.m.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Parliamentary inquiry: Did not the Senator from Virginia on Monday file an amendment in the nature of a managers' amendment with 60 amendments and they have been at the desk since that period of time?

The PRESIDING OFFICER. That would be a matter of public record. The Chair does not keep a record.

Mr. WARNER. A matter of public record. Then yesterday I filed a second amendment with about 18 in the nature of a managers' amendment, and they were in the public record.

I say to my good friends, the amendment I filed today, the third one, is nothing more than taking from each package only those amendments which have been at the desk, filed, and consolidating them in a third package.

I say to my friend, I am in no way trying to be devious at all. Those amendments have been a matter of public record Monday, Tuesday, and today's amendment simply is a consolidation of all of those that have been at the desk in that period of time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I know the Senator from Rhode Island is waiting, and I will be very brief. First, it is not a happy day for this body when we are in this kind of imbroglio where we are unable to accept as an amendment on an appropriations bill the authorization for the men and women who are fighting in our Nation's defense around the world. It seems to me the least we can do, however this is sorted out, is to have the distinguished leaders—Senators STEVENS, INOUYE, LEVIN, and WARNER—sit down and see if there is a way to work this out. It may require the participation of the respective leaders. But we should not be in a situation where the best option is to attach an entire authorization bill as an amendment to an appropriations bill. It is a sad commentary on the way we do business.

AMENDMENT NO. 1977

Mr. McCAIN. Mr. President, if I can ask the indulgence of my friend from Rhode Island for 1 minute, I would like to read a statement into the RECORD.

It reads:

GEN COLIN L. POWELL, USA (RETIRED),
Alexandria, VA, October 5, 2005.

Dear Senator McCAIN: I have read your proposed amendment to the Defense Appropriations Bill concerning the use of the Army Field Manual as the definitive guidance for the conduct of our troops with respect to detainees. I have also studied your impressive statement introducing the amendment.

I fully support this amendment. Further, I align myself with the letter written to you by General Shalikashvili and a distinguished group of senior officers in support of the amendment.

Our troops need to hear from the Congress, which has an obligation to speak to such matters under Article I, Section 8 of the Constitution. I also believe the world will note that America is making a clear statement with respect to the expected future behavior of our soldiers. Such a reaction will help deal with the terrible public diplomacy crisis created by Abu Ghraib.

Sincerely,

COLIN POWELL.

I hope my colleagues will pay very careful attention to our former Secretary of State and Chairman of the Joint Chiefs of Staff. I do not have to tell any of my colleagues of his outstanding and superb record of service to this Nation and the depth of his knowledge as it pertains to this and many other national security issues.

I am very grateful he has come forward with this statement, and I hope my colleagues will pay attention to it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WARNER. Mr. President, if the Senator will yield, I want to commend my long-time friend, Senator McCAIN, for the initiative he has taken. It has been a privilege for me and many others to join him in this effort. I think what he stated here should be taken into consideration by every Senator tonight as they cast his or her vote.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 2033

Mr. REED. Mr. President, rising energy prices could financially wipe out working-class families and seniors this winter. We are about to see an extraordinary runup in prices that imperil the ability of many families simply to keep their homes warm during this coming winter.

In New England, the average cost for a family using heating oil is projected to hit \$1,666 during the upcoming winter. This represents an increase of \$403 over last winter's prices and \$714 over the winter heating season of 2003-2004. That is an extraordinary increase in the cost families have to spend to heat their homes.

For a family using natural gas in the Midwest, prices are projected to hit \$1,568, representing an increase of \$611 over last year's prices and \$643 over the price of the 2003-2004 heating season.

The Mortgage Bankers Association, looking at this data, expects steep energy costs could increase the number of missed payments and lost homes this year. So we have observers who are fearful that this huge energy shock could cause families to, indeed, lose their homes.

In America, no family should be forced to choose between heating their home or putting food on the table for their children. No senior citizen should have to decide to either buy lifesaving pharmaceuticals or pay their electric bill. But, unfortunately, low-income working Americans are facing these decisions this winter.

In some respects, this is a tidal wave, not of rising water but of rising energy prices which is a consequence of Hurricanes Katrina and Rita.

For this reason, Senator KENNEDY, Senator KERRY, and I offered an amendment to the Defense Department appropriations bill to provide \$3.1 billion in emergency funds for the Low-Income Home Energy Assistance Program, known as LIHEAP. This funding will provide our Nation's most vulnerable—low-income families, seniors, and disabled individuals—with affordable energy this winter. Again, we saw and were shocked as a nation to see rising waters imperil the most vulnerable in our society on the gulf coast. Well, these rising energy prices will do the same thing by threatening the most vulnerable people through the Northeast, through the Midwest, through every area of the country that anticipates cold weather this winter.

I urge my colleagues to join us to secure \$3.1 billion in additional LIHEAP funding.

In September, I, along with over 20 of my colleagues, both Republicans and Democrats, sent a letter to the President urging that he include additional funding for LIHEAP in a supplemental appropriations bill for Hurricane Katrina. We sensed, as he sensed, that one of the consequences of Katrina was a severe shock to our energy sector with complementary increases in prices. So I believe it is appropriate to deal with this issue now. We are waiting not only for the supplemental for Katrina, but also dealing with it on this particular appropriations bill.

On Monday, I was dismayed to learn that President Bush currently does not have plans to request additional LIHEAP funds this year. States are bracing for a crisis caused by a lack of affordable energy, and this funding will ensure low-income families and seniors will have safe, warm homes this winter.

President Bush, I strongly urge that you reconsider. The warning has been issued. Will you once again ignore a looming crisis facing America?

In addition to LIHEAP funding, there are other steps that Congress and the administration need to take to address our Nation's high energy costs. First, we need to pass Senator CANTWELL'S Energy Emergency Consumer Protection Act to ban price gouging at the

gas pump in the wake of natural disasters such as Hurricane Katrina.

Second, we need to pass Senator DORGAN's Windfall Profits Rebate Act which imposes a temporary windfall profits tax on big oil companies and uses the revenues to provide a rebate to American consumers to help offset the higher cost of oil and gasoline products.

Total energy spending for the Nation this year will approach \$1 trillion, 24 percent higher than in 2004. Energy will claim the biggest share of U.S. output since the end of the oil crisis 20 years ago. Oil and natural gas companies are making record profits, while energy prices are overcoming and overtaking workers' salary increases. This is wrong.

We also must fix those bankrupt energy policies that provide oil and gas companies with billions of dollars from the Federal Treasury for production. These tax breaks should be repealed to pay for LIHEAP and conservation programs that help American energy consumers, not big business.

The Federal Government must lead by example also. The President called on Americans to reduce their energy consumption and conserve oil. I know American families are up to this challenge and will respond. But Americans have the right to expect that their President and their Government will also make sacrifices.

The President should implement a Federal savings target to demonstrate a serious commitment to improving our Nation's energy security. He should set a 40-percent savings target for Federal agencies by 2020. Over the past few years, the Federal Government has reduced its petroleum consumption by less than 1 percent. We can and we must do better.

As a nation, we must step back and evaluate our priorities. Now is not the time to cut funding for social programs such as LIHEAP, Medicaid, and food stamps that support working families and seniors while the President and Members of the Senate continue to push for irresponsible tax breaks. We must prioritize, and the most vulnerable among us must be considered first.

Millions of Americans are struggling each day to make ends meet. They deserve our support. I hope the President and this Congress will heed this warning and help build an energy safety net for all Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask that the pending amendment be set aside.

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

AMENDMENT NO. 1963

Mr. INOUYE. Mr. President, in behalf of the Senator from New Jersey, Mr. LAUTENBERG, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LAUTENBERG, proposes an amendment numbered 1963.

The amendment is as follows:

(Purpose: To require the Secretary of Defense to maintain a website listing information on Federal contractor misconduct, and to require reports on Federal no-bid contracts related to Iraq reconstruction)

On page 220, after line 25, add the following:

SEC. 8116. ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR MISCONDUCT.—The Secretary of Defense shall maintain a publicly-available website that provides information on instances of improper conduct by contractors entering into or carrying out Federal contracts, including instances in which contractors have been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against them in connection with allegations of improper conduct.

(b) REPORTS ON FEDERAL NO-BID CONTRACTS RELATED TO IRAQ RECONSTRUCTION.—

(1) REPORTS REQUIRED.—Not later than 7 days after entering into a no-bid contract to procure property or services in connection with Iraq reconstruction, the head of an executive agency shall submit to the Secretary of Defense a report on the contract.

(2) CONTENT.—Each report submitted under paragraph (1) shall include the following information:

- (A) The date the contract was awarded.
- (B) The contract number.
- (C) The name of the contractor.
- (D) The amounts awarded and obligated under the contract.

(E) The scope of work under the contract.

(3) PUBLICATION.—The Secretary of Defense shall maintain a publicly-available website that lists the information provided in reports submitted under paragraph (1).

(4) EXECUTIVE AGENCY DEFINED.—In this subsection, the term "executive agency" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Mr. INOUYE. I thank the Chair.

AMENDMENT NO. 2016

Mr. STEVENS. Mr. President, I have an amendment at the desk on behalf of Senator SHELBY.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SHELBY, proposes an amendment numbered 2016.

The amendment is as follows:

(Purpose: To prohibit the transfer from the Army of authority relating to the tactical unmanned aerial vehicles)

At the appropriate place insert the following:

SEC. _____. (a) PROHIBITION ON TRANSFER OF AUTHORITY ON TACTICAL UNMANNED AERIAL VEHICLES.—None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) EXTENDED RANGE MULTI-PURPOSE UNMANNED AERIAL VEHICLES.—The Army shall retain responsibility for and operational control of the Extended Range Multi-Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in

order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

Mr. STEVENS. Mr. President, regarding the two amendments that were sent to the desk, I ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to amendments Nos. 1963 and 2016.

The amendments (Nos. 1963 and 2016) were agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. STEVENS. Has the Senator called up an amendment?

The PRESIDING OFFICER. The Senator is about to identify the amendment she wishes to call up.

Without objection, it is so ordered.

AMENDMENT NO. 1942

Ms. LANDRIEU. I call up amendment No. 1942.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 1942.

Ms. LANDRIEU. 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 make available \$10,000,000 for Operation and Maintenance, Air Force, and \$20,000,000 for Other Procurement, Air Force, for the implementation of IMT-2000 3G Standards Based Communications Information Extension capability for the Gulf States and key entities within the Northern Command Area of Responsibility)

At the appropriate place, insert the following:

SEC. _____. (a) IMPLEMENTATION OF IMT-2000 3G COMMUNICATIONS CAPABILITIES.—Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, AIR FORCE", up to \$10,000,000 may be used by the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) IMPLEMENTATION OF IMT-2000 3G COMMUNICATIONS CAPABILITIES.—Of the amount

appropriated or otherwise made available by title III under the heading "OTHER PROCUREMENT, AIR FORCE", up to \$20,000,000 may be used by the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

Ms. LANDRIEU. Mr. President, as we consider many important amendments to this underlying bill, I will take just a moment to speak about this amendment which I offer that will call the attention of my colleagues to the important investments that we should be making in interoperability and communications.

As my colleagues know, we have had a very recent disaster along the gulf coast that has made quite apparent the lack of a communications system that is adequate to handle natural disasters of this magnitude and even manmade disasters that we could contemplate. So this is quite serious. I know there are many committees of the Senate and the House that are working very hard on this issue right now.

Since Katrina and Rita and even before these terrible hurricanes and the subsequent flooding of this region, which has been devastating, we have known for some time that we have to get a better system of communication. Our military has some interesting and very promising initiatives underway that could truly help us at this time. That is basically what this \$30 million amendment will do, is dedicate or allocate \$30 million to U.S. Northern Command for the purposes of implementing IMT-2000 3G Communications Capabilities. The IMT-2000 3G Standards will be used for the Gulf States and key entities within the Northern Command Area of Responsibility, AOR.

We have many needs that have shown themselves out of this storm and out of the subsequent disaster. It would be hard even for the Senator from the State that was most directly hit to have to list them in an order of priority because they are overwhelming and they are so great: water, food, electricity, housing, direct help to our local governments. We will debate that as these days unfold, and we will debate that as these weeks and months unfold.

One thing I am positively sure of is that the communications system we had in this country did not work well in 9/11. It did not work well for the hurricanes that hit the Presiding Officer's State in such a devastating way only a year or two ago, and it did not work well for Louisiana, Mississippi, and Alabama, which experienced one of the worst natural disasters in the history of the country.

To address the devastating problems caused by the lack of communication, \$30 million is a small investment. I offer this amendment and ask, as we move through the next few days of consideration of this Defense bill, if we would please take a very careful look at the importance of this amendment.

I submit the amendment for the Senate's consideration.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I have an amendment pending which I would like to speak to. I will not call up this amendment at this time.

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. The unanimous consent agreement was to set aside the quorum call. I wanted to find out if the Senator is going to be offering it now. I wanted to get the floor if he is. If not, I will not object.

Mr. DURBIN. I thank the Senator from Oklahoma. I am only going to speak to my amendment and will offer it at a later time, and I will probably take in the range of 10 or 15 minutes.

Mr. INHOFE. I will not object.

Mr. DURBIN. Mr. President, military personnel are under tremendous pressure to be physically fit. The conditions under which they work and train are often harsh and demanding, making physical strength and endurance essential.

This pressure makes dietary supplements particularly attractive to members of our Armed Services, especially products marketed for weight loss and performance enhancement.

Finding these products on base is easy. A 2004 report on dietary supplements in the journal Military Medicine notes that a newly deployed U.S. Air Force base had eight different dietary supplements stocked on its shelves that were marketed for weightlifting and energy enhancement just 5 months after it opened. Six of these products contained the notorious supplement ephedra.

This article appeared in Exchange and Commissary News last month. It describes a store where the "supplement category is located on the main aisle at the front of the store, indicative of its importance to our customers."

Thermogenic's Extreme Thermo Rush is one of the most popular items. Extreme Thermo Rush contains 200 mg of caffeine. That is the equivalent caffeine in five cans of Coca-Cola. In addition, this drink contains 200 mg of Citrus Aurantium, which is an ephedra-substitute that was found by a group of University of California scientists to increase heart rate among healthy people. It is a stimulant. These scientists released a report in April saying that dietary supplements containing Citrus Aurantium could have some of the same adverse health effects associated with ephedra products.

Let's look at just how many service members are taking supplements.

As you can see from this chart, a 1999 study by the U.S. Army Research Institute for Environmental Medicine found that 85 percent of the 2,200 male soldiers surveyed reported use of dietary supplements.

A similar study conducted by the Department of the Navy found that 89 percent of Marines have used supplements. When broken down by category, the survey showed that 26 percent of Marines took supplements containing stimulants.

Most dietary supplements are safe and provide health benefits to those who take them.

I am not on the warpath against a daily vitamin tablet. I take my vitamins every day. I don't know if it helps to make me healthy, but it makes me feel better to take them and I do, and I think everyone should have the right to make that decision. But we are talking about a different category of dietary supplements. We are not talking about multivitamins or minerals, we are talking about stimulants.

Some of these supplements, these stimulants, can cause serious harm. Of greatest concern are those containing stimulants such as ephedra and citrus aurantium, which are often marketed for energy promotion, performance-enhancement, and weight loss. The Navy released a list of serious problems they had encountered among sailors and officers related to dietary supplements recently. The list includes health events such as death, rapid heart rate, shortness of breath, severe chest pain, and becoming increasingly delusional. These are over-the-counter products sold nominally to make you more energetic or to lose weight which when taken result in these conditions: shortness of breath, rapid heart rate, severe chest pain, and becoming delusional, and in one or two cases, probably more, actual death. Unfortunately, most of the time adverse events such as these are never known to the Food and Drug Administration or to the public because not only is there no premarket safety review of these products, there is not even a mandatory adverse-events reporting to the FDA.

Consider this: If you walk into a drugstore to fill a prescription the doctor has given you, the prescription is filled, you go home, you have a bad reaction to that drug, and you go back to the hospital or doctor because of that reaction. That is reported to the Food and Drug Administration. The FDA can then look across America and say: Wait a minute, we are finding people who have adverse reactions to this drug over and over again. We better take a closer look at it or take it off the shelf because it could be dangerous. So the prescription drugs you buy have an adverse-event report requirement. In other words, if you sell the product in America and somebody gets sick or dies, you have to tell somebody. You have to report it to the Government.

So if, in fact, it is a dangerous product, it is removed from the shelf.

Then let's go back to the beginning. In order to put a product on the shelf like a prescription drug, they have to be tested in advance by the Food and Drug Administration for two things: safety and efficacy. In other words, if you take the normal dosage, would the normal person be safe in taking it? I think we want to know that. And second, is that drug which you just took for arthritis really helpful when it comes to the condition of arthritis? Efficacy.

But the dietary supplements we are talking about are never tested in advance. They are not tested as to whether they are safe. There is no FDA review of clinical data. There is no requirement manufacturers produce it. And when it comes to efficacy, we find time and again that these companies, many of them fly-by-night operations by people with limited resumes and limited talent selling so-called supplements with all sorts of health claims, turn out to be not even close to effective for what they charge or what they say they can achieve. Here you have a whole category of dietary supplements without testing as to their safety, without testing to make sure they actually do what they say they are going to do, for sale. Where? All over America, in every drugstore you walk into, and some gas stations. If you go into a convenience store or gas station, don't be surprised to see dietary supplements on the counter. I bet you think as a consumer they couldn't sell those in America if they were not safe. Yes, they could. There is no requirement they be safe. There is no requirement they be tested.

So you think, I guess if somebody ever got sick, they would be reported to the Government, and the Government would take them off the shelf. There is no requirement in the law to report, even if a person drops dead from taking a dietary supplement. It is, in fact, the biggest gamble a consumer can take for many of these dietary supplements. There has been no testing. There are very few, if any, quality standards to certify what they say on the label happens to be what is inside the bottle. There is no testing to determine if it is effective. There is no report if it turns out it is harmful.

I referred several times in this statement to ephedra, supplements containing ephedra. The military across the United States took ephedra off its shelf at the end of 2002 because between 1997 and 2001 at least 30 Active-Duty personnel died after taking it. Ephedra is something most people are aware of. Ephedra was this dietary supplement, this naturally occurring substance similar to the drug ephedrine, which people took and which was a stimulant. Over the years, we found out it was dangerous to a lot of people. Thirty Active-Duty military personnel died. Many others did as well. It turns out that ephedra was then banned in Canada. You cannot buy it in Canada.

The American Medical Association suggested we ban it here in the United States, too, because it is too dangerous to be sold as a dietary supplement. But the industry that makes these products is extremely powerful. As I recount to you what happened with ephedrine, you will find out why.

After 7 years of effort, the FDA finally banned ephedra in 2004. At that time, 150 deaths were linked to that product. But one Federal court in Utah this past April called into question the FDA procedure, and marketers of these products have hit the street with advertising: Ephedra Is Back. Look at this. Natural Life Nutrition Center in Cincinnati, OH, days after this court decision in Utah: "Ephedra Is Back." You can buy your ephedra products again. They put up the sign to try to lure customers back. The court in Utah said the FDA had failed to justify its rule banning ephedra, particularly at lower doses, particularly 10 milligrams or less per day.

The FDA has said it will continue to enforce its ban except for doses 10 milligrams or lower, but less than 2 weeks after the ruling, just to show you how toothless the Food and Drug Administration is when it comes to dietary supplements, I had one of my staffers get on the Internet and see if we could buy some ephedra in larger doses. This staffer bought 30 pills containing 200 milligrams each from a company with a post office box in Boonville, MO.

The Federal Drug Administration, after this Utah court decision, said: OK, we will let you sell ephedra, but it can't be in doses in excess of 10 milligrams. It turns out that there is no enforcement whatsoever. You can continue to buy this ephedra over the Internet in 200-milligram doses, which could be very dangerous, if not lethal.

The FDA has announced it is appealing this ruling on ephedra, but clearly its hands are tied as it waits for a decision. That is why we need to step in. Congress needs to address this problem. We may not solve it with this bill, but we can do something to protect our men and women in uniform. We should be protecting everyone in America, but this bill addresses our men and women in uniform, and that is what my amendment addresses.

The intent of my amendment is to protect American soldiers from dietary supplements containing stimulants that have unknown adverse effects. This amendment will disallow funds from being used by military stores to sell dietary supplements containing stimulants in cases where it is made known to the Department of Defense that the manufacturer does not have a policy of reporting their serious adverse events to the FDA's Special Nutritional Adverse Event Monitoring System.

We know this happens. Manufacturers collect information, and we know it because of this infamous Metabolife case. You maybe remember the Metabolife brand. It was all over tele-

vision, magazines, newspapers, selling Metabolife. It was something that was going to make you healthier and thinner and give you more energy.

About 5 years ago, Metabolife, a dietary supplement company specializing in diet products containing ephedra, told Congress it had received no reports of people taking their products who experienced serious injury or death. Guess what. They lied. After the company was sued, it was revealed that Metabolife had actually received over 16,500 adverse events of Metabolife with ephedra. Many reports were serious. They knew that more than 100 people had died from their product. They misled Congress. They told us they had not received any information of people taking their product and experiencing serious injury or death. Finally, when they were sued, the information came out.

The FDA collects that kind of information on prescription drugs and over-the-counter drugs. If they learned that something was being sold in America that killed 100 people or injured 16,000 people, they clearly would take action. But this industry is so powerful here in Washington that they conceal this information. They will not share it unless they are forced in a lawsuit.

You think to yourself, Why hasn't Congress risen to its responsibility of protecting consumers? Why don't we at a minimum require these companies to report it when these dietary supplements harm people seriously or kill them?

Frankly, this Congress is in the thrall of this industry, and it has shown for so many years. I went to the floor, this floor, last year to address the same issue. Some of my colleagues came to the floor and said: Oh, we can't wait to join you. This is a great idea, adverse-event reporting. Here we are again a year later and nothing has happened. The same Senators who said, "We can't wait to work with you" can't return phone calls when it comes to this issue.

My challenge to them is this: If you truly want to keep dangerous products off the market, if you happen to believe they are healthy products and don't hurt anybody, why are you afraid of adverse-event reporting? If it is good enough for the major pharmaceutical companies, why isn't it good for the nutritional supplement industry?

I hope my colleagues will come to the Chamber and understand that we are putting our men and women in uniform at risk by selling these dietary supplements which are being used by so many men and women in uniform and are dangerous. They are dangerous to their health.

The Institute of Medicine issued a report last year recommending that adverse-event reporting become mandatory for dietary supplement manufacturers—the Institute of Medicine. Here is what they said:

[W]hile spontaneous adverse event reports have recognized limitations, they have considerable strength as potential warning signals of problems requiring attention, making monitoring by the FDA worthwhile.

The Institute of Medicine recommended that Congress amend the 1994 supplement act, DSHEA, to require manufacturers of supplements to report to the FDA in a timely manner any serious adverse event associated with the use of their products.

The supporters of the amendment which I offer include the American Dietetic Association, the American Osteopathic Association, Consumers Union, Center for Science in the Public Interest, the American Society for Clinical Pharmacology and Therapeutics, and the American Society of Pharmacology and Experimental Therapeutics.

It wasn't that long ago that a starting pitcher for the Baltimore Orioles dropped dead. He was a man trying to lose some weight taking the ephedra stimulant, and obviously it cost him his life.

The same thing happened in my part of the world in central Illinois, where a 16-year-old boy getting ready for a football game wanted to have performance enhancement and goes down to the local gas station and buys over the counter an ephedra product, takes it and washes it down with a Mountain Dew and ends up dying from a heart attack—a healthy 16-year-old boy.

Now we have our men and women in uniform all across the United States walking into these base exchanges wanting to make sure they are at peak physical condition to serve this country and buying these dietary supplements which claim to enhance performance and give them new energy or perhaps lose some weight not realizing they are risking their lives every time because the shoddy manufacturers who sell these products do not report to the Government when people get sick and die because of these dietary supplements.

How long is it going to take us? How many Americans have to die before we accept responsibility for the consumers of this country? They trust us. They expect the Food and Drug Administration to be there, when it is needed, to report on these dangerous supplements. But we have let them down for more than 10 years since it was passed. We should not let them down when it comes to this bill. Let us start by protecting our men and women in uniform. Let us start by not letting them be in danger by buying the products on the shelves in these PXs or commissaries that are not good for them. That is, I think, the least we can do, and then let us not stop there. Let us move across America to say we are going to stand behind consumers; that we are going to stand behind children and families so that when they buy something in a drugstore in America that is supposed to be good for their health, they know their Government has at least the interest and has taken the time to make sure it is safe.

This is not some wild, crazy idea I have. It is an idea backed up by the leading medical organizations in America, and it is one that reflects the reality of the danger of these products.

I invite my colleagues to support amendment No. 2035, which I have in-

troduced, when it comes up for consideration at a latter point in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise today with mixed feelings on what I heard because this was brought up under the Defense authorization bill. I talked to the Senator from Illinois, and we agreed that we would work on something—that would actually do something. We have been doing that, but with a slight interruption from Katrina. Now it is being offered again. And in the same way, I have mixed emotions because I probably ought to suggest to the Senator from Alaska to take this amendment because it will not achieve anything. We have an opportunity to do something and to achieve something. But this amendment will not do that.

Of course, it brings some attention to the fact that there may be some adverse reaction to dietary supplements. That is important. The discussion is important. If we had more time for discussion, we ought to have a lot of discussion on it, but we don't have a lot of time. I will try to keep my remarks brief on this.

This amendment would withhold funding from any store on a military installation or a commissary store—most of those are on military installations as well—that sells any dietary supplement containing a stimulant unless the manufacturers of the supplement submits reports on serious adverse events associated with the supplement. If they don't, we shut down the action on the base. But that is definitely not the only place you can buy dietary supplements. What we merely do is invite military people to go off base to get their dietary supplements—and they will.

It is important that we get reporting done so people will know if something is having an adverse effect on their health.

I recognize the Senator from Illinois has strong concerns about adverse reporting for dietary supplements, and so do several other Senators. Senator HATCH and Senator HARKIN have been working diligently on this. Both of them are on the Health, Education, Labor and Pensions Committee, and that is the committee of jurisdiction on this particular issue.

We have been working on it. I share his interest on the issue. It is important that we maintain the safety of dietary supplements that benefit so many Americans. I mention that this isn't the first time this has been offered.

I hope he will withdraw his amendment, and we may move on without having to go through the difficulty of a vote.

As I said, I question the effectiveness of achieving such reporting by withholding legal products only from men and women in uniform and their families while the same products are available to the civilian population. That is unfair to our soldiers and we should

not support it. Punishing our soldiers is not the way to ensure the safety of dietary supplements. A piecemeal approach does nothing to protect the civilian population from products that are being withheld from the military population.

This amendment places the regulation of dietary supplements in the hands of the Secretary of Defense and cuts the Food and Drug Administration out of the loop.

I would like to point out that the FDA is already taking aggressive steps to regulate stimulants that are dietary supplements, including the banning of ephedra.

We should be sure that requiring additional reporting does not inadvertently derail those enforcement efforts.

Finally, the Appropriations Committee has included for fiscal year 2006 funding of approximately \$5.5 million for the Center for Food Safety and Nutrition Adverse Events Reporting System. That includes approximately \$1.7 million for dietary supplements. That is over \$1 million more than the amount in the budget request. The Senate is already moving in the right direction on this issue.

I wish to point out that the Dietary Supplement Health and Education Act is squarely within the HELP Committee's jurisdiction.

I know that Senator DURBIN has worked with Senators HATCH and HARKIN and myself to develop a proposal on mandatory adverse events reporting for dietary supplements. I wish to work with the Senator from Illinois and my fellow committee members, especially Senators HATCH and HARKIN, to see how we might address the issue in my committee through regular order.

I respectfully ask the Senator from Illinois to withdraw his amendment and work with the HELP Committee on this issue. If not, I will have to oppose the amendment. I think it will take up unnecessary time when we can do it considerably more effectively and without punishing in a big way the servicemembers in uniform while we allow the civilian population to do whatever they want.

Mr. DURBIN. Mr. President, will the Senator yield for a question without losing his right to the floor?

Mr. ENZI. Yes.

Mr. DURBIN. Last year when I offered this amendment, Senator HATCH came to the floor. Senator HARKIN joined afterwards. They conceded that they thought it was not a bad idea, if you sell dietary supplements in America, and somebody is harmed, seriously injured or dies as a result, that the manufacturer of that dietary supplement should report that event to the FDA so that they can see if there is a pattern, if it is something that might lead to a decision to take something off the market.

I would like to ask the Senator from Wyoming: Does he agree with that?

Does he think that is a reasonable standard to ask the dietary supplement manufacturers to report truly adverse events such as is required of the pharmaceutical companies today?

Mr. ENZI. I said before that I think it is very important for us to come up with a piece of legislation that does that on and off military bases, so there is a reporting of adverse events so that FDA can take action when it is affecting people, and have enough information to be able to tell whether they are acting properly or not. We do have an agency that is designed to do that. It is not the Department of Defense.

Mr. DURBIN. If the Senator will yield for another question, I agree with the Senator. This is not the way to address it. I thought it was the only way to bring the subject up before the Senate. I wish to ask the Senator from Wyoming, whom I respect and I have worked with and we have been able to work out some very serious difficulties in the past and I know he genuinely wants to reach solutions, can the Senator from Wyoming give me his assurance that he will try to schedule hearings in the consideration of this issue on a timely basis before his committee so that we can raise this issue in a thoughtful way and address it beyond the Department of Defense?

Mr. ENZI. I can give the Senator assurances that we will deal with this issue. If you check with members of my committee, you will find that because of Katrina and pensions and all of the health issues that we have now, and all of the education, higher education and Head Start we are trying to work our way through, that we have gone to a system of roundtables instead that allows us to bring in more people with more information so we can learn more from them in order to be able to deal with these issues in a knowledgeable way.

It has been working. I appreciate the cooperation of Senator KENNEDY, who is ranking member on my committee, for this approach of being able to gather information so that we can do effective legislation quicker. As the Senator probably noticed, we have a lot of bills which we are working on, and it is because we have gone through a mechanism where we are working in a very bipartisan way to gather information. This is a bill of some priority for us.

Mr. DURBIN. If the Senator will further yield for a question, I salute the Senator. What he says is true. He has done an excellent job in joining both sides of the aisle with bipartisanship in finding solutions and getting things done. I am sorry we can't say that for all of us in the Senate. We could probably learn a lot the way the Senator from Wyoming approaches it. I don't want to suggest that the Senator change his approach. If the Senator from Wyoming will give me his assurance that this is a priority, that he will try to bring it up before his committee in a timely way when appropriate, I understand he has other priorities, if

he will give me that assurance, I will withdraw this amendment. I hope we can work together from this point forward.

Mr. ENZI. I assure the Senator that we can work together, and it will be put into the prioritization. It is already in the prioritization of the committee. We are handling the emergencies first.

I apologize for the 2-week delay we had while we are working on Katrina. Staff is working on this one, along with the staff of the Senator from Illinois. We will do it.

Mr. DURBIN. Mr. President, at this point, I ask unanimous consent to withdraw my amendment No. 2035.

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

The Senator from Michigan.

Ms. STABENOW. Mr. President, before my colleague and friend from Illinois leaves the floor, I want to thank him for his leadership on this very important issue, in fact, for so many people in our country. I also wish to thank Senator ENZI for indicating his desire to make this a priority within his committee.

Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 1937

Ms. STABENOW. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW], for herself, Mr. JOHNSON, Mr. THUNE, Mr. AKAKA, Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. SALAZAR, Mrs. LINCOLN, Mr. CORZINE, Mr. BAUCUS, Ms. LANDRIEU, Mr. JEFFORDS, Mr. BAYH, and Mr. BINGAMAN, proposes an amendment numbered 1937.

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

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

The amendment is as follows:

(Purpose: To ensure that future funding for health care for former members of the Armed Forces takes into account changes in population and inflation)

At the appropriate place, insert the following:

SEC. _____. (a) FUNDING FOR VETERANS HEALTH CARE TO ADDRESS CHANGES IN POPULATION AND INFLATION.—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) By the enactment of this section, Congress and the President intend to ensure access to health care for all veterans. Upon the enactment of this section, funding for the programs, functions, and activities of the Veterans Health Administration specified in subsection (d) to accomplish this objective shall be provided through a combination of discretionary and mandatory funds. The discretionary amount should be equal to the fis-

cal year 2005 discretionary funding for such programs, functions, and activities, and should remain unchanged each fiscal year thereafter. The annual level of mandatory amount shall be adjusted according to the formula specified in subsection (c).

“(b) On the first day of each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (c) 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 (d). There is hereby appropriated, out of any sums in the Treasury not otherwise appropriated, amounts necessary to implement this section.

“(c)(1) The amount applicable to fiscal year 2006 under this subsection is the amount equal to—

“(A) 130 percent of the amount obligated by the Department during fiscal year 2004 for the purposes specified in subsection (d), minus

“(B) the amount appropriated for those purposes for fiscal year 2005.

“(2) The amount applicable to any fiscal year after fiscal year 2006 under this subsection is the amount equal to the product of the following, minus the amount appropriated for the purposes specified for subsection (d) for fiscal year 2005:

“(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 2005 for the purposes specified in subsection (d), divided by

“(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2004.

“(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).

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

“(2) Amounts made available pursuant to subsection (b) 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.”.

Ms. STABENOW. Mr. President, I ask unanimous consent that Senators MURRAY, KERRY, KENNEDY, DAYTON, and BIDEN be added as cosponsors of my amendment.

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

Ms. STABENOW. Mr. President, I rise to thank both the chairman and ranking member, Senator INOUYE, for their leadership on this legislation. I am very supportive of the Defense appropriations bill. And I appreciate all of the hard work and leadership they have brought to this point in this important legislation.

I come to the floor this evening to fix a broken promise to our veterans, a promise our country made to the men and women who serve our country in the armed services. They put their lives on the line to protect us, as we know, and in exchange we have a sacred obligation to extend to them the honors and benefits and the health care benefits they have earned through their service.

I have met with men and women from Michigan and across the country who are recovering at Walter Reed Army Medical Center, as many of my colleagues have. Some have suffered minor injuries that will not have a dramatic impact on the rest of their lives. Others though, because of their injuries, will need years of rehabilitation and face considerable obstacles as they return to their civilian lives.

We owe these men and women our continued support so that they can recover from their injuries and lead productive lives.

Today's soldiers are tomorrow's veterans—and America has made a promise to these brave men and women to provide them the care they deserve. They deserve the respect and support of a grateful nation when they return home.

We also owe it to the men and women who have fought in America's prior conflicts to maintain a place for them in the VA system so they can receive the care they need, as well. We need to keep our promise to our veterans, young and old.

Together we can do better for our men and women who have served our country. We must consider the ongoing costs of medical care for America's veterans as part of the continuing cost of our national defense. The long-term legacy of the wars we fight today is the care of the men and women who have worn the uniform and are willing to pay the ultimate price for their nation.

Senator JOHNSON, Senator THUNE, and I are offering an amendment today to provide full funding for VA health care to ensure the VA has the resources

necessary to provide quality health care in a timely manner to our Nation's disabled veterans. The Stabenow-Johnson-Thune amendment provides guaranteed funding for America's veterans from two sources.

First, the legislation provides an annual discretionary amount that will be locked in for future years at the 2005 funding level. Second, in the future, the VA receives a sum of mandatory funding that is adjusted year to year based on changes in demand from the VA health system and the rate of health care inflation.

This funding mechanism will ensure that the VA has the resources it needs to provide a steady and reliable stream of resources to care for America's veterans. It will also ensure that Congress will continue to be responsible for the oversight of the VA health system as it does with other Federal programs funded directly from the U.S. Treasury.

This amendment will bring funding for veterans health care into line with almost 90 percent of Federal health care spending which is mandatory rather than discretionary. One of our greatest accomplishments as a nation is that every American knows when they enter their golden years, when they reach 65 or if they are disabled, they receive the health care they need. Medicare is a universal and comprehensive system that benefits a person for their life's work. Our veterans deserve the same. We can do better for them by ensuring that their service is repaid with reliable health care benefits.

I thank the cosponsors of this amendment for their support: Senators JOHNSON, THUNE, AKAKA, DAYTON, NELSON, LAUTENBERG, SALAZAR, LINCOLN, CORZINE, BAUCUS, LANDRIEU, JEFFORDS, BAYH, BINGAMAN, MURRAY, KERRY, KENNEDY, and BIDEN.

In July, I offered this amendment to the 2006 Defense authorization bill. Unfortunately, the Defense authorization bill was pulled from the Senate at that time. While we are working out whether this will be included in this particular bill, it is important to offer my amendment again at this time. The amendment has been endorsed by the Partnership for Veterans Health Care Budget Reform, a group of major veterans service organizations that has been working to provide a reliable stream of health care for America's veterans over the last 2 years. It includes the American Legion, the AMVETS, the Blinded Veterans Association, Disabled American Veterans, Jewish War Veterans of the United States, Paralyzed Veterans of America, and the Veterans of Foreign Wars, all of them together asking us to get this right for our veterans.

The problem we face today is that resources for veterans health care are falling behind demand. We have more veterans being created, more men and women coming home from the wars. Yet the funding is falling behind. Shortly after coming into office, the President created the task force to im-

prove health care delivery for our Nation's veterans. The task force found historically there has been a gap between the demand for VA care and the resources to meet the needs of our veterans. The task force also found that:

The current mismatch is far greater . . . and its impact potentially far more detrimental both to the VA's ability to furnish high quality care and to the support that the system needs from those it serves.

The task force released its report in May of 2003, well before we understood the impact of the men and women fighting in Iraq and Afghanistan and the impact that would have on our VA system.

If the mismatch between demand and resources was bad in May of 2003, imagine what it is today. Over 360,000 brave soldiers have returned from Iraq and Afghanistan, and over 86,000 have sought health care from the VA. There are an additional 740,000 military personnel who served in Iraq and Afghanistan who are still in the service. This next generation of veterans will be eligible for VA health care and will place additional demands on a system that is already strained. These are promises we need to keep.

In addition, each reservist and National Guard member who has served in Iraq is eligible for 2 years of free health care at the VA. The administration has in its own way admitted they do not have sufficient resources to provide adequate care for our veterans. While they would not until recently admit there were shortfalls, they have for years attempted to ration care and cut services at the expense of our veterans. We can do better than that.

In 2003, the VA banned the enrollment of new priority 8 veterans. For the past 3 years, I fought attempts by the administration to charge middle-income veterans a \$250 enrollment fee to join the VA health care system and a 100-percent increase in prescription drug copays. This year, the administration also proposed slashing Federal support for the State veterans homes from \$140 million to \$12 million. The head of the Grand Rapids Home for Veterans and the D.J. Jacobetti Home For Veterans in Marquette tells me these cuts would be devastating.

The fiscal year 2005 and 2006 VA health care budgets are a case study in why Congress should guarantee reliable and adequate resources through direct spending.

Last March, the President submitted an inadequate fiscal year 2005 budget request for VA health care to Congress that fell \$3.2 billion short of the recommendation of the independent budget, an annual estimate of critical veterans health care needs by the coalition of leading veterans organizations.

In fact, in February 2004, Anthony Principi, then the Secretary of VA, testified before Congress that the request the President submitted to Congress fell \$1.2 billion short of the amount he had recommended. It then fell to Congress to again increase the amount provided to the VA for health care. The

final amount Congress provided to the VA for health care was \$1.2 billion over the President's request, but it was still not enough to meet their immediate needs.

In April of this year I cosponsored an amendment with Senator MURRAY to the fiscal year 2005 supplemental appropriations bill for Iraq and Afghanistan to provide \$1.9 billion for veterans medical care, especially for those soldiers returning from Iraq and Afghanistan. During the debate on the amendment we were again told that the President's budget was sufficient but, in fact, on April 5, Secretary of Veterans Affairs Jim Nicholson sent a letter to the Senate that said:

I can assure you that the VA does not need supplemental funds for FY2005 to continue to provide timely, quality service that is always our goal.

I was proud to cosponsor an amendment in June, however, to provide an additional \$1.5 billion for veterans health care because they finally admitted there was a gap in funding for this year. Finally, they admitted, in fact, the veterans health care system was not adequately funded this year. I was pleased we were able to add dollars under an emergency spending measure, to be able to fill the gap this year.

As it turned out, we received more bad news from the administration on July 14, when the administration requested another \$300 million for this year and a whopping \$1.7 billion for next year. The total shortfall for this year and next was nearly \$3 billion, 3 billion short of where we should be in adequately funding health care for our veterans.

At the end of July, I was pleased to support the conference report for the Interior appropriations which included the \$1.5 billion this year that the Senate has twice unanimously supported. Further, in September, I supported the Senate's Military Construction and Veterans Affairs appropriations bill which provided a total of \$33 billion for veterans health care. This is \$1.1 billion more than the administration requested and \$2.5 billion more than the House version of the legislation for veterans health care.

I tell this to make two points: First, it is clear that the demand for veterans health care is increasing, and a good portion of this increase can be attributed to men and women seeking care after they are returning from Iraq and Afghanistan. The second is to show despite the best intentions of the VA and Congress, the VA does not have a reliable and dependable stream of funding to provide for veterans health care needs. We should not have to pass an emergency funding bill to give our veterans the health care they need and deserve.

In 1993, there were about 2.5 million Americans in the VA health care system. Today there are more than 7 million veterans enrolled in the system, over half of which receive care on a regular basis. Despite the increase in

patients, the VA has received on average a 5-percent increase in appropriations over the last 8 years. My amendment will fix this problem and ensure that each year we provide the funding necessary to care for our veterans in a timely manner that is separate from the uncertainty and the ups and downs of the congressional calendar.

At last count, at least 86,000 men and women have returned from Iraq and have sought health care from the VA. We can safely assume that this number will reach hundreds of thousands. This bill provides the resources our troops need to prepare and defend our country in Iraq. We must not forget about them when they return home and put on a veteran's cap. We must ensure that we keep our promises to them when they come home as veterans. Let's stop this up-and-down roller coaster of emergency spending measures, of budgets that do not match with need year to year. We owe our veterans better than that. Together, we can do better than that.

I urge the support of my colleagues for this very important amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I regret to do this, but as we have examined this amendment of the Senator, we find this requires this spending to become a part of the mandatory process of expenditures. It requires funds to come out of the Treasury to implement this section, and in effect it becomes a matter that we believe is subject to a point of order under section 302(f) of the Congressional Budget Act that provides spending in excess of the subcommittee's 302(b) allocation under the fiscal year 2006 concurrent resolution of the budget. I make that point of order.

Ms. STABENOW. I move to waive the applicable sections of the Congressional Budget Act for the purpose of considering my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, we will have a request for votes to commence at 7:30, but first I offer a managers' package, as we call it, with modifications.

AMENDMENTS NOS. 1914; 1972; 1962; 1979, AS MODIFIED; 1976; AND 1945, EN BLOC

Mr. President, I send to the desk, for Senator NELSON of Florida, amendment No. 1914, for surface sonar dome windows; for Senator DODD, amendment No. 1972, for countermeasures to nerve agents; for Senator LIEBERMAN, amendment No. 1962, for defense manufacturing technology; for Senator CHAMBLISS, amendment No. 1979, as modified, for environmental cleanup; for Senator LOTT, amendment No. 1976, for lightweight ammunition; and for Senator ROBERTS, amendment No. 1945, for intelligence scholars. I send those amendments to the desk and ask that

they be considered en bloc, with Senator CHAMBLISS's amendment modified according to my submission.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for other Senators, proposes en bloc amendments numbered 1914; 1972; 1962; 1979, as modified; 1976; and 1945.

The amendments are as follows:

AMENDMENT NO. 1914

At the appropriate place insert the following:

SEC. . Of the amount appropriated in title III under the heading "OTHER PROCUREMENT, NAVY", up to \$2,000,000 may be made available for the Surface Sonar Dome Window Program.

AMENDMENT NO. 1972

(Purpose: To make available \$700,000 from Research, Development, Test, and Evaluation, Army for Medical Countermeasures to Nerve Agents)

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to \$700,000 may be used for Medical Countermeasures to Nerve Agents.

AMENDMENT NO. 1962

(Purpose: To make available \$5,000,000 from Research, Development, Test, and Evaluation, Defense-Wide, for High Performance Defense Manufacturing Technology Research and Development)

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE", up to \$5,000,000 may be used for High Performance Defense Manufacturing Technology Research and Development.

AMENDMENT NO. 1979, AS MODIFIED

(Purpose: To provide that, of the amount made available under title II for Operation and Maintenance, Army, up to \$600,000 may be made available for removal of unexploded ordnance at Camp Wheeler, Georgia)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY", up to \$600,000 may be made available for removal of unexploded ordnance at Camp Wheeler, Georgia.

AMENDMENT NO. 1976

(Purpose: To make available \$4,000,000 from Research, Development Test, and Evaluation, Army, for the development of light-weight rigid-rod ammunition)

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to \$4,000,000 may be used for the development of light-weight rigid-rod polyphenylene ammunition.

AMENDMENT NO. 1945

On page 220 after line 25, insert the following:

SEC. . Of the amounts appropriated by title VII under the heading "Intelligence Community Management Account", up to \$2,000,000 may be used for the Pat Roberts Intelligence Scholars Program.

Mr. STEVENS. Mr. President, I urge adoption of the amendments.

The PRESIDING OFFICER. Is there further debate on the amendments en bloc? If not, the question is on agreeing to the amendments.

The amendments (Nos. 1914; 1972; 1962; 1979, as modified; 1976; and 1945) were agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1979

Mr. CHAMBLIS. Mr. President, I rise today in support of my amendment, No. 1979, as modified, to H.R. 2863.

Camp Wheeler, near Macon, GA, was a World War II Army facility which has a proud history of training American soldiers. Unfortunately, and like many formerly used defense sites in the United States, there is unexploded ordnance on the former Camp Wheeler site that, today, threatens the safety of people who live in the vicinity. This amendment would earmark \$600,000 to clean up Camp Wheeler.

The unexploded ordnance at Camp Wheeler was found during an inspection sponsored by the Savannah District of the U.S. Army Corps of Engineers. The Corps has indicated that cleanup of Ordnance Operable Unit No. 1 at Camp Wheeler, which is in a neighborhood in Twiggs County, GA, is the No. 1 munitions cleanup program in the State of Georgia.

I have worked with the Corps over the past several months on this project, and my staff has received briefings and updates from the Corps on a regular basis.

Since filing my amendment, the Corps has announced that \$1.5 million in fiscal year 2005 funds will be used to conduct cleanup at Camp Wheeler. Additionally, the Corps of Engineers has assured me that there are funds available in their budget to work toward completion of cleanup of Ordnance Operable Unit No. 1 at Camp Wheeler in the fiscal year 2006 budget.

This amendment will ensure that the necessary funds are spent on this project and that the Camp Wheeler cleanup is completed as the Corps of Engineers has promised.

I ask my colleagues to support the amendment.

Mr. STEVENS. Mr. President, it is my understanding that at 7:30 we will start with the vote on Senator WARNER's submission of the Defense authorization bill as an amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. We already have an agreement to have 3 minutes on each side on that amendment, Senator BAYH's amendment No. 1933, and Senator McCAIN's amendment No. 1977, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. We are working on a modification to Senator REED's amendment. We then also have Senator McCAIN's amendment, which is amendment No. 1978. And we have Senator GRAHAM's amendment, which is 2004.

I say to the Senator, are you prepared to accept that amendment now?

AMENDMENT NO. 2004

Mr. President, I ask unanimous consent that Senator GRAHAM's amendment No. 2004 be laid before the Senate so we might consider it.

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

Mr. STEVENS. Mr. President, I withdraw that request.

AMENDMENT NO. 2033

Mr. President, is it in order for me, as manager of the bill, to move to table Senator KERRY's amendment No. 2033 at this time?

The PRESIDING OFFICER. The amendment is not presently pending. The Senator may ask for the regular order with respect to the amendment.

Mr. STEVENS. Mr. President, I ask for the regular order with respect to that amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. STEVENS. Mr. President, I move to table Senator KERRY's amendment which deals with LIHEAP and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that be put into the schedule to be developed by the leadership as to the time at which that vote will occur.

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

Mr. STEVENS. Mr. President, as to the amendment offered by Ms. STABENOW, I have made the point of order. At what time would that vote occur?

The PRESIDING OFFICER. The time for the vote has not yet been scheduled.

Mr. STEVENS. Would it be all right with the Senator if we ask for it to be scheduled according to the leadership in this process this evening?

Ms. STABENOW. Yes. That is fine.

Mr. STEVENS. Mr. President, I ask unanimous consent that amendment be added to the list for a vote this evening.

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

Mr. STEVENS. Mr. President, I yield the floor to the Senator from West Virginia.

I suggest the absence of a quorum first.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent that following the votes already scheduled at 7:30 today, the Senate proceed to vote in relation to the following amendments, in the order listed, provided no second-degree amendments be in order to the amendments prior to the votes: first is Senator McCAIN's amendment No. 1978; the next is Senator KERRY's amendment No. 2033, for which I made a motion to table, and next is Senator STABENOW's amendment No. 1937, which is a motion to waive my point of order; provided that there be 2 minutes equally divided prior to the debate on each of the above ordered votes. And I ask unanimous consent that for the votes that start at 7:30, the first vote be the regular number of minutes—20 minutes, I believe—and that following that—we have six in the order—the five remaining votes be limited to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. OBAMA. Mr. President, my understanding is that Senator SESSIONS is going to speak for approximately 10 minutes. I ask unanimous consent to speak as soon as he is finished.

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

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I see the chairman. I suppose we are ready to go forward. Does the chairman have anything he needs to say at this time?

Mr. STEVENS. I say to the Senator, Mr. President, if I may respond to his question, we are waiting for Senator BYRD to make a statement. But he is not ready at this time, so the Senator may proceed. He should be ready in about 5 or 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Chair.

Mr. President, we in this country have the highest standards of conduct in our legal system, and our military has the highest standards of behavior as they deal with prisoners with whom they come in contact.

Have problems occurred? Yes, they have. Has that occurred in every war we have ever been involved in, that any nation has ever been involved in? Unfortunately so.

But I want to take a few minutes now to express my deep feeling that we do not have a program of systematic abuse of prisoners going on by our U.S. military; that they are maintaining the discipline of our troops; and that

they are, day after day, subjecting themselves to personal risk—not firing randomly or rapidly but hesitating to make sure innocents are not injured, and have complied with the most extensive set of requirements dealing with prisoners that any nation and army has ever had in the history of the world. Our military has taken disciplinary action time and time and time again if anybody violates those standards.

We should all remember that event that made a good bit of news when a fine Army colonel was in a combat area taking fire and captured an enemy, and to save the lives of his troops, as his soldiers later testified, he fired a gun beside the head of a captured prisoner in order to frighten him and see if he would provide information that might be of value in saving the lives of the American soldiers he commanded. He was kicked out of the Army for it. The news media did not discover this occurrence. The military did and acted upon it.

We all heard about Abu Ghraib, and the sick and unacceptable behavior that went on in that prison. But I remember distinctly that within one day of the information being brought to the commanders of our soldiers in Iraq, an investigation was commenced. Within 3 days, they had made a public announcement to the world that there had been allegations of abuse in Abu Ghraib and that an investigation was ongoing. And it was months—2 or 3 months—later that these pictures came out.

Why do I say that? I say that because the military took the allegations seriously from the beginning. They were not reacting to the release of pictures that embarrassed them. Rather, they immediately initiated the investigation about what happened on this midnight shift by these soldiers who lost discipline in Abu Ghraib and abused prisoners in a way that is unacceptable to us.

Those guards, have all been tried and convicted. The Wall Street Journal, just a couple of days ago, published an op-ed entitled “The ‘Torture Narrative’ Unravels.” It noted that the trial and conviction of PFC Lynndie England, who was sentenced as the “leash girl” for her activities there, “was relegated to the innards of newspapers.” That did not make any big news—the Army’s professional, proper response to a lack of discipline.

The op-ed goes on to note that “by one of the greatest leaps of logic ever seriously entertained in our national discourse, those memos”—that were written by the Department of Justice in analyzing what the President’s proper powers were with regard to the detaining of enemy soldiers, who are not lawful combatants—that it was “one of the greatest leaps of logic ever seriously entertained in our national discourse” to say that memos as part of a discussion in the Department of Justice of the United States had anything

to do with those soldiers in Iraq carrying out that abuse.

But that is what was alleged. It was during a campaign season, I understand, and it resulted in calls for the resignation of Secretary Rumsfeld and, I guess, to call for the removal of the President of the United States before the election.

We had one Senator, whose name is known all over the world, say: “Saddam’s torture chambers reopened under new management, U.S. management.”

I submit that was a slander on our troops and our soldiers who are in harm’s way because we sent them there. We asked them to go there to defend the legitimate national interests of our country. We put them at risk, and when we say things about them that are not true, to suggest to the world that we have systemic abuse in our military. Those charges place them at greater risk. It makes it harder for us to negotiate peace treaties with people who are suspicious of us. They believe these things.

When we have Members of the House and the Senate and political leaders in our country making irresponsible and unfounded charges against the military, that they are systematically abusing prisoners, it is wrong. It ought to stop, and I feel strongly about that.

Oh, we remember those comments, when all the pictures of the abuses were leaked and were made available. They said higher-ups were involved, it went all the way to the Secretary of Defense, and that these people were using interrogation techniques according to some memo written somewhere, and that it was all part of poor leadership and mismanagement, and our military discipline was not being maintained.

Remember those comments? It could not be just the lower-ranking soldiers; “why don’t you prosecute the higher ups?” We heard Senators saying that time and again.

It just was not so. This is what the Wall Street Journal article said. They quote the judge when PFC Lynndie England was before the court. The judge asked her this: “You feel that by doing these things you were setting conditions for interrogations?”

Remember that allegation, that the abuses of these prisoners were carried out to set them up, to prime them to be interrogated by the Army interrogators or other interrogators, and that this was part of a systemic plan to soften up the prisoners so they could be interrogated? So the judge asked her under oath—she could use this as a defense:

You feel that by doing these things you were setting conditions for interrogations?

Her answer:

No, sir.

So the judge responded:

So this was just a way to embarrass them?

Referring to the prisoners.

And she replied:

Yes, sir.

Or consider the testimony of SP Jeremy C. Sivits. He pled guilty, too, as I recall. This is what Sivits said about their behavior in that prison:

Our command would have slammed us. They believe in doing the right thing. If they saw what was going on, there would be hell to pay.

I will say right now, every one of these Senators who has been complaining that this misbehavior in the prison was a direct result of some sort of approved interrogation techniques by the Secretary of Defense or the President or the Department of Justice, and they were overruling JAG officers somewhere in doing these things, is not so.

I was a prosecutor for quite a long time. I am telling you, when you have somebody being prosecuted and you are accusing them of a crime—I know the chairman has been a prosecutor—and they have an excuse or defense, don’t they say it? They say: It wasn’t my fault; they told me to do it; I was following orders. These people did not say that. They took their medicine, they were tried and convicted or pled guilty, and many are serving a very long sentence in jail for that misbehavior.

It embarrassed the soldiers. I had soldiers tell me: This is an embarrassment to me. We worked our hearts out to make Iraq a better place, and this was an embarrassment to us. It undermined our ability to do our job.

They were angry with these people who misbehaved. They were glad to see them prosecuted. It galls me that we have people suggesting this was the policy of our Army. It is not correct.

We had the complaints about Guantanamo Bay, that there were systematic abuses going on down there. By the way, we have had over 25 hearings in this Senate and in the House dealing with prisoner abuse. We have had more hearings on this issue than we have had on how to win the war. In addition to that, there have been 10 major reviews, assessments, inspections, and investigations. I mean major reviews. We had those generals and admirals who conducted the reviews before our committees. We interviewed them, and we made them explain their reports. Mr. President, 16,000 pages of documents have been delivered to the Congress, and 1,700 different interviews were conducted. Detentions, operations, enhancement, oversight training—all those issues were brought up. There are 390 criminal investigations completed or ongoing.

People who are responsible for misbehavior are being held to account. If I thought our military was not responding well, I would be very concerned. I have seen law officers involved with a bad criminal, and that person runs and they chase him and have to wrestle him down. They are so pumped up sometimes they do more to that person they have apprehended than they should. Maybe they beat them. You have to contain the felon, but sometimes you go too far. I have seen abuse

cases filed against them. It breaks your heart sometimes because you know the police officers lost control in tough conditions and went too far, but they have to be disciplined because we do not allow that in our country.

The same is true for our soldiers. It is easy for us to talk about what it is like being out in combat, having your life at risk. Some of us might lose some of our discipline, too. We don't excuse it. We understand it.

The activities at Guantanamo have been proven to involve only two or three incidents that have been indefensible, and action has been taken concerning those.

Also, we have had tremendous evidence of how good the conditions are there, how well they are being fed, their full rights to conduct their religious expression openly and freely, and the other things that have gone on.

Now we have a letter pop up from a Captain Fishback who has made allegations concerning the 82nd Airborne. I don't know the full details of it. I will quote a small portion. We heard all these complaints that say that he has submitted proof of systemic abuses in the prisons. This is a New York Times article, and the New York Times has made a full-time effort to try to root out and expose and publicize any misbehavior that has occurred there. They have gone too far, sometimes, in my opinion. But this is what the New York Times says:

Captain Fishback said he had seen at least one interrogation where prisoners were being abused.

I don't know what "abused" means. I am a former prosecutor. What does "abused" mean? Did they shake him? Did they respond to being spit on by prisoners, as many of our guards have been? Did they injure him in some way? I think if they were beaten, he would have said they were beaten. He didn't say that. He used a far more general term, that they were "abused."

Then he goes on to say that he was told about other ill-treatment of detainees by his sergeant. "Ill-treatment," what is that? He didn't say they were beaten, shot, killed, wounded, or tortured.

An investigation is being undertaken of these allegations. It is odd, though, when asked to name the sergeants and the people who conducted the activity so they could follow up and investigate and make sure people who did wrong were disciplined, Captain Fishback refused to disclose the names of the sergeants, one who left the Army and the other who has been reassigned because he did not want to reveal his identity.

It is hard for the Army to investigate if the guy making the complaint, telling Human Rights Watch and the New York Times all these points, will not tell the Army what actually occurred.

I am dubious, for complex technical reasons, of the amendment that has been offered today and which we will vote on later tonight because I am not sure it makes good legal sense to have

a law that is a moving law, it seems to me, that complies with the Army regulations. Army regulation is going to change, and you have a law and the law is going to change while the regulation changes? A statute is supposed to be permanent. As a lawyer, I am troubled by that. I don't think this is a necessary action. I don't intend to vote for the amendment for that reason and a number of other complex reasons.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair informs the Senator from Alaska that we had a unanimous consent request that was agreed to that the Senator from Illinois would be recognized. Does the Senator from Alaska have a request other than the previous regular order?

Mr. STEVENS. I was not on the floor, apparently, when that occurred. We had previously indicated the Senator from West Virginia would be recognized. May I inquire from the Senator from Illinois how much time he would like?

Mr. OBAMA. Mr. President, I request 7 or 8 minutes, but as my esteemed colleague from West Virginia knows, I am happy to defer to him if we do not have enough time before the vote.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from Illinois be recognized for not to exceed 10 minutes and then the Senator from West Virginia be recognized for not to exceed 15 minutes, and then I be recognized following the Senator from West Virginia.

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

The Senator from Illinois is recognized.

(The remarks of Mr. OBAMA pertaining to the introduction of S. 1821 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions,")

The PRESIDING OFFICER (Mr. THUNE). The Senator from Arizona is recognized but should be aware of the unanimous consent agreement.

Mr. McCAIN. I understand. I rise in an attempt to modify the unanimous consent agreement, with the agreement of the Senator from West Virginia.

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

Mr. McCAIN. Mr. President, I ask unanimous consent to be recognized for not longer than 4 minutes, to be immediately followed by the Senator from West Virginia.

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

Mr. McCAIN. Mr. President, I have had to come to this Chamber many times and have had the privilege of doing so since 1987 when I entered this body. I never thought I would have to come to the Senate floor to defend the integrity and the reputation of a brave young American who has put his life on the line for his country defending the freedom of Afghan and Iraqi people.

The remarks of the Senator from Alabama concerning his allegations of abuse and his disparagement of his word and his conduct is unacceptable. This young man, Captain Fishback, served in Afghanistan and Iraq, is a member of the 82nd Airborne, was highly decorated, and had the courage to come forward because of his deep-seated dedication to this Nation and his desire to see that we do the right thing in the treatment of prisoners of war.

He says very eloquently:

... Do we sacrifice our ideals in order to preserve security? Terrorism inspires fear and suppresses ideals like freedom and individual rights. Overcoming the fear posed by terrorist threats is a tremendous test of our courage...

Captain Fishback is a noble, brave young American. He does not deserve to be disparaged on the Senate floor by any Senator, and the Senator from Alabama owes him an abject and deep apology.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 1955

Mr. BYRD. Mr. President, the Senate will vote within the next few minutes on a procedural motion relating to the amendment offered by Senator WARNER and Senator LEVIN. This amendment proposes to add much of the Defense authorization bill to the Defense appropriations bill. The Defense authorization bill is most complex legislation. The bill deals with a broad array of policy matters, ranging from providing for increased pay and benefits for our troops to changing laws relating to nuclear nonproliferation programs to authorizing military construction projects and so on.

The committee report that accompanies this bill is 494 pages in length. It is legislation that deserves close scrutiny, full and open debate, and an opportunity to freely amend. If this motion carries and the amendment is adopted, the Senate will only have a boxtail debate of just a few hours on this very important bill.

I am a member of the Senate Armed Services Committee as well as the Appropriations Committee. I attended a portion of the markup of the Defense authorization bill which lasted several full days. Senator WARNER and Senator LEVIN conducted the markup in an exemplary bipartisan manner, and I commend them for their outstanding efforts. They are always fair and very considerate of others and always courteous to every other Senator.

The bill was reported from the committee on May 12 of this year, and it was brought to the floor on July 20. For reasons which have been widely discussed, the Defense authorization bill was pulled from the floor on July 27, after only five votes on amendments to the bill. The Senate could have finished consideration of the Defense authorization bill within a matter of 2 or 3 days or perhaps a week, if necessary,

if the leadership had not pulled it from the floor.

This was a precipitous act, and because of this precipitous action most Senators have had no opportunity to offer amendments and no opportunity to receive votes on their amendments. That is not the way the Senate ought to operate. That is not the way the Senate used to operate. We used to have full and open debates on this floor, take a week perhaps or 2 weeks on a bill this size. As I have stated, here is the history of this important legislation.

The matter before the Senate is whether to allow the Defense authorization bill to be added to the Defense appropriations bill as an amendment. What a way for the Senate to operate. What a way to conduct this important business of the people. This is not the way the Senate is supposed to conduct its business. This is a forum for free, open, and unlimited debate. This is how the Senate is so different from other upper bodies throughout the world today. This is why the Senate is such an incredibly powerful and important forum of free debate, open debate, unlimited debate, the full airing of legislation, time to ask questions, time to answer questions, time to explain, explore, deliberate, and time to offer amendments. What a travesty.

The Senate is an institution *sui generis*, one of its kind in this country, a forum where there can be free, open, unlimited debate, freedom of debate, freedom of speech. So the Senate is an institution where freedom of speech, freedom of debate, and the freedom to amend reign.

Attaching such a massive bill, the Defense authorization bill, to another important bill, the Defense appropriations bill, will mean that the Senate will never have an opportunity to focus its undivided attention on the important matters of the Defense authorization bill. This is a travesty on freedom of debate. It is a travesty that strikes at the heart of the Senate: freedom of speech, freedom of debate, and freedom to amend.

Freedom of speech has its roots buried in antiquity. Henry the Fourth in 1407 said that the members of commons would have freedom of speech. They could say whatever was on their minds about the king, if necessary. Freedom of speech, there it was in the English Declaration of Rights, February 3, 1689. And there it was, in the English Bill of Rights, placed there on December 6, 1689: Freedom of speech. The freedom of commons to speak on any subject, not to be questioned elsewhere in the English House of Commons, and that freedom of speech is enshrined in the American Constitution.

Here we are putting a limitation and we are self-imposing it—on ourselves. I am a member of both the Armed Services Committee and the Appropriations Committee, and I believe there is a great importance to allowing the Senate to consider the authorization bill

and the appropriations bills separately. Debate about funding our military should take place on the appropriations bill and debate about defense policy should take place particularly on the authorization bill. They are both important bills, and they should be considered separately.

The Defense authorization bill should be brought to the floor of the Senate for debate and amendment as a free-standing bill, not as a massive rider to another bill, the appropriations bill. There ought to be a debate about the important matters addressed by the Defense authorization bill. Let there be amendments and let there be votes about such important matters as health care benefits for National Guardsmen and about the war in Iraq.

The immediate question before the Senate is procedural in nature, but the heart of the matter is whether the Senate will allow parliamentary maneuvers to conduct an end run around how important legislation should be considered on the floor of the Senate.

If the Defense authorization bill is attached to the Defense Appropriations Committee bill, these important and controversial matters will not have a full hearing on the floor of the Senate. Instead, any changes that may be made to the Defense authorization bill will only occur behind closed doors in a large, unwieldy conference committee. That is not the right place for debate on these important issues. These issues should first be debated on the floor of the Senate as they were on the floor of the House many months ago, but even more so because this is the forum for free speech—freedom of debate. The Senate should not be cutting corners on the legislative process because what ends up being cut out is the freedom of speech, freedom of debate, and freedom to amend.

It is also worth noting that the amendment now pending does not encompass all of the provisions of the Defense authorization bill. The sections of the bill that relate to military construction projects and nuclear weapons issues have been left out. Those are very important matters, considering the base closure round that occurred this year and the multitude of important matters relating to the thousands of nuclear weapons that the United States still possesses.

What would happen to these provisions of the Defense authorization bill? Would they be left in limbo or would they be slipped into a conference report in the dark of night, never to receive any debate on the floor of the Senate? That is the wrong way to go.

I have very great affection for Senator WARNER and Senator LEVIN. I serve on their committee, the Committee on Armed Services. They are knowledgeable and able leaders of the Armed Services Committee. But I oppose this effort to attach the Defense authorization bill to the Defense Appropriations Committee bill. It is the wrong way to go, the wrong thing to

do. It shortchanges debate. It shortchanges the American people, in that they will not be fully informed as to what is in each bill. Their representatives, their elected representatives in this Senate, will not have had an opportunity to fully debate, to answer questions, to ask questions, and to amend freely.

What is happening to the Senate? What is happening to the Senate, I ask? What is happening to freedom of debate in the Senate? What is happening to an orderly process, the legislative process by which the elected representatives of the people in the Senate have a full opportunity to debate, to ask questions?

Woodrow Wilson said the informing aspect was as important as the legislating aspect of the Senate, the informing aspect. And debate brings out information that the American people need and that they are entitled to.

So what is happening to this Senate? I think all Senators should stop and think about this question. Those of us who have been here many years have seen the Senate when it was somewhat different than it is today. There was time to debate. We just weren't in session 3 days a week and then gone; in 3 days a week, out 4 days a week, and the 3 days a week often begin with a vote, which is kind of a bed-check vote at 6 o'clock in the evening on Tuesday. So you have, really, nothing on Tuesday but a bed-check vote anymore, and then Wednesday and Thursday. What a shame.

What is happening to the Senate? What is happening to this forum, this forum of freedom of debate, freedom of speech, freedom to amend—what is happening to this Senate, and why?

I am sorry that the Senate is going in this direction. What is happening? This institution has built its distinguished reputation, its distinguished character on the principle of freedom to debate—freedom of debate, freedom of speech, freedom to amend.

Mr. President, I ask unanimous consent that I may proceed for another 5 minutes?

Mr. STEVENS. Mr. President, I would say to the Senator, we are scheduled to start at 7:30, and 6 minutes before that was equally divided between the Senator from Virginia and myself. So the Senator has probably about 3 minutes that he could proceed.

Mr. BYRD. Yes, if I could have 3 more minutes.

Mr. STEVENS. Three more minutes to the Senator.

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

Mr. BYRD. But the Senate has begun to fall short on those important constitutional principles. We have just a handful of votes each week and then the rush is on to get out that door, out that door, out this door here—get out. The rush is on to wrap up business on an artificial timetable.

So what has happened to the Senate? The American people need to know.

Why can't the Senate take the time for important debates on the important issues before our Nation. Our troops are at war in Iraq and Afghanistan. They are doing an outstanding service for our country. The Senate ought to give its undivided attention to each of the bills that relate to our troops. If the members of the National Guard are able to put their lives on hold to go fight for our country overseas, then the Senate ought to be able to surely spare whatever time it takes to debate the Defense appropriations bill and the Defense authorization bill as freestanding measures. America deserves that. Our troops deserve that.

The Defense authorization bill ought to be brought up as a freestanding measure so that the Senate may work its will on that legislation. It should be open to debate and amendment. That is why I oppose the motion on the defense of germaneness for the Warner-Levin amendment. The Senate should not cut corners on the legislative process.

Therefore, I shall vote no on the motion on the defense of germaneness, and I urge my colleagues to join me in voting no.

Let's stand up for freedom of speech in this Senate, freedom of debate, freedom to offer amendments. Let's do right by the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thought I had a unanimous consent to do a series of modifications in the managers' package. I ask unanimous consent I be able to proceed now for 10 minutes, to take care of this managers' package?

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Mr. President, I ask if I might be given, as a matter of personal privilege, 2 minutes to respond to the statement of Senator McCAIN?

The PRESIDING OFFICER. Is there objection? Does the Senator from Alaska so modify his request?

Mr. STEVENS. With the understanding that the Senator has 2 minutes, I then have 10 minutes, and then the 6 minutes starts before the 7:30 vote.

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

Mr. SESSIONS. Mr. President, the Senator from Arizona has asked that I apologize for disparaging Captain Fishback in my earlier remarks. I do not believe I did so in any way. The Captain has a distinguished record in the military. Nobody questions that.

I did note, however, that his allegations contained in the New York Times article said that he had:

... seen at least one interrogation where prisoners were being abused and was told about other ill treatment of detainees by his sergeants.

In my statement I simply raised the question of what "abuse" meant precisely, and whether, by implication, if

this was a basis for a charge, as the newspapers were making and others were, that there was systematic abuse of prisoners—which I do not believe to be the case.

I did note that, when asked to name the individual sergeants who admitted they had been misbehaving or that bad activities had occurred, he refused to give those names.

If something is in error about that—I simply quoted from the New York Times—I would be pleased to apologize. But I think those in this Senate who have accused the up-and-down members of the chain of command of the U.S. Army, the U.S. Marines, and Department of Defense of promoting policies to abuse prisoners, they ought to think about whether they should apologize. I believe that accusation is false.

I thank the chairman and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENTS NOS. 2002; 1986, AS MODIFIED; 2028; 1906, AS MODIFIED; 1899, AS MODIFIED; AND 2008, EN BLOC

Mr. STEVENS. Mr. President, I have managers' package No. 3 before the Senate. This includes a Grassley amendment No. 2002 for the multipurpose utility vehicle; a Voinovich amendment No. 1986 for the Millennium Gun System, as modified; a Graham amendment No. 2028 for moldable armor; a Feingold amendment No. 1906 for civilian linguists, which contains a modification; an Akaka amendment No. 1899, transition assistance programs, which contains a modification; and a Cantwell amendment No. 2008 for infrared countermeasures improvement.

I ask the Chair lay those amendments before the Senate for consideration en bloc.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the amendments en bloc.

Mr. STEVENS. I ask for their consideration, please.

The PRESIDING OFFICER. Is there further debate?

Mr. McCAIN. Reserving the right to object, I will not object. I do not know if I have seen that amendment.

Mr. STEVENS. I thought the Senator had.

Mr. McCAIN. I do not object. I think we have already seen that. Thank you.

Mr. STEVENS. I ask unanimous consent that the amendments be agreed to.

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

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 2002

Purpose: To make available \$1,000,000 from Research, Development, Test, and Evaluation for the Army for the Multipurpose Utility Vehicle)

At the appropriate place, insert the following:

Sec. _____. Of the amount appropriated by title IV under the heading "RESEARCH, DE-

VELOPMENT, TEST, AND EVALUATION, ARMY", up to \$1,000,000 may be used for Combat Vehicle and Automotive Technology (PE#0602601A) for the Multipurpose Utility Vehicle.

AMENDMENT NO. 1986, AS MODIFIED

(Purpose: Of the amounts provided for the Navy for research, development, test, and evaluation, up to \$3,000,000 may be available for land attack technology for the Millennium Gun System)

At the appropriate place, insert the following:

Of the amount appropriated by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", up to \$3,000,000 may be available for land attack technology for the Millennium Gun System.

AMENDMENT NO. 2028

(Purpose: To make available \$2,000,000 from Research, Development, Test, and Evaluation for the Army for Moldable Armor)

At the appropriate place, insert the following:

Sec. _____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to \$2,000,000 may be used for Moldable Armor.

AMENDMENT NO. 1906, AS MODIFIED

(Purpose: To provide for the establishment of a pilot project to create a civilian language reserve corps in order to improve national security by increasing the availability of translation services and related duties)

At the appropriate place, insert the following:

Sec. _____. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) IN GENERAL.—The Secretary of Defense, acting through the Chairman of the National Security Education Board, shall, during the 3-year period beginning on the date of enactment of this Act, carry out a pilot program to establish a civilian linguist reserve corps, comprised of United States citizens with advanced levels of proficiency in foreign languages, who would be available, upon request from the President, to perform translation and other services or duties with respect for foreign languages for the Federal Government.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2393), shall—

(1) identify several foreign languages in which proficiency by United States citizens is critical for the national security interests of the United States and the relative importance of such proficiency in each such language;

(2) identify United States citizens with advanced levels of proficiency in each foreign language identified under paragraph (1) who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for securing the performance of the services and duties referred to in subsection (a) by the citizens identified under paragraph (2); and

(4) invite individuals identified under paragraph (2) to participate in the civilian linguist reserve corps.

(c) CONTRACT AUTHORITY.—In establishing the civilian linguist reserve corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot program established under this

section, the Secretary shall conduct a study of the best practices to be utilized in establishing the civilian linguist reserve corps, including practices regarding—

- (1) administrative structure;
- (2) languages that will be available;
- (3) the number of language specialists needed for each language;
- (4) the Federal agencies that may need language services;
- (5) compensation and other operating costs;
- (6) certification standards and procedures;
- (7) security clearances;
- (8) skill maintenance and training; and
- (9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the next 2 years, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a civilian linguist reserve corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of a civilian linguist reserve corps.

(f) FUNDING.—Of the amount appropriated under the heading “Operation and Maintenance, Defense-Wide” in title II, up to \$1,500,000 may be available to carry out the pilot program under this section.

AMENDMENT NO. 1899, AS MODIFIED

(Purpose: To make available up to \$5,000,000 for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces)

At the appropriate place, insert the following:

SEC. _____. (a) FUNDING FOR PARTICIPATION OF VET CENTERS IN TRANSITION ASSISTANCE PROGRAMS.—Of the amounts appropriated or otherwise made available by this Act, up to \$5,000,000 may be used for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces.

(b) VET CENTERS DEFINED.—In this section, the term “Vet centers” means centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code.

AMENDMENT NO. 2008

(Purpose: To make available, from funds appropriated for research, development, test and evaluation, Air Force, up to \$2,500,000 for advanced technology for IRCM component improvement)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE”, up to \$2,500,000 may be available for advanced technology for IRCM component improvement.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1989, AS MODIFIED; 1911, AS MODIFIED; 2027, AS MODIFIED; 2010; 1947, AS MODIFIED; 2030, AS MODIFIED, AND 2012, EN BLOC

Mr. STEVENS. I also have before the Senate a managers’ package No. 4. Has the Senator from Arizona seen this? This contains Senator ALLEN’s amendment, No. 1989, for operational gasification with a modification; Senator SNOWE’s amendment, No. 1911, for New England manufacturing with a modification; Senator KERRY’s amendment, No. 2027, for expeditionary fighting vehicle, with a modification; Senator REED of Rhode Island, No. 2010, for shipboard automated reconstruction; Senator CORNYN, No. 1947, for activated factor VII, as modified; Senator TAL-ENT, No. 2030, on the C-17, as modified.

I ask unanimous consent that those amendments be considered en bloc as presented to the Senate.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider them en bloc.

Mr. STEVENS. Mr. President, I failed to mention Senator BOXER’s amendment on mental health. It is amendment numbered 2012. I include that and repeat my unanimous consent request for consideration.

The PRESIDING OFFICER. The Senate will also consider the Boxer amendment.

Mr. STEVENS. I ask that the Senate consider and agree to the amendments.

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

If not, the question is on the amendments.

The amendments were agreed to, as follows:

AMENDMENT NO. 1899, AS MODIFIED

(Purpose: From funds appropriated for research, development, test and evaluation, Army, and available for demonstration and validation, up to \$5,000,000 may be available for the Plasma Energy Pyrolysis System (PEPS), Operational Gasification unit)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY”, and available for demonstration and validation, up to \$5,000,000 may be available for the Plasma Energy Pyrolysis System (PEPS), Operational Gasification unit.

AMENDMENT NO. 1911, AS MODIFIED

(Purpose: To provide that, of the amount authorized to be appropriated for the use of the Department of Defense for research, development, test, and evaluation for Defense-wide activities, up to \$5,000,000 may be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative)

At the appropriate place, insert the following:

SEC. _____. Of the amount appropriated by this Act under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE”, up to \$5,000,000 may be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative to meet Department of Defense supply shortages and surge demands for parts and equipment.

AMENDMENT NO. 2027, AS MODIFIED

(Purpose: To provide that, of the amount made available under title IV for the Navy for research, development, test, and evaluation, up to \$1,000,000 may be made available for Marine Corps assault vehicles for development of carbon fabric-based friction materials to optimize the cross-drive transmission brake system of the Expeditionary Fighting Vehicle)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY”, up to \$1,000,000 may be made available for Marine Corps assault vehicles for development of carbon fabric-based friction materials to optimize the cross-drive transmission brake system of the Expeditionary Fighting Vehicle.

AMENDMENT NO. 2010

(Purpose: To make available \$2,000,000 from Research, Development, Test, and Evaluation for the Navy for the Shipboard Automated Reconstruction Capability)

At the appropriate place, insert the following:

SEC. _____. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY”, up to \$2,000,000 may be used for Program Element #0603235N for the Shipboard Automated Reconstruction Capability.

AMENDMENT NO. 1947, AS MODIFIED

(Purpose: From amounts available in RDA in title IV, up to \$1,000,000 may be available for Recombinant Activated Factor VII)

At the appropriate place, insert the following:

SEC. _____. (a) BLAST INJURY PREVENTION, MITIGATION, AND TREATMENT INITIATIVE OF THE ARMY.—Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY”, up to \$1,000,000 may be available for Program Element #63002A for far forward use of recombinant activated factor VII.

AMENDMENT NO. 2030, AS MODIFIED

(Purpose: To provide for the procurement of 42 additional C-17 aircraft)

On page 220, after line 25, insert the following:

SEC. 8116. Beginning with the fiscal year 2006 program year, the Secretary of the Air Force is strongly encouraged to exercise the option on the existing multiyear procurement contract for C-17 aircraft in order to enter into a multiyear contract for the procurement of 42 additional C-17 aircraft.

AMENDMENT NO. 2012

(Purpose: To provide for a Department of Defense task force on mental health)

At the appropriate place, insert the following:

SEC. _____. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force or a designee of such surgeon general.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the Secretary of Defense in consultation with the Secretary of Veterans Affairs;

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(iii) at least two individuals who are representatives of—

(I) a mental health policy and advocacy organization; and

(II) a national veterans service organization.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 120 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) LONG-TERM PLAN ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a long-term plan (referred to as a strategic plan) on means by which the Department of Defense shall improve the efficacy of mental health services provided to members of Armed Forces by the Department of Defense.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department.

(3) ELEMENTS.—The long-term plan shall include an assessment of and recommendations (including recommendations for legislative or administrative action) for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of con-

fidentiality for members of the Armed Forces seeking care for such conditions.

(D) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Such other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORT.—

(1) IN GENERAL.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the plan required by subsection (c); and

(C) such other matters relating to the activities of the task force that the task force considers appropriate.

(2) TRANSMITTAL TO CONGRESS.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1991, AS MODIFIED; 1964, AS MODIFIED; 1948; 2029, AS MODIFIED; 1927, AS MODIFIED, EN BLOC

Mr. STEVENS. Mr. President, I have a managers' package No. 5 before the Senate.

Senator KENNEDY's amendment, No. 1991, for basic research programs, as modified; Senator SALAZAR, colloquy on system controls; Senator MURRAY, No. 1964, for transition assistance programs, as modified; Senator COBURN, No. 1948, on placing directives in the bill; Senator ALEXANDER, No. 2029, for heat pumps, as modified; Senator WARNER, No. 1927, for electron source program, as modified.

I ask unanimous consent that these amendments be considered en bloc by the Senate, as modified.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of amendments en bloc.

Mr. STEVENS. Mr. President, I ask for consideration of the amendments.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendments.

The amendments were agreed to, as follows:

AMENDMENT NO. 1991 AS MODIFIED

(Purpose: To make available additional amounts for defense basic research programs)

At the appropriate place, insert the following:

SEC. _____. (a) ARMY PROGRAMS.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to an additional \$10,000,000 may be used for Program Element 0601103A for University Research Initiatives.

(b) NAVY PROGRAMS.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to an additional \$5,000,000 may be used for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE PROGRAMS.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE", up to an additional \$10,000,000 may be used for Program Element 0601103F for University Research Initiatives.

(d) DEFENSE-WIDE ACTIVITIES.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE"—

(A) up to an additional \$10,000,000 may be used for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) up to an additional \$5,000,000 may be used for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Cybersecurity.

(e) SENSE OF SENATE.—It is the sense of the Senate that it should be a goal of the Department of Defense to allocate to basic research programs each fiscal year an amount equal to 15 percent of the funds available to the Department of Defense for science and technology in such fiscal year.

AMENDMENT NO. 1964 AS MODIFIED

Purpose: To provide for studies of means of improving the transition assistance services of the Department of Defense and other benefits for members of the National Guard and the Reserves)

At the appropriate place, insert the following:

SEC. ____. **REPORT ON REVIEW AND IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS ON TRANSITION ASSISTANCE FOR MEMBERS OF THE NATIONAL GUARD AND RESERVES.**

(a) **REPORT.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees report on the status of the review of, and actions taken to implement, the recommendations of the Comptroller General of the United States in the report of the Comptroller General entitled “Military and Veterans Benefits: Enhanced Services Could Improve Transition Assistance for Reserves and National Guard” (GAO 05-544).

(b) **PARTICULAR INFORMATION.**—If the Secretary has determined in the course of the review described in subsection (a) not to implement any recommendation of the Comptroller General described in that subsection, the report under that subsection shall include a justification of such determination.

AMENDMENT NO. 1948

Purpose: To require that any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying this bill be included in the conference report or joint statement accompanying the bill in order to be considered as having been approved by both Houses of Congress)

At the appropriate place, insert the following:

SEC. ____. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2863 shall also be included in the conference report or joint statement accompanying H.R. 2863 in order to be considered as having been approved by both Houses of Congress.

AMENDMENT NO. 2029 AS MODIFIED

Purpose: To require a report on the use of ground source heat pumps at Department of Defense facilities)

On page 220, after line 25, insert the following:

SEC. 8116. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

AMENDMENT NO. 1927 AS MODIFIED

Purpose: To make available up to \$1,500,000 for the Navy for research, development, test, and evaluation, to be available for research within the High-Brightness Electron Source program)

In the appropriate place, insert the following:

SEC. 8116. (a) Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY” up to \$1,500,000 may be available for research within the High-Brightness Electron Source program.

AMENDMENT NO. 1991

Mr. KENNEDY. Mr. President, our military is first in the world, because of the quality and training of our personnel and because of the technological sophistication of our equipment and weaponry. A large portion of the best civilian scientific minds in the Defense Department are nearing retirement age.

I rise to thank my colleagues for their support and adoption of the amendment Senator COLLINS and I offered to ensure that the Department maintains the workforce that it needs to stay globally competitive and invests in crucial research and development efforts.

Our amendment includes \$10 million to double the committee’s funding for the Department’s current SMART Scholars program, which is essentially an ROTC program for the agency’s civilian scientists. This represents a \$17.8 million increase over the \$2.5 million funding level provided last year—the program’s first year in existence.

It increases by \$30 million the Department’s funding of basic research in science and technology, to ensure that its investment in this field is maintained and our military technology remains the best in the world.

Our amendment provides sufficient funding for the full cost of college scholarships and graduate fellowships for approximately 100 science, technology, engineering, and math students. It increases basic research in the Army, Navy, Air Force, DARPA, and National Defense Education Program. It is supported by more than 60 of the most prestigious institutions of higher education in America.

Defense Department-sponsored research has resulted in stunningly sophisticated spy satellites, precision-guided munitions, stealth equipment, and advanced radar. The research has also generated new applications in the civilian economy. The best known example is the Internet, originally a DARPA project.

Advances in military technology often have their source in the work of civilian scientists in Department of Defense laboratories. Unfortunately, a large percentage of these scientists are nearing retirement. Today, nearly one in three DOD civilian science, technical, engineering, and mathematical employee is eligible to retire. In 7 years, 70 percent will be of retirement age.

Another distressing fact is that the number of new scientists being produced by our major universities at the doctoral level each year has declined by 4 percent over the last decade. Many of those who do graduate are ineligible to work on sensitive defense matters, since more than a third of all science

and engineering doctorate degrees awarded at American universities go to foreign students.

It is unlikely that retiring DOD scientists will be replaced by current private industry employees. According to the National Defense Industrial Association, over 5,000 science and engineering positions are unfilled in private industry in defense-related fields.

The Nation confronts a major math and science challenge in elementary and secondary education and in higher education as well. We are tied with Latvia for 28th in the industrialized world today in math education, and that is far from good enough. We have fallen from 3rd in the world to 15th in producing scientists and engineers. Clearly, we need a new National Defense Education Act of the size and scope passed nearly 50 years ago.

At the very least, however, the legislation before us needs to do more to maintain our military’s technological advantage. Last year, over 100 “highly rated” SMART Scholar applications were turned down because of insufficient funding. Our amendment has sufficient funds to support every one of those talented young people who want to learn and serve.

It also increases the investment in basic research in science and technology. Investments by DOD in science and technology through the 1980s helped the United States win the cold war. But funding for basic research in the physical sciences, math and engineering has not kept pace with research in other areas. Federal funding for life sciences has risen fourfold since the 1980s. Over the same period, appropriations for the physical sciences, engineering, and mathematics have remained essentially flat. Funding for basic research fell from fiscal year 1993 to fiscal year 2004 by more than 10 percent in real terms.

The Defense Science Board has recommended that funding for Science and Technology reach 3 percent of total defense spending, and the administration and Congress have adopted this goal in the past. The board also recommended that 2 percent of that amount be dedicated to basic research. We must do better, and our amendment makes progress on this issue.

I thank my colleagues for recognizing the importance of this amendment and for their support in its adoption. I hope that we will continue to see similar increases in these programs in the future.

AMENDMENT NO. 1955

Mr. STEVENS. Mr. President, it is my understanding that we have 6 minutes equally divided before the Senate’s consideration of the Warner amendment. Senator WARNER seeks a Senate vote on whether his amendment is germane to the bill. But before that occurs, it is my understanding the leaders may want to use some of their leadership time.

The PRESIDING OFFICER. There is now 6 minutes of debate divided on the

germaneness of the Warner amendment.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I shall divide my time equally with my colleague Senator LEVIN, ranking member of the committee.

Mr. President, the question of germaneness has already been, in a sense, ruled on by the Parliamentarians who said in their judgment it is germane. The question is simply do we or do we not at this time, when our Nation is at war, bring up on the appropriations bill section A of the authorization bill?

I simply say to my colleagues, I trust you—I trust you to look at this extraordinary circumstance in which we are a nation at war, needing this bill to send a message. And I trust you that the amendment process will not be abused and that we can in a reasonable period of time accommodate those amendments that might be offered as second-degree amendments, and that your bill can go forward with the vitally needed appropriations funds.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the only way we are going to be able to consider the Defense authorization bill, apparently, this year is if we offer this as an amendment and then amend it. You heard from the Senator from Alaska earlier today that this would open up the bill, the appropriations bill, to amendments, that they would be unlimited. We heard the opposite argument from our dear friend from West Virginia that this would restrict amendments on the authorization. The only way we are going to be able to have debate on amendments on the authorization bill is if we consider the authorization bill now.

The leader, in his wisdom, pulled down the authorization bill when it was pending. As far as I know, there is not a decision on his part to bring that authorization bill back to the floor. How I dearly wish we could have a separate authorization bill. But we are not going to get it, except in this process.

It is amendable. I assure my friend from West Virginia that the only way we are going to debate the authorization bill on the floor of the Senate and offer amendments is if we follow this process. It is amendable. It is debatable. It is free speech at its utmost. The alternative is the absence of debate on the authorization bill.

We have been able to clear about 100 amendments, plus. We do that in the ordinary process. We do that every year on the authorization bill. We try to accommodate our colleagues. We have gone through that process. There are another dozen or so amendments which we would have to consider that we know about.

Let us follow that process. There is so much in this bill that is needed. There is a health provision in this bill and a lot of other provisions.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, let me begin by saying, very succinctly, a vote against this issue of germaneness is not a vote against defense. This is the Defense appropriations bill. It is meant to carry the money to the Department of Defense and all of those involved in defense. It is not meant to carry the authorization. That is what rule XVI is all about. What we are looking at now is the Defense authorization bill being brought to this bill in part. This is not the whole bill. This is just part A; B and C were left out.

This is not going to finish debate on the authorization bill. It will only take up a part of it. There are a whole series of amendments that have been offered to the authorization bill, and, as a matter of fact, Senator WARNER has offered now two packages of amendments that have been approved by himself and Senator LEVIN. But they have not been considered, as far as we are concerned, as amendments to the appropriations bill. But that is what they want. They want us to accept their portion of the bill plus their amendments to the bill without any consideration for anybody. This is 108 amendments en bloc, not agreed to by the managers of this bill but agreed to by the would-be managers of the Defense authorization bill.

Offering the authorization bill to this bill without an agreement is an enormous precedent. I have been involved now 38 years, almost. It has never happened in my career, that a bill was brought to the appropriations bill and offered and then subject to amendment.

Often, we have taken whole bills at times and taken them to conference. Even that has been objected to by some. But normally we have taken omnibus bills. The authorizers are trying to make this an omnibus bill.

There are also other bills waiting in the wings that haven't been heard. What are we going to do with them if this process is to be followed?

But again, I want to note that a vote to find that this is germane—and I think I understand the question of what Senator WARNER said about what the Parliamentarians have done.

I make a parliamentary inquiry: Has the Parliamentarian ruled that this amendment is germane or just that it is subject to being found germane by the Senate?

The PRESIDING OFFICER. The Parliamentarian has advised that the Senator may raise a defense of germaneness.

Mr. STEVENS. Defense of germaneness is available to the Senator?

The PRESIDING OFFICER. The question is then submitted to the Senate.

Mr. STEVENS. A vote against this position of the Senator from Virginia would not be overturning the Chair, would it?

The PRESIDING OFFICER. It would not.

Mr. STEVENS. What we have here is a situation where it is critical that we finish this bill this week. Let me tell you why.

This bill is the supplemental appropriations bill for Defense for activities in Iraq and Afghanistan and the war on terror. We are in a continuing resolution period. There is no money in the continuing resolution for that part. I hope the Senate will understand that this authorization bill has no place in this bill as a bill to become amended by the processes of the Senate in the future.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask to speak on leader time.

We will in a very few minutes be coming to a vote on the question of germaneness on the Warner amendment. I want to take a few minutes to comment on two issues. One is what we have been talking about over the last 30 or 45 minutes; that is, the Defense authorization bill. And secondly, I want to make a quick comment on the germaneness issue.

We heard the distinguished Senator from West Virginia argue very strongly to have a freestanding Defense authorization bill come to the floor, and that is the most appropriate way to handle that bill. I agree to that. In fact, we have tried to do that in the past. We spent about 4 days on the floor, and at that time, because we had well over 100 amendments, took it off the floor to be addressed at some point in the future.

We heard from the Senator from Michigan saying the only way that we believe we can deal with this is by offering it as an amendment, which has been done to the appropriations bill. I want to make it very clear I disagree with that.

First, Defense appropriations: I think the appropriate way of dealing with this very important bill is to have it as a freestanding piece of legislation. As I mentioned, we have attempted to do that in the past, and I have been trying very hard to do that over the last couple of weeks. We had an offer on the floor that both the Democratic leader and the chairman and ranking member are well aware of, as most Members in our caucus are; that is, we would bring the Defense authorization bill to the floor as a freestanding bill, with 12 amendments to either side with second-degree amendments allowed under a time agreement.

Those amendments we have asked to be related or within the jurisdiction of that particular committee. That is what we have been working with. We have been waiting and working all day. We have for the last about 8 or 9 days been waiting for a response from the other side of the aisle. I understand the other side of the aisle cannot agree with that unanimous consent request. I do propound it, in large part, to let all of our colleagues know we have been working on it, and we feel strongly

there is a way to bring this Defense authorization bill up freestanding with appropriate amendments.

With that, I will, at this point in time, propound that unanimous consent to make this clear. I ask consent, when the Senate resumes consideration of S. 1042, the Defense authorization bill, it be considered under the following limitations. All of the pending amendments be withdrawn and the bill be considered as follows: The only first-degree amendments in order be up to 12 amendments to be offered by the two leaders or their designees; provided further that the amendments be within the jurisdiction of the Committee on Armed Services and that these amendments be subject to second degrees, which are to be relevant to the amendment to which they have offered; provided further that the first-degree amendments be limited to 1 hour of debate equally divided in the usual form, with any second degrees limited to 30 minutes of debate equally divided.

I further ask that there then be 2 hours of general debate on the bill divided between the two managers; provided further that the amendments be offered on a rotating basis, and if an amendment is not available at the conclusion of the previous amendment, then the amendment no longer be in order.

Finally, I ask consent, at the expiration of that time and the disposition of the above amendments, the bill be read the third time and the Senate proceed to a vote on the passage of the bill as amended, if amended, with no intervening action or debate.

Mr. REID. Of course, I am going to object, but I want to use some of my leader time to talk about the travesty before the Senate at this time.

The Committee on Armed Services completed their work on this bill around the 1st of May, give or take a day or two. For 5 months, we have been trying to get this bill to the floor. For Members to cry crocodile tears that this might take an extra day or 2 or 3 or 4 or 5, we need only look at the history of the Senate.

I heard the remarks of the Senator from West Virginia. I agree with him. Can anyone imagine the Senate not having time to do the Defense authorization bill? We have men and women, as we speak, being shot at driving down roads and darkened streets in Iraq not knowing if they will make it home—because of a roadside bomb—home to their billet for that evening.

We have almost 2,000 men and women who have been killed in Iraq. We have had 15 to 20,000 wounded. Shouldn't we take a little time to talk about the work done by the duly constituted committee of the Senate, the Committee on Armed Services, take a look at what we need to do on a policy basis?

I am a proud member of the Committee on Appropriations. I have been on this committee since the day I got here. I am proud of it. It is the best

committee in the Senate. But the Senate Committee on Appropriations does not run everything around here. Other committees work as hard as we do and have the right to have the matters they work on in committee heard.

We have devoted basically one day to this bill. It was pulled because of gun liability.

Now, in years past, we have worked our way through this. It has not been easy, but we have done it. The 10-year average: in the last 10 years, we have averaged 133 amendments, and we have averaged 14 rollcalls per bill. Why? Because we have had the same managers for a long time. They know how to work through these amendments. There is some give-and-take and some unhappy people, but we respect these two men. We work our way through it. That is the way it has been for 10 years.

The average for hours of debate on this bill is 47½ hours. We have spent as much as 88 hours. When did we do that? Last year. We spent 88 hours on this bill last year. We had 196 amendments.

The point I make is that the real issue here—my two dear friends, the senior Senator from Virginia and the senior Senator from Michigan, think it is defense matters. It is not. It is Katrina. That is what it is about. We want to have a vote on an independent bipartisan commission to figure out what went wrong down in the gulf coast. We have not been allowed to have a vote on that. All we want is a vote. The only way we can do it is have a bill of substance, not one on an appropriations bill, so we can offer the amendment.

So this is a system that works just fine. The Senate was not set up to be convenient. It was not set up to have short periods of time to work. It was set up to do the business of this country. It has worked pretty well for more than 200 years.

One of the things we have traditionally done in time of war or peace is the Defense authorization bill.

So here it is, I have been to this floor I don't know how many times, but many, many times since last May, saying, Let's do a defense authorization bill. I can remember talking about one of my trips to the hospital and seeing the people in bed and how I felt I owed them something to come here and ask for time to hear their views. And they have views as to what is good and bad in Iraq. I have been here many times. I have added up weeks with the ranking member trying to get some way to the floor. And here at this time of night, as we are winding things down, we get a unanimous consent request that everyone knows is going to be objected to.

The Senator from West Virginia pretty well knows how to express himself. He may come from coal-mining families. He may have been an orphan. But he knows how to talk. He explained in very good detail why we cannot have the Senate run similar to the House of Representatives.

I want the record to reflect that the Defense authorization bill should have been debated a long time ago. We are ready to debate it any time. We are willing to enter into time agreements on amendments, but to come here tonight and say we are going to do 12 amendments, does anybody object—what I should have done is not object and have that side of the aisle watch them go to the ceiling. They would not like it either.

I am standing here and saying, I not only object, I object 1,000 times, until we get back to being Senators and doing things the way we have done.

The number of amendments, 196 last year. We spent 16 days on it; in 2003, 5 days, 75 amendments; back in 1997, 8 days, 120 amendments, 44 hours. Couldn't we spend a little bit of time on this bill?

The answer is, no, we are going to do the appropriations bill.

I know appropriations. As I have said, I have been on the committee for a long time. But as much as I love my committee assignment—it is the only committee I have anymore; I gave them all up with this job, but I love the Committee on Appropriations. I repeat, there are other committees that are as important as the Committee on Appropriations. The problem is, we have strict rules of how appropriations bills are handled, for obvious reasons.

I want the record to reflect I do my best, and sometimes that is not good enough, to be a partner with my friend, the majority leader. I don't want this statement I make to reflect on him personally. I am talking about the process that comes about as a result of him being a leader. I don't like the process. I think we could have done better. I think we should have done this bill. I could be wrong, but I say to my chair and my distinguished friend, I think the only amendment we have had in this is one dealing with Boy Scouts—four others—and that was offered by the distinguished majority leader. I know it is well-intentioned, but I don't think it had much to do with the Defense authorization bill.

Let's let the record reflect I object. I object. I object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, the objection we heard was to a unanimous consent.

Mr. REID. I have a unanimous consent request that I should have made, that we resume consideration of Defense authorization upon disposition of the Defense appropriations bill.

Mr. FRIST. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. FRIST. Mr. President, the unanimous consent I propounded that was objected to by the other side is exactly what we have been working on the last couple of weeks. It did say we would have a freestanding bill to bring a very important bill to the floor. We have spent several days, I believe 4 days, on

that bill in the past. I had 24 amendments, 12 to either side, plus second-degree amendments, of which there is no limit for. But it was objected to.

We will continue to work in that regard because I believe at some point we will be able to address that bill. What we will vote on, in hopefully a couple of minutes, is the germaneness of the Warner amendment, the authorization bill. The real challenge is if this bill is ruled germane, it will bog down what we are trying to do. There can be an endless number of amendments that are attached if it is germane; 130 have been filed. There would be unlimited second-degree amendments that could be applied toward the Warner amendment if that is found to be germane.

The appropriate way to deal with the Warner amendment is as a freestanding authorization bill. I agree with Senator WARNER. We need to do that, and we will work toward that in the future. I am disappointed the other side will not allow us to do it as a freestanding bill. Institutionally, if we start taking the huge authorization bills and start dumping them into the appropriations bill, the appropriations process, which is already difficult enough, is going to come to a grinding halt.

Therefore, I ask my colleagues to vote that the Warner amendment be not germane, joining the chairman and the ranking Member of the bill as well as Senator BYRD, that this is not germane, and if it is not germane, it will allow us to continue on with the Defense appropriations bill in a disciplined way to complete, hopefully, by the end of Friday.

Mr. WARNER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

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

Mr. THUNE. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair, under Senate rule XVI, now submits to the Senate the question raised by the Senator from Virginia, Mr. WARNER: Namely, is his amendment No. 1955 germane or relevant to any legislative language already in the House-passed bill?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—49

Akaka	Bingaman	Chambliss
Allen	Boxer	Clinton
Baucus	Cantwell	Collins
Bayh	Carper	Cornyn
Biden	Chafee	Dayton

Dodd	Lautenberg	Rockefeller
Dole	Levin	Salazar
Durbin	Lieberman	Sarbanes
Ensign	Lincoln	Schumer
Feingold	Lugar	Sessions
Graham	McCain	Snowe
Hagel	Nelson (FL)	Stabenow
Inhofe	Nelson (NE)	Talent
Jeffords	Obama	Thune
Johnson	Pryor	Warner
Kennedy	Reed	
Kerry	Reid	

NAYS—50

Alexander	Domenici	Martinez
Allard	Dorgan	McConnell
Bennett	Enzi	Mikulski
Bond	Feinstein	Murkowski
Brownback	Frist	Murray
Bunning	Grassley	Roberts
Burns	Gregg	Santorum
Burr	Harkin	Shelby
Byrd	Hatch	Smith
Coburn	Hutchison	Specter
Cochran	Inouye	Stevens
Coleman	Isakson	Sununu
Conrad	Kohl	Thomas
Craig	Kyl	Vitter
Crapo	Landrieu	Voinovich
DeMint	Leahy	Wyden
DeWine	Lott	

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 50. The Senate has voted the amendment not germane, and it falls for that reason.

Mr. FRIST. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1933

The PRESIDING OFFICER. There are now 6 minutes evenly divided on the vote with respect to the Bayh amendment. Who yields time?

Mr. STEVENS. What is the pending business?

The PRESIDING OFFICER. Amendment No. 1933 offered by the Senator from Indiana. There will be 6 minutes evenly divided.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation under the fiscal year 2006 concurrent resolution on the budget.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and 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.

Mr. STEVENS. Mr. President, under the previous order, this is a 10-minute vote; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Is all time yielded back?

The Senator from Indiana.

Mr. BAYH. Mr. President, I thank our colleague, Senator KENNEDY, for

his steadfast support of this amendment. I thank our colleague, Senator STEVENS, both for his courtesy at this moment and also because while we may have a substantive disagreement about this amendment, I know his heart is in the right place.

This amendment ensures that our troops in Iraq and Afghanistan will have the equipment they need to accomplish their mission while keeping them out of harm's way. In deciding how to vote, I ask my colleagues to consider three things. First, the lesson of Katrina and regrettably the lesson of Iraq is that our Nation, when lives are at stake, must always plan for the worst, even as we hope for the best. Unfortunately, this has not happened in Iraq. On the contrary, our Armed Forces have consistently underestimated the need for armored vehicles in that theater of war. Nine times they have underestimated the need. They are no longer entitled to the benefit of the doubt. Regrettably, Walter Reed Army Hospital and other military hospitals are filled with the consequences of these errors. Let us not make that mistake again.

I ask my colleagues to recall the image of that brave soldier who stood up in a conversation with our Secretary of Defense, complaining about what he referred to as "hillbilly" armor, talking about our brave troops having to search through garbage dumps for the ability to defend themselves from hostile attack. We owe them better than that. Better than that is exactly what this amendment will provide. I ask for Senators' favorable consideration.

Mr. KENNEDY. Mr. President, I am delighted to join my colleague once again, Senator BAYH, in sponsoring this amendment, No. 1933, which increases funding for the procurement of armored Tactical Wheeled Vehicles for the Army.

Together, Senator BAYH and I have worked very hard together to make sure our soldiers have what they need. In April of this year, the Senate added \$150 million for additional armored vehicles in the Iraq Supplemental.

Now we want to work together to keep our troops in the field properly equipped and also make sure they have the proper equipment on hand at home to train with prior to going overseas. The money in this amendment will make sure that the Army's pre-positioned stocks are re-constituted after over 2½ years at war.

There are also funds for the Joint Readiness Training Center at Fort Polk, LA. The Joint Readiness Training Center provides advance level joint training for the Army's Active and Reserve Component, Air Force and Navy forces. The training they receive simulates what they will face when deployed to Iraq and Afghanistan.

This issue has been divisive for far too long. All of us support our troops. We obviously want to do all we can to see that they have proper equipment,

vehicles, and everything else they need to protect their lives and carry out their missions.

It's scandalous that the administration has kept sending them into battle year after year in Iraq without adequate equipment. It's scandalous that desperate parents and wives here at home have had to resort to Wal-Mart to try to buy armor and mail it to their loved ones in Iraq to protect them on the front lines. Secretary Rumsfeld has rarely been more humiliated than on his visit to Iraq last December, when a soldier had the courage to ask him why the troops had to scavenge scrap metal on the streets to protect themselves. The cheer that roared out from troops when he asked question said it all.

More than 400 troops have already died in military vehicles vulnerable to roadside bombs, grenades, and other notorious improvised explosive devices.

Many of us have visited soldiers at Walter Reed and Bethesda and seen the tragic consequences of inadequate armor. We want to ensure that parents grieving at Arlington National Cemetery no longer ask, "Why weren't more armored humvees available?"

It's taken far too long to solve this problem. We have to make sure we solve it now, once and for all. We can't keep hoping the problem will somehow go away.

In a letter last October 20, General Abizaid said, "The FY 2004 Supplemental Request will permit the services to rapidly resolve many of the equipment issues you mentioned to include the procurement of . . . Humvees."

We have been told for months that the Army's shortage of Up-Armored Humvees was a thing of the past. The Army could have, and should have, moved much more quickly to correct the problem. As retired General Paul Kern, who headed the Army Materiel Command until last November, said, ". . . It took too long to materialize." He said, "In retrospect, if I had it to do all over, I would have just started building up-armored Humvees. The most efficient way would have been to build a single production line and feed everything into it."

In April, GAO released a report that clearly identifies the struggles the Pentagon has faced. In August 2003, only fifty-one Up-Armored Humvees were being produced a month. It took the industrial base a year and a half to work up to making 400 a month. Now the Army says they can now get delivery of 550 a month. The question is, why did it take so long? Why did we go to war without the proper equipment? Why didn't we fix it sooner, before so many troops have died?

According to GAO, there are two primary causes for the shortage of up-armored vehicles and add-on-armor kits.

First, a decision was made to ramp-up production gradually rather than use the maximum available capacity.

Second, funding allocations did not keep up with rapidly increasing re-

quirements. Obviously, the Pentagon was still being influenced by its cake-walk mentality.

The GAO report specifically states that Pentagon decision-makers set the rate at which both up-armored Humvees and armor kits would be produced, and did not tell Congress about the total available production capacity. GAO was unable to determine what criteria were used to set the rate of production. In both cases, additional production capacity was available, particularly for the kits.

The delay was unconscionable. Without this amendment, the production rate of Up-armored humvees could drop off again later this year. We need to guarantee that we are doing everything possible to get the protection to our troops as soon as possible. We owe it to them, to their families here at home and to the American people.

We need to make sure our troops overseas have the best equipment available to protect them in combat. They also need to have the same equipment to train with at the Joint Readiness Center and the money in this amendment will ensure that happens.

The amendment contributes significantly to this goal, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, on a recent trip to Iraq, we saw the up-armoring taking place in country. They are doing it now in specially created circumstances there. But beyond that, we have funded the total capacity of the plants in the United States to produce up-armor. We have done everything we can. If we can find additional capacity, we have another supplemental coming in the spring, we will join the Senator in urging more money. But we have used every dollar we can for up-armoring in the plants and in facilities. You should see the Oshkosh plant over there. They are up-armoring trucks and all sorts of vehicles now in country.

I urge the Senate to understand this amendment is duplicative. We already provided the maximum amount before us that we can possibly spend with the existing capacity of the system now, \$240 million for humvees, \$150 million for the Army tactical wheeled vehicle. In addition to that, we are sending strikers now. We visited strikers in the Mosul area. They are enormous systems, and they are already armored. They don't have to be up-armored. We need more strikers, more armored vehicles, but we are doing the best we can. And we are using every bit of capacity the system has. This amendment will be duplicative of that funding.

I oppose the Senator's amendment despite my admiration for him and insistence that we do the maximum possible in armoring our vehicles.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be added

as a cosponsor of the amendment offered by Senator BAYH.

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

Mr. BYRD. I thank my colleague.

Mr. BAYH. I thank my colleague from West Virginia.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENS. I yield back my time.

Mr. BAYH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 1933.

Mr. STEVENS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The yeas and nays resulted—yeas 56, nays 43, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—56

Akaka	Dorgan	Nelson (FL)
Alexander	Durbin	Nelson (NE)
Allen	Feingold	Obama
Baucus	Feinstein	Pryor
Bayh	Harkin	Reed
Biden	Jeffords	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kennedy	Salazar
Byrd	Kerry	Sarbanes
Cantwell	Kohl	Schumer
Carper	Landrieu	Snowe
Chafee	Lautenberg	Specter
Clinton	Leahy	Stabenow
Coleman	Levin	Talent
Collins	Lieberman	Thune
Conrad	Lincoln	Voinovich
Dayton	Lugar	Warner
DeWine	Mikulski	Wyden
Dodd	Murray	

NAYS—43

Allard	Domenici	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Frist	Murkowski
Bunning	Graham	Roberts
Burns	Grassley	Santorum
Burr	Gregg	Sessions
Chambliss	Hagel	Shelby
Coburn	Hatch	Smith
Cochran	Hutchison	Stevens
Cornyn	Inhofe	Sununu
Craig	Inouye	Thomas
Crapo	Isakson	Vitter
DeMint	Kyl	
Dole	Lott	

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. BAYH. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. What is now the pending business?

AMENDMENT NO. 1977

The PRESIDING OFFICER. There are now 6 minutes evenly divided before a vote with respect to the McCain amendment No. 1977.

Who yields time?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, war is an awful enterprise and I know that. I do not think I am naive about how severe are the wages of war and how terrible are the things that must be done to wage it successfully. It is a grim, dark business, and no matter how noble the cause for which it is fought, no matter how valued their service, many veterans spend much of their subsequent lives trying to forget not only what was done to them and their comrades but some of what had to be done by their hand to prevail.

I do not mourn the loss of any terrorist's life, nor do I care if in the course of serving their noble cause they suffered great harm. They have pledged their lives to the intentional destruction of innocent lives, and they have earned their terrible punishment in this life and the next.

What I do regret, what I do mourn, and what I do care very much about is what we lose, what we, the American service man and woman, and the great Nation they defend at the risk of their lives, when by official policy or by official negligence we allow, confuse, or encourage our soldiers to forget that the best sense of ourselves, that which is our greatest strength, that we are different and better than our enemies, that we fight for an idea, not a tribe, not a land, not a king, not a twisted interpretation of an ancient religion but for an idea that all men are created equal and endowed by their Creator with inalienable rights.

I have been asked before where did the brave men I was privileged to serve with in Vietnam draw the strength to resist to the best of their ability the cruelties inflicted on them by our enemies? Well, they drew strength from our faith in each other, from our faith in God, and from our faith in our country.

Our enemies did not adhere to the Geneva Convention. Many of my comrades were subjected to very cruel, very inhumane, and degrading treatment, a few of them even unto death. But every single one of us knew and took great strength from the belief that we were different from our enemies, that we were better than them, that if the roles were reversed, we would not disgrace ourselves by committing or countenancing such mistreatment of them. That faith was indispensable not only to our survival but to our attempts to return home with honor. Many of the men I served with would have preferred death to such dishonor.

The enemies we fight today hold such liberal notions in contempt as they hold in contempt the international

conventions that enshrine them, such as the Geneva Conventions and the Treaty on Torture. I know that. But we are better than them, and we are stronger for our faith, and we will prevail.

I submit to my colleagues that it is indispensable to our success in this war that our service men and women know that in the discharge of their dangerous responsibilities to their country they are never expected to forget that they are Americans and the valiant defenders of a sacred idea of how nations should govern their own affairs and their relations with others, even our enemies.

Those who return to us and those who give their lives for us are entitled to that honor. Those of us who have given them this onerous duty are obliged by our history and by the sacrifices, the many terrible sacrifices, that they have made in our defense. We are obliged to make clear to them that they need not risk their honor or their country's honor to prevail; that through the violence, chaos, and heartache of war, through deprivation and cruelty and loss, they are always Americans, and different, better, and stronger than those who would destroy us. God bless them as He has blessed us with their service.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. FRIST. Mr. President, I rise to speak on leader time. I thank Senator MCCAIN for his efforts on this very important issue that we have been debating, talking about, and focusing upon for a long period of time. It is an important matter that affects both our American reputation abroad and the conduct of our military personnel in this global war on terrorism.

It is important to state that the performance of American servicemembers in Iraq, Afghanistan, and elsewhere around the globe has been outstanding, has been inspiring, and truly representative of the best our Nation has to offer. This amendment strives to establish uniform standards for the interrogation of prisoners and detainees as a means for helping ensure our service men and women are well trained, well briefed, knowledgeable of their legal, professional, and moral duties and obligations. Therefore, I fully support the purpose and intent of this amendment, and although I understand it may require some fine-tuning to prevent any unintended consequences, I do intend to vote for it with that in mind.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Alaska.

Mr. STEVENS. I am compelled to speak in opposition to this amendment, although I wholeheartedly agree with what the Senator from Arizona has said. It was a marvelous statement made by a man who has every reason to say exactly what he said. I support what the majority leader has said, but there is a classified annex to the Army Field Manual that is not spelled out in

this amendment, and there are people who are not in uniform who may not even be citizens of the United States who represent us in very strange and dangerous places, whose lives may be put in jeopardy by the process that is spelled out in part of this amendment. I speak for them.

I honor all service men and women, and I really believe they should absolutely follow the lifestyle of the Senator from Arizona, as well as his statement tonight. But as the leader has said, there are some changes that have to be made if we are to be faithful to those people who live in the classified world and will be covered by the classified annex that, if one reads the amendment, is not covered here.

I have to do my best to make sure that when we get to conference people understand that there is that problem. Therefore, I shall oppose the amendment and try to straighten it out in conference. I know it would pass.

I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered. The question is on agreeing to amendment No. 1977.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—90

Akaka	Dorgan	Martinez
Alexander	Durbin	McCain
Allen	Ensign	McConnell
Baucus	Emzi	Mikulski
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Frist	Nelson (FL)
Bingaman	Graham	Nelson (NE)
Boxer	Grassley	Obama
Brownback	Gregg	Pryor
Bunning	Hagel	Reed
Burns	Harkin	Reid
Burr	Hatch	Rockefeller
Byrd	Hutchison	Salazar
Cantwell	Inouye	Santorum
Carper	Isakson	Sarbanes
Chafee	Jeffords	Schumer
Chambliss	Johnson	Shelby
Clinton	Kennedy	Smith
Coleman	Kerry	Snowe
Collins	Kohl	Specter
Conrad	Kyl	Stabenow
Craig	Landrieu	Sununu
Crapo	Lautenberg	Talent
Dayton	Leahy	Thomas
DeMint	Levin	Thune
DeWine	Lieberman	Vitter
Dodd	Lincoln	Voinovich
Dole	Lott	Warner
Domenici	Lugar	Wyden

NAYS—9

Allard	Cochran	Roberts
Bond	Cornyn	Sessions
Coburn	Inhofe	Stevens

NOT VOTING—1

Corzine

The amendment (No. 1977) was agreed to.

AMENDMENT NO. 1978

The PRESIDING OFFICER. The time is evenly divided before a vote with respect to amendment No. 1978.

The Senator from Alaska.

Mr. STEVENS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The McCain amendment No. 1978.

Mr. STEVENS. Mr. President, if I could have a minute, I want to warn the Senate that we may be here all night. We may have to have our cloture vote after adjournment at about 11:55. We would vote about 12:55 or 1:05 on cloture. Because if we are to have 30 hours and still finish by the time some people want to leave on Friday, it has to start at that time or else we have to get unanimous consent to shorten the time. If we vote tomorrow morning at 10, we will be here until 6 o'clock or 7 o'clock Friday afternoon. Just a warning—not yet. We are still trying to work it out.

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Arizona controls the time and the Senator from Alaska controls the opposition.

Mr. McCAIN. Mr. President, this amendment would prohibit for 1 year the transfer.

The PRESIDING OFFICER. The Senator will suspend for a moment. The Senate will be in order.

The Senator from Arizona.

Mr. McCAIN. Mr. President, this amendment would prohibit, for 1 year, the transfer of \$23 million in cash to the Government of Uzbekistan.

Just this year, the government of President Islam Karimov has taken a number of actions so alarming, that one would think this body would be considering sanctions, not how to transfer millions of taxpayer dollars to this government.

In May, the government massacred up to 1,000 people, mostly unarmed men, women, and children protesting the government's corruption, lack of opportunity, and continued oppression. The government has rejected all calls for an independent international inquiry and blamed a foreign conspiracy for the protest. It even placed blame on the United States for the events, saying that rebels received money from the U.S. embassy in Tashkent.

The Uzbek government launched a campaign of anti-American propaganda after its massacre, staging rallies to denounce the United States. President Karimov suggested that the U.S. was behind not just the event in Andijan but also served as the "scriptwriters and directors" of the "colored revolutions" in other countries.

In July, Karimov's government announced that the U.S. will no longer have access to the K2 base in Uzbekistan, and evicted all U.S. troops from the country. In addition, his government has terminated counterterrorism cooperation with the United States.

This week the EU announced that it will impose sanctions against

Uzbekistan. But the Pentagon wants to send \$23 million to pay past bills. Paying our bills is important. But more important is America standing up for itself; avoiding the misimpression that we overlook massacres; and avoiding cash transfers to the treasury of a dictator just months after he permanently evicts American soldiers from his country.

We should postpone the cash payment to the Government of Uzbekistan for 1 year, at which point the Congress can decide whether to renew the prohibition or make the payment. If it had not been authorization, I would have said until a complete and thorough investigation of the massacre was conducted.

Mr. STEVENS. May I ask the Senator from Arizona, would he allow us to adopt this by voice vote?

Mr. McCAIN. I would be pleased.

Mr. STEVENS. I ask the Senate proceed to consider this by voice vote.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays?

Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 1978) was agreed to.

Mr. STEVENS. Mr. President, 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.

Mr. STEVENS. What is the pending business.

AMENDMENT NO. 2033

The PRESIDING OFFICER. The question is on agreeing to the Kerry amendment No. 2033. A motion to table has been made. Who yields time?

Mr. STEVENS. Mr. President, if the Senator will permit me to do so, section 402 of the House Concurrent Resolution 95 of the 109th Congress, the fiscal year 2006 concurrent resolution budget, created a point of order against an emergency designation on non-defense spending.

The amendment contains nondefense spending with an emergency designation.

Pursuant to that section 402 of S. Con. Res. 95 of the 108th Congress, the fiscal year 2005 concurrent resolution on the budget, I make a point of order against the emergency designation contained in the amendment.

Mr. KERRY. Parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, wasn't there an order already in place for the motion?

The PRESIDING OFFICER. A motion to table has been made.

Mr. KERRY. Wasn't there an order already in place for the motion?

The PRESIDING OFFICER. That would take precedence over the point of order.

Mr. KERRY. I believe that is accurate. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Parliamentary inquiry: If the motion is not tabled, it is still subject to a point of order?

The PRESIDING OFFICER. The point of order can be made.

Mr. KERRY. Mr. President, first of all, I ask unanimous consent that Senators COLLINS, BYRD, OBAMA, and SALAZAR be added as cosponsors.

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

Mr. KERRY. Mr. President, this amendment is an emergency response to the natural gas shortage and crisis that has raised prices all across the country. In the South, there has been a 17-percent increase in electricity costs. In the Midwest, there has been a 69-percent natural gas increase. And in New England, the heating oil prices have gone up 29 percent. The industry tells us that there will be an average of a \$600 increase per family. For people on fixed incomes, when you add that to the cost of tuition increases, gasoline increases, and health care increases, it is unaffordable.

The National Energy Assistance directorate has told us that 39 percent of those individuals in the country who are low income went without medical care in order to be able to pay those bills. Twenty percent didn't pay their rent or their mortgage.

I ask colleagues to approve this \$3.1 billion emergency LIHEAP allocation.

Mr. KENNEDY. Mr. President, sadly, the gap between rich and poor has been widening in our society. The number of persons living in poverty in the Nation has increased from 31 million in 2000 to 37 million today, including 13 million children. Two main parts of the problem are that wages are stagnant, and the long-term unemployment rate is at historic levels. After Hurricane Katrina revealed the plight of minorities, the "silent slavery of poverty is not so silent any more."

For many, the American dream has turned into a nightmare. Families stay awake at night worrying how to make ends meet. Parents wonder how they will feed their children and pay their bills.

Significant numbers of Americans live year-round with the constant threat of power shut-offs because they can't pay their energy bills, and there is no relief in sight. According to the Energy Information Administration, energy prices are likely to continue to increase.

The outlook for the coming winter is bleak. Heating oil will probably cost a third more than the already high prices Americans paid last year. Families who use natural gas to heat their homes will also pay more. The average 2005 price for residential natural gas is estimated to be 21 percent higher than it was in 2004.

These are not just abstract numbers. They represent real burdens on real

people. Minorities, the elderly, and the disabled, and many others are forced to make painful choices between heating their homes and paying for food, healthcare, and rent. The good news is that a highly successful Federal program is available to prevent the poorest of poor from making impossible tradeoffs. LIHEAP grants money to low-income families who can't afford the steep cost of energy. The number of American households receiving LIHEAP assistance has increased from over 4 million in 2002 to 5 million this year, the highest level in 10 years.

Ninety-four percent of LIHEAP recipients have at least one member who is elderly, disabled, a child under the age of 18, or is a single parent with a young child. Seventy-seven percent of LIHEAP recipients report an annual income at or below \$20,000 and 61 percent of recipients have annual incomes at or below the Federal poverty line.

The bad news is that these fortunate recipients comprise only 18 percent of the eligible population. In Massachusetts, the participation rate is 22 percent, which is still unacceptably low.

Last year in Worcester, the city's Community Action Council provided fuel assistance to 9,660 households, but it processed applications for almost 11,000 households before the funds ran out. Many of the unserved households were made up of the working poor, the elderly, the disabled, and children.

In Franklin and Hampshire counties in Massachusetts, over 6,000 LIHEAP applications were processed. The Franklin Community Action Corporation reported that emergency applications and payment requests increased this past winter. They told me that this was by far their most stressful year.

Across the United States, families are suffering from high energy prices. There are far too many stories of families that were eligible to receive LIHEAP, but didn't because the money just wasn't there. Here are just a few examples.

A single father just lost his job on June 15 and has three children. His electric bill was \$117.33, but he is unable to pay it because he isn't receiving unemployment compensation, or any other income. He is looking for work every day. Even if he is hired soon, his electricity may be turned off before he gets his first paycheck.

A grandmother taking care of three grandchildren, ages 14, 11, 5 had an electric bill for \$195. Her monthly income is \$904. The house is totally electric, so the bills will probably be going higher. The grandmother also has extra medical expenses, but she too was turned away.

It is wrong to let people like this suffer. So how does the Republican leadership in Congress respond? By cutting or freezing funds for essential low income programs.

Hurricanes Katrina and Rita upended the lives of millions of citizens in the Gulf region, and the administration was right to release emergency energy funds for the areas that were dev-

astated. But, their response to the looming energy crisis is far less.

The administration and the House of Representatives closed their eyes to the needs of the poor. The House sent the Senate a continuing resolution which froze funding for the LIHEAP program. The current funding obviously isn't enough. Nineteen percent of current LIHEAP recipients say they keep their home at a temperature they feel is unsafe or unhealthy. Eight percent of recipients report that their electricity or gas was shut off in the past year for nonpayment.

The continuing resolution also cut the Community Services Block Grant by 50 percent. These funds are used by many community action agencies to administer the LIHEAP program.

According to ABCD, a community action agency in Massachusetts, since the outreach and application process for LIHEAP is handled through the ABCD neighborhood network, funding cuts will mean that access to this critical survival resource will shrink by more than 70 percent. Up to 10,500 households—out of a current total of 15,000 recipients—may not get their benefits.

Those in Congress who care about this issue sent an urgent request to the President to increase the funds, but our request has gone unanswered. In a news conference earlier this week, a reporter asked Energy Secretary Bodman if the administration plans to ask Congress for more funds for assistance for low-income families and seniors. Secretary Bodman replied, "At least at this point in time, that's not on the agenda."

The administration may not think the needs of the poor deserve to be on their agenda, but the States do. They are trying to do their part. In Massachusetts, State legislators want to add \$20 million in State funds to LIHEAP, to supplement Federal funds.

Governors are stepping forward to acknowledge the problem. A bipartisan group of 28 Governors, led by Jennifer Granholm of Michigan, and Mitt Romney of Massachusetts, recently sent a letter to Congress urging additional emergency funds for LIHEAP. They know the importance of this issue first hand, and so should we.

Congress needs to stand up for the millions of Americans struggling to make ends meet. We have the ability to tell the elderly, and the disabled, and many others that we have heard them, and that we won't leave them shivering in the cold this winter. LIHEAP provides a critical service to desperate families who have nowhere else to turn for basic energy help, and LIHEAP is indispensable in filling that need. I strongly support this amendment to increase these emergency funds. We can't shortchange LIHEAP and all the people who need our help the most. I urge my colleagues to support this amendment.

Mr. STEVENS. Mr. President, because we had a time agreement that gave each side time before a vote, the point of order I made is subject to that time agreement, as I understand it.

But now we will be faced with two votes. Does the Senator wish to have two votes on this amendment?

Mr. KERRY. Mr. President, I am happy to change the order to serve the purposes of the Senate.

Pursuant to section 402 of H. Con. Res. 95, which is the concurrent resolution on the budget, I move to waive section 402 for the purposes of the pending amendment, and I ask for the yeas and nays.

Mr. STEVENS. Mr. President, I ask unanimous consent that we vitiate the vote to table and that we proceed on the motion to waive the point of order.

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

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

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

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 49, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—50

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Obama
Biden	Harkin	Pryor
Bingaman	Jeffords	Reed
Boxer	Johnson	Reid
Byrd	Kennedy	Rockefeller
Cantwell	Kerry	Salazar
Chafee	Kohl	Santorum
Clinton	Landrieu	Sarbanes
Coleman	Lautenberg	Schumer
Collins	Leahy	Snowe
Conrad	Levin	Specter
Dayton	Lieberman	Stabenow
DeWine	Lincoln	Talent
Dodd	Lugar	Wyden
Dorgan	Mikulski	

NAYS—49

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Frist	Roberts
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Stevens
Carper	Hatch	Sununu
Chambliss	Hutchison	Thomas
Coburn	Inhofe	Thune
Cochran	Inouye	Vitter
Cornyn	Isakson	Voinovich
Craig	Kyl	
Crapo	Lott	Warner
DeMint	Martinez	

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this question, the yeas are 50, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. FRIST. I ask unanimous consent, notwithstanding rule XXII, the vote on the motion to invoke cloture occur following the last scheduled vote in this sequence, with the mandatory live quorum waived.

Mr. REID. Reserving the right to object, I want the record spread with my appreciation to the Senators from Louisiana for allowing the Senate to move forward. We were going to work through the night and early in the morning to come up with something that would help satisfy their tremendous needs. I appreciate their cooperation so we do not have to be here at 1 o'clock in the morning.

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

Mr. FRIST. For the information of our colleagues, what this means is we will vote on the Stabenow amendment next. Immediately following that, we will go to the cloture vote. Following that, there will be no more rollcall votes tonight.

Throughout tomorrow we will have plenty of opportunity for discussion, for debate. We will be voting throughout tomorrow, as well. There will be no more rollcall votes after the Stabenow vote and cloture vote tonight which will immediately follow the Stabenow vote.

Mr. STEVENS. I announce we will have a managers' package. We will consider amendments that might be taken by voice vote after this last scheduled vote.

I have already made the point of order against the Stabenow amendment. To be sure the record is clear, I make the point of order against the Kerry amendment and I ask it be agreed to.

The PRESIDING OFFICER. The emergency designation has been stricken from the amendment.

Mr. STEVENS. Is the record clear I made the point of order on the Stabenow amendment?

The PRESIDING OFFICER. The Chair would inform the Senator an emergency point of order has been stricken from—we are still on the Kerry amendment.

Mr. STEVENS. And I asked it be dropped, now.

The PRESIDING OFFICER. The point of order is sustained under the Budget Act.

AMENDMENT NO. 1937

Mr. STEVENS. Now, is the record clear about my making a point of order to the Stabenow amendment? If not, I renew the point of order under 302(f) of the Congressional Budget Act. The amendment requires spending in excess of the committee's 302(b) allocation for the fiscal year concurrent resolution of the Budget, and I ask for the yeas and nays.

Ms. STABENOW. Pursuant to section 904 of the Congressional Budget Act of

1974, I move to waive the applicable sections of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Ms. STABENOW. Mr. President, I ask colleagues to support the Stabenow-Johnson-Thune amendment that guarantees funding for our veterans for health care. It takes it out of the annual appropriations process where every year we are wrestling with whether the funding is available. This year alone already we have had one emergency designation of \$1.5 billion because the veterans health care budget was underfunded this year. We know there are concerns about next year.

This amendment would do two things. First, the legislation provides an annual discretionary amount that would be locked in for future years at the 2005 funding level. Then in the future, the VA would receive a sum of mandatory funding that would be adjusted year to year based on changes in demand from the VA health care system as well as rate of inflation.

This is incredibly important. We should not be arbitrarily picking numbers in terms of funding veterans health care. It should be based on the brave men and women who have served who come on home and put on a veteran's cap. We have more and more coming home from Afghanistan and Iraq every day. Each and every one of them has been promised health care. The way to guarantee we keep our promise is to pass this amendment.

I urge agreement.

Mr. CRAIG. Mr. President, our veterans deserve all a grateful nation can give them. Over the last 6 years we have increased the Veterans budget by over \$3 billion a year. Although the Senator from Michigan is right about the dustup this year, we still did it because America is grateful for those who serve in harm's way.

While all veterans are entitled, should we start a new entitlement program, one that is now out of control, that we cannot monitor on a yearly basis as we do through the appropriating process and the authorizing process? The Senator is proposing a new entitlement program. But she is also saying something else. She is not saying those who served is the baseline of the formula. She is saying those who are entitled. And there is a very real difference between those who are entitled and eligible versus those who seek service because of need. We pay for those who seek service based on their eligibility. We do not create a new entitlement program.

Ask yourselves, do you want to create a new entitlement program or do you want to do what we are doing now, providing the necessary resources on an annual basis to meet the needs of America's veterans?

I ask Members to vote no. Do not waive the Budget Act. Do not create a

new entitlement program and basically take it out of the hands of the Congress and put it in the hands of the VA. That is not what I think our veterans would want us to do.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—48

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Jeffords	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Carper	Kohl	Salazar
Chafee	Landrieu	Sarbanes
Clinton	Lautenberg	Schumer
Collins	Leahy	Snowe
Conrad	Levin	Specter
Dayton	Lieberman	Stabenow
Dodd	Lincoln	Thune
Dorgan	Mikulski	Wyden

NAYS—51

Alexander	DeWine	Lugar
Allard	Dole	Martinez
Allen	Domenici	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Murkowski
Brownback	Frist	Roberts
Bunning	Graham	Santorum
Burns	Grassley	Sessions
Burr	Gregg	Shelby
Chambliss	Hagel	Smith
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Cornyn	Inouye	Thomas
Craig	Isakson	Vitter
Crapo	Kyl	Voinovich
DeMint	Lott	Warner

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected, the point of order is sustained, and the amendment falls.

Mr. STEVENS. Mr. President, I did not hear the last ruling of the Chair.

The PRESIDING OFFICER. The amendment falls on the point of order.

Mr. STEVENS. Now, the next pending business is the cloture vote?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, it is my understanding we will convene about 9:30 in the morning. We will be prepared to stay tonight if any Senators wish to discuss amendments following the cloture vote.

Mr. LEVIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Could the Presiding Officer tell us how many amendments have

been filed and how many of them would fall as nongermane? Could the Chair just give us some idea, some estimate?

The PRESIDING OFFICER. The Chair will note that the Parliamentarian does not have that information at this time.

Mr. LEVIN. Can we have an idea as to how many are filed? Can we get that information?

The PRESIDING OFFICER. There are approximately 140 amendments filed.

Mr. LEVIN. I thank the Chair.

I cannot vote for cloture on this bill because it would make it impossible to consider highly important amendments for our troops and their families and amendments to enhance our Nation's security.

One hundred twenty amendments are filed. The Parliamentarian can't tell us even how many are relevant but, because they are not technically germane, will not be permitted to come to a vote if cloture is invoked.

The stakes for our security in the middle of war are too great not to take an extra few days to consider important relevant amendments.

I vote to take those extra few days rather than to prematurely end debate. I will vote against cloture.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on H.R. 2863: the Department of Defense appropriations bill.

Bill Frist, Ted Stevens, Daniel Inouye, Mel Martinez, Mitch McConnell, Bob Bennett, George Allen, Chuck Hagel, Tom Coburn, Richard Burr, Lisa Murkowski, John Thune, Lamar Alexander, Richard Shelby, Jon Kyl, Jeff Sessions, Saxby Chambliss.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 2863, the Department of Defense Appropriations Act of 2006, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. Mr. President, I announce that the Senator from Pennsylvania (Mr. SANTORUM) is necessarily absent.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The yeas and nays resulted—yeas 94, nays 4, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—94

Akaka	Domenici	McCain
Alexander	Dorgan	McConnell
Allard	Durbin	Mikulski
Allen	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Frist	Obama
Bond	Graham	Pryor
Brownback	Grassley	Reed
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Burr	Harkin	Hatch
Byrd	Hatch	Salazar
Cantwell	Hutchison	Sarbanes
Carper	Inhofe	Schumer
Chafee	Inouye	Sessions
Chambliss	Isakson	Shelby
Clinton	Jeffords	Smith
Coburn	Johnson	Snowe
Cochran	Kennedy	Specter
Coleman	Kerry	Stabenow
Collins	Kohl	Stevens
Conrad	Kyl	Sununu
Cornyn	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Thune
Dayton	Lieberman	Vitter
DeMint	Lincoln	Voinovich
DeWine	Lott	Warner
Dodd	Lugar	Wyden
Dole	Martinez	

NAYS—4

Bingaman	Levin
Boxer	Reid

NOT VOTING—2

Corzine	Santorum
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The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Alaska.

AMENDMENTS NOS. 1882, AS MODIFIED; 1923, 1942, AS MODIFIED; 1969, AS MODIFIED; 2001, 2004, AS MODIFIED; 2038, AS MODIFIED; AND 2042

Mr. STEVENS. Mr. President, we have a managers' package, which is No. 6, that I send to the desk. I ask unanimous consent that they be considered en bloc. I state for the record that this includes a Bingaman-Domenici colloquy on the F-117; for Senator HATCH and others, an amendment on the Air Force Depot Maintenance Program, as modified. This is amendment No. 2001; for Senator SCHUMER and Senator CLINTON, amendment No. 2038 on the arsenal program support, which is modified; for Senator HAGEL, a colloquy on supplemental security income; for Senator BOND, amendment No. 1923, for oral anthrax vaccine; for Senator SAR-BANES, amendment No. 1969, as modified, for the Naval Academy; for Senator McCONNELL, amendment No. 2042, recognizing U.S. military personnel; for Senator LANDRIEU, amendment No. 1942, as modified, for Northern Command; for Senator GRAHAM, amendment No. 2004, as modified, on combatant status review tribunals; for Senator CONRAD, amendment No. 1882, as modified, on Predator aircraft.

The PRESIDING OFFICER. The Chair notes that amendment No. 2001 is not modified.

Mr. STEVENS. Air Force Depot Maintenance, is it not modified? I stand corrected. That is not a modified amendment.

I ask that these amendments be considered en bloc, and I ask for their further consideration.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, without objection, the amendments are agreed to en bloc.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1882, AS MODIFIED

(Purpose: To increase, with an offset, amounts available for the procurement of Predator unmanned aerial vehicles)

At the appropriate place in title IX, insert the following:

SEC. _____.(a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT, AIR FORCE.—The amount appropriated by this title under the heading “AIRCRAFT PROCUREMENT, AIR FORCE” is hereby increased by \$130,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated by this title under the heading “AIRCRAFT PROCUREMENT, AIR FORCE”, as increased by subsection (a), \$130,000,000 shall be available for purposes as follows:

(1) Procurement of Predator air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator Ground Control Stations, spares, and signals intelligence packages.

(c) OFFSET.—(1) The amount appropriated by title II for Operation and Maintenance, Air Force is hereby reduced by \$130,000,000.

AMENDMENT NO. 1923

(Purpose: To make available \$4,000,000 from Research, Development, Test, and Evaluation, Defense-Wide, for Oral Anthrax/Plague Vaccine Development)

At the appropriate place, insert the following:

SEC. _____. Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE”, up to \$4,000,000 may be used for Oral Anthrax/Plague Vaccine Development.

AMENDMENT NO. 1942, AS MODIFIED

(Purpose: To make available \$10,000,000 for Operation and Maintenance, Air Force, and \$20,000,000 for Other Procurement, Air Force, for the implementation of IMT-2000 3G Standards Based Communications Information Extension capability for the Gulf States and key entities within the Northern Command Area of Responsibility)

At the appropriate place, insert the following:

SEC. _____. (a) IMPLEMENTATION OF LONG-RANGE WIRELESS CAPABILITIES.—Of the amount appropriated by title II under the heading “OPERATION AND MAINTENANCE, AIR FORCE”, up to \$10,000,000 may be used by the United States Northern Command for the purposes of implementing Long-range wireless telecommunications capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) IMPLEMENTATION OF LONG-RANGE WIRELESS CAPABILITIES.—Of the amount appropriated or otherwise made available by title III under the heading “OTHER PROCUREMENT, AIR FORCE”, up to \$20,000,000 may be used by the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

AMENDMENT NO. 1969, AS MODIFIED

Purpose: To authorize the Secretary of the Navy to donate the World War II-era marine railway located at the United States Naval Academy to the Richardson Maritime Heritage Center, Cambridge, Maryland, for non-commercial purposes

On page 220, after line 25, insert the following:

SEC. 8116. (a) The Secretary of the Navy may, subject to the terms and conditions of the Secretary, donate the World War II-era marine railway located at the United States Naval Academy, Annapolis, Maryland, to the Richardson Maritime Heritage Center, Cambridge, Maryland.

(b) The marine railway donated under subsection (a) may not be used for commercial purposes.

AMENDMENT NO. 2001

Purpose: To express the sense of the Senate regarding the investment of funds as called for in the Depot Maintenance Strategy and Master Plan of the Air Force

In an appropriate place insert the following:

SEC. . SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) **FINDINGS.**—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service had made great progress toward modernizing all 3 of its Depots, in order to maintain their status as “world class” maintenance repair and overhaul operations;

(3) 1 of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate \$150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation’s 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of “Lean” and “Six Sigma” production techniques, have achieved great success in dramatically reducing the time necessary to perform depot maintenance on aircraft.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest \$150,000,000 a year over 6 years, since fiscal year 2004, in the Nation’s 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of \$150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

AMENDMENT NO. 2004, AS MODIFIED

Purpose: To require the President to submit the procedures for Status Review Tribunals and Administrative Review Boards to determine the status of detainees held at Guantanamo Bay, Cuba

At the appropriate place, insert the following:

SEC. . (a) SUBMISSION OF PROCEDURES FOR COMBATANT STATUS REVIEW TRIBUNALS AND ADMINISTRATIVE REVIEW BOARDS TO DE-

TERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of enactment of this Act the President shall submit to the congressional defense committees and committees on Judiciary in the House and Senate the procedures for the Combatant Status Review Tribunals and noticed Administrative Review Boards, in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) **PROCEDURES.**—The procedures submitted to Congress pursuant to subsection (a) shall ensure that—

(1) in making a determination of status under such procedures, the Combatant Status Review Tribunal and Annual Review Boards may not consider statements derived from persons that, as determined by the Tribunals or Boards, by the preponderance of the evidence, were obtained with undue coercion.

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(c) **MODIFICATION OF PROCEDURES.**—The President shall submit to Congress any modification to the procedures submitted under subsection (a) no less than 30 days before the date on which such modifications go into effect.

Purpose: To make available \$5,000,000 from Procurement of Weapons and Tracked Combat Vehicles for the Army for the Arsenal Support Program Initiative and to allocate such amounts

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title III under the heading “PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY,” up to \$5,000,000 may be used for the Arsenal Support Program Initiative for Watervliet Arsenal, New York.

AMENDMENT NO. 2042

Purpose: To recognize U.S. military personnel serving in Afghanistan and Iraq

At the appropriate place, insert the following:

“**SEC. .** The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary’s jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observance and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations.”

Mr. STEVENS. 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.

PROHIBITION ON RETIREMENT OF F-117 AIRCRAFT

Mr. DOMENICI. Mr. President, let me begin by complimenting my friend from Alaska, the chairman of the Senate Appropriations Subcommittee on Defense, for producing a terrific bill. H.R. 2863, the fiscal year 2006 Defense appropriations bill, is a strong piece of legislation that supports the men and women of the Armed Forces and strengthens our security. I would also like to recognize my colleague, the junior Senator from New Mexico, who joins us today.

I want to raise the issue of the F-117 Stealth Nighthawk aircraft. Report 109-69 to S. 1042, the National Defense Authorization Act for fiscal year 2006, recommends a provision prohibiting retirement of F-117 aircraft in fiscal year 2006. I know that my colleague from New Mexico is aware of this recommendation as well.

Mr. BINGAMAN. I am aware of this recommendation and note that it further describes the F-117 as the only stealthy tactical aircraft capable of delivering certain precision munitions currently in the inventory. Clearly, this is a very important capability for national security.

Mr. DOMENICI. I agree with my colleague’s assessment about the strategic value of the F-117 and note that this recommendation is further validated by the House-passed H.R. 2863 which retains the President’s budget request for F-117 upgrades and adds \$11.1 million in operations and maintenance funding to retain the 10 aircraft scheduled for retirement. I would like to ask the distinguished chairman for his views concerning the Air Force’s recommendation to retire 10 F-117s in fiscal year 2006.

Mr. STEVENS. I concur with the Senators from New Mexico that the F-117 is of critical importance to the Nation’s precision strike capability. Furthermore, I agree with the Senate Armed Services Committee recommendation that it is premature to retire any F-117s at this time.

Mr. DOMENICI. I thank the distinguished chairman for his views on this important matter.

Mr. BINGAMAN. I thank the chairman as well, and look forward to working with him; the ranking member, Senator INOUYE and Senator DOMENICI on this issue in the future.

SSI ELIGIBILITY

Mr. HAGEL. Mr. President, currently there are service members in our Armed Forces with disabled dependents who have lost or are in danger of losing Supplemental Security Income, SSI, eligibility or benefits. This issue not only affects our regular active duty service members, but our mobilized National Guard and Reserve service members as well.

Supplemental Security Income is a Federal income supplement program, funded by tax revenues, designed to provide cash to meet basic needs for food, clothing, and shelter for aged, blind, and disabled people.

Under current law, section 1612(a) of the Social Security Act, only military basic pay is counted as earned income for the purposes of determining SSI eligibility and benefit amount. Special pay and allowances are counted as unearned income. As a result, a disabled child or spouse of a service member can lose SSI eligibility or have a benefit reduction due to the way military compensation is presently counted.

Because a significant portion of a service member’s compensation includes special pay and allowances,

military compensation generally results in more countable income for SSI purposes than comparable wages earned by a civilian. Accordingly, a child or spouse of a service member could be ineligible for SSI while the child or spouse of a civilian worker could be eligible for SSI based on comparable gross wages.

The problem is particularly acute when a member of the National Guard or Reserves is called to active duty and begins to receive full military pay, including special pay and allowances. In some cases, the military pay alone is sufficient to cause a reduction of SSI benefits or a loss of eligibility for the disabled dependent. This means that at the critical point when the service member is called away from his or her family in the service of our country, SSI benefits may be reduced or stopped.

In consideration of the special hardships facing military families in a time of war and to provide more financial security for these families, I have offered an amendment that proposes a statutory exclusion for all types of special pay and allowances received by service members serving on active duty regardless of duty station. At a time when military service members and their families are making such a huge sacrifice for our country, it is vital that this step be taken to protect SSI eligibility for these families.

Under this proposed statutory change, only basic pay, earned income, would be used to determine SSI eligibility for a disabled child or spouse of the service member. All compensation provided by special pay and allowances, including the basic allowance for housing, BAH, would be excluded. Excluding all special pay and allowances would eliminate the disadvantageous income counting that results from treating a substantial portion of military compensation as unearned income.

Mr. STEVENS. I agree with the Senator from Nebraska. The provisions of the Social Security Act need to be addressed in order to ensure Supplemental Security Income eligibility and benefits are not inadvertently taken away from those in the armed services when they need them most.

Mr. STEVENS. Mr. President, for the information of Senators, we will resume consideration of this bill tomorrow following the opening of the Senate at 9:30 a.m. as soon as possible. It will be my intention to ask that any votes that are to be taken on this bill be stacked until approximately noon or 12:30 in order that the committees may meet in the morning. There has been a specific request for that to happen. It is my understanding that there will be a request later that the time consumed for cloture be consumed during the period of temporary recess this evening on into tomorrow morning; is that the understanding?

The PRESIDING OFFICER. That unanimous consent request has not yet been propounded or agreed to.

Mr. STEVENS. I am assured that will be the case.

NOTICE OF INTENT

Mrs. CLINTON. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill, H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes: amendment No. 2040.

(The amendment is printed in the RECORD of Tuesday, October 4, 2005 under "Text of Amendments.")

CROWS

Mr. SALAZAR. Mr. President, I wish to bring up an important subject involving our soldiers in harm's way. In my State of Colorado and across the country, our fighting men and women have suffered casualties while on patrol in armored vehicles. Typically, the gunner sitting on top of the vehicle is at more risk from being hit both because he or she is visible to the enemy and because he or she is not as protected as those troops inside the armored vehicle.

I recently received an e-mail from a Colorado soldier serving in Iraq. This brave young man wrote me concerning the combat death of his friend. His friend was riding in the gunner's seat when his Humvee was subjected to an improvised explosive device attack. He feels that his friend might still be alive if that Humvee had a Common Remotely Operated Weapons Station—CROWS—and he wanted me to know about it and see if anyone here in Washington could do something about it.

I think we can do something about it, and with the help of my colleagues from Hawaii and Alaska, we will do something about it.

The CROWS can be mounted on a variety of vehicles, including Humvees. It allows the operator to acquire and engage targets while protected inside the armored vehicle from enemy fire and IED attacks. It works with a variety of machine guns. The sensor suite allows both day and night time operation.

This appropriations bill, as it stands now, allocates \$75 million out of the emergency supplemental for the military to purchase CROWS. The House Defense appropriations bill provides no funding for CROWS, which is disheartening. The DOD's program manager has advised me that the Pentagon supports spending \$206 million for the CROWS system over the next year.

My goal is for the military to be able to purchase thousands of these systems, but at the moment our production capability is only on the order of 10 systems per month. We have to do better. I ask my colleagues, the chairman and ranking member of the Defense Subcommittee on Appropriations, for their leadership and assistance in sustaining the Senate's position when they get to conference on this matter with the House.

Mr. INOUE. Mr. President, like all proud Americans, I share my colleague's concern for the safety and well being of our troops. IED attacks are a very real threat to our troops and it is our responsibility as Members of Congress to help protect our brave men and women fighting overseas. I will work in conference to ensure that we can maintain the Senate's funding level to purchase CROWS for our troops.

Mr. STEVENS. Mr. President, I thank my colleagues from Colorado and Hawaii for their work on this issue. They are right. We will continue to support these systems that provide our service members with the force protection they need.

Mr. SALAZAR. Mr. President, I thank the chairman and the ranking member for their leadership on this issue—and for their careers of service to and sacrifice for this country.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak therein.

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

RETIREMENT OF SENATE FINANCIAL CLERK, TIM WINEMAN

Mr. BYRD. Mr. President, I have often spoken of the importance of the Senate staff and the Senate's various support services for the effective workings of this great institution. These are the people and the offices that are rarely mentioned in the newspapers or the history books but who are essential to the effective workings of this institution. They are the people and the offices who make the jobs of the 100 Members of this Chamber more pleasant and more productive.

I cannot even imagine how this institution could function without the Senate Disbursing Office. In addition to serving as the finance office of the Senate, this office maintains our retirement, health insurance, life insurance, and other human resource programs. For the past 7 years, this most important Senate office has been headed by the Senate's highly capable Financial Officer, Mr. Tim Wineman.

Unfortunately, Mr. Wineman will soon be leaving us. He is retiring on October 14. Therefore, I want to take a few minutes of the Senate's time to thank Mr. Wineman for his service, to express my appreciation for his outstanding work, and to say that we will miss him.

Mr. Wineman was born and raised in the Washington, DC, metropolitan area, graduating from Bethesda-Chevy Chase High School. On October 19, 1970, he started work as a payroll clerk in the Senate Disbursing Office; he remained in this office for the next 35 years. In September, 1976, Mr.