United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, WEDNESDAY, JUNE 19, 1996 No. 91

Senate

The Senate met at 9 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Holy God of Justice, we turn to You with a just cause. We are profoundly disturbed by the burning of the church buildings of black and multiracial congregations in our land. Our consternation has grown as this hateful, destructive arsonism has continued. Father, we have prayed through the years for Your power to combat racism in America and You have helped us make some progress. Now we ask You to stay the hand of the collusive, coercive forces that have committed these cowardly acts of setting fire to sanctuaries of worship. Intervene to expose them so that they can be brought to justice. Control the unresolved prejudices in others who might be instigated to copy these crimes. Thank You for raising up people of all races who have rallied to help reconstruct the burned out sanctuaries. Oh God, in this land where You have given us freedom to worship You, step in to save the sanctuaries of Your people. In Your all-powerful name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today, the Senate will immediately resume consideration of S. 1745, the Department of Defense authorization bill and the pending Dorgan amendment. There will be 15 minutes of debate on the Dorgan amendment this morning, with a vote on or in relation to that amendment immediately following that debate time.

Also, Senators should be reminded after this morning's vote, there will be other votes, of course, throughout the day. We will be doing our very best to keep the time limit on the votes to 20 minutes. There are always extenuating circumstances, but we will start off today by trying to keep that commitment. Senators are encouraged to respond promptly to the votes, and if you have amendments that you want to offer, please be here with them so we can have those amendments offered and debate so we can do it during the daylight instead of very, very late tonight.

Mr. President, also, I announce that the Democratic leader and I are continuing with negotiations with respect to minimum wage, small business tax package, and other issues. We are in hope of reaching some agreement shortly with respect to this issue and all the other related matters. We have not been able to complete that effort, but we are working on it very seriously. We hope to be able to get that done shortly. We will come to the floor and make that announcement.

I yield the floor.

RESERVATION OF LEADER TIME

THE PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1745, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1745) to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan amendment No. 4048, to reduce funds authorized for research, development, test, and evaluation for national missile defense.

Kyl amendment No. 4049, to authorize underground nuclear testing under limited conditions.

AMENDMENT NO. 4048

The PRESIDING OFFICER. There will now be 15 minutes of debate on the pending Dorgan amendment No. 4048, equally divided.

Mr. DORGAN. Mr. President, I understand there is a period of time to continue debate ever so briefly prior to the scheduled vote. Senator LEVIN, I believe, wishes to take just a couple of minutes. I intend to yield to him when he arrives. When Senator THURMOND comes through, I will be happy to yield to him.

Let me describe just briefly exactly what this amendment is and what it is not. The Defense authorization bill that comes to the floor of the Senate includes in it $508 million for research and development for a national missile defense program. That is a program that has been bantered about around here. Some call it national missile defense, some call it Defend America, some call it star wars. Whatever you call it, it is a program to try to find a way to intercept potential incoming missiles launched by a rogue nation, an adversary, or launched accidentally by someone else. This is the outgrowth of the old star wars proposals back in the early 1980's.

There is in the Clinton budget a proposal for continued research and development of $508 million. The majority party, in constructing the piece of legislation brought to the floor today,

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

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said, ''That is not enough. We want to add $300 million to that; $508 million is not enough. We want it to be $808 million.''

My amendment very simply says, ''no,'' we should get rid of the $300 million that was added extra, and go back to the $508 million base proposal offered in the administration's budget, $508 million requested by the Pentagon, $508 million requested by the Chairman of the Joint Chiefs of Staff, by the Secretary of Defense, saying, ''This is what our country needs. This is what is advisable to spend.'' The bill brought to the floor said ''No, the Defense Department does not know what it is talking about. We want to authorize you to spend $300 million more.''

I read a quote from General Shalikashvili, the Chairman of the Joint Chiefs of Staff, who says, in speaking of this kind of activity, adding $300 million—which, by the way, is designed to provide for and require an early deployment on a national missile defense program of some type which would provide multiple sites and spaced-based components which will undercut the arms control agreements, the very agreements that are now leading to a reduction in the nuclear threat. There are missiles being destroyed in the old Soviet Union, in Russia today, because we have arms control agreements that provide for the destruction of those missiles. The world is safer because those missiles do not exist, those nuclear warheads do not exist, and they do not exist because of arms control agreements that have provided that both the Russians and the Independent States of the old Soviet Union are reducing launchers, warheads, bomber airplanes and others. We are doing the same. This makes eminent good sense.

This proposal, incidentally, leads to an undercutting of all those arms control agreements. Should we protect our country? Of course we should. However, should we do so in a way that undercuts the arms control agreements that are now leading to a reduction in the threat? No, I do not think that makes any sense.

General Shalikashvili says the following:

> Efforts which suggest changes to or withdrawal from the ABM Treaty may jeopardize Russian ratification of START II and could prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons, thereby increasing both the costs and the risks that we face.

In short, the decision, in fact, the requirement by those who support this piece of legislation that we spend $300 million more in pursuit of a policy that may result in a potential adversary having hundreds or even thousands of more nuclear weapons is, in my judgment, a failed policy.

Mr. President, $300 million ought not be added to this. My amendment withdraws the $300 million.

How much time is remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 5 seconds.

Mr. DORGAN. I yield 2 minutes to the Senator from Michigan, Senator LEVIN.

Mr. LEVIN. Mr. President, I thank the Chair and I thank Senator DORGAN for his leadership on this. We ought to rely on the uniformed military in terms of what is needed to produce a national missile defense in a sensible time period so that we can make a decision to deploy at a time a decision to deploy is needed.

What do the uniformed military say about funding levels? We have heard a lot of political rhetoric about national missile defense. The proposed budget in front of us would add $300 million to the $500 million the administration requested. These are not just numbers hopefully pulled out of the air. The $500 million that the administration asked for is what our uniformed military say is needed to produce and develop a national missile defense in a timely way.

Now, that is not President Clinton saying it, that is not Secretary Perry saying it; that is the uniformed military saying it. It is called the Joint Requirements Oversight Council, the JROC. The JROC, in January of this year, wrote to their chiefs—these are the Vice Chiefs of the four Departments—saying that they wanted and needed no more than $500 million per year for national missile defense. This is a memorandum which I am going to ask to have inserted into the RECORD. This is what our uniformed military say: The JROC believes that with the current and projected ballistic missile threat that the funding level ''for national missile defense should be no more than $500 million per year.'' That is in the budget request of the administration. They went on to say, ''We believe that the proposed acquisition level for national missile defense is balanced in proportion.''

I ask unanimous consent that the letter from the Chiefs of the Army, Navy, Marine Corps, and Air Force, be printed in the RECORD at this time in support of the administration's request and which is very inconsistent with the add-on of $300 million by the Armed Services Committee.

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

THE VICE CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC.

Memorandum for the Under Secretary of Defense for Acquisition and Technology.

Subject: National Missile Defense.

1. This memorandum is to inform you of The Joint Requirements Oversight Councils (JROC) position of prioritizing a Theater Missile Defense (TMD) capability over a National Missile Defense (NMD) capability.

2. The JROC believes that with the current and projected ballistic missile threat, which shows Russia and China as the only countries able to field a threat against the US homeland the funding level of NMD should be no more than $500 million per year and TMD should be no more than $2.3 billion per year through the FYDP. These funding levels will allow us to continue to field critical TMD/NMD systems to meet the projected threats and, at the same time, save dollars that can be given back to the Services to be used for critical recapitalization programs.

3. We believe the proposed TMD/NMD acquisition levels are balanced and proportional and after great potential for achieving an affordable ballistic missile defense architecture that meets our joint warfighting needs.

W.A. OWENS,
Vice Chairman of the Joint Chiefs of Staff.
THOMAS S. MOORMAN, Jr.,
General, USAF, Vice Chief of Staff.
J.W. PRUEHER,
Admiral, U.S. Navy, Vice Chief of Naval Operations.
R.D. HEARNEY,
Assistant Commander of the Marine Corps.
RONALD H. GRIFFITH,
General, U.S. Army, Vice Chief of Staff.

Mr. THURMOND. Mr. President, before we vote on the Dorgan amendment, I would like to make a few brief remarks and strongly urge my colleagues to oppose the amendment.

First of all, let me be clear that the additional funds added in the bill for national missile defense are not to support a space-based or star wars defense system. In fact the funds are not to support a deployment decision at all. We have simply followed the advice of the Director of the Ballistic Missile Defense Organization who has informed the committee that about $800 million per year is needed to support a robust technology development effort. This additional funding is consistent with the administration's own NMD Program, which is supposed to preserve the option of deploying a system by 2003. Regardless of whether you support the Defend America Act, the administration's NMD plan, or some other approach, you should support the funding recommended by the committee to allow for a more comprehensive testing program.

The Armed Services Committee did not earmark the funds for systems that are not currently being developed by the Department of Defense. We simply suggest more robust testing within the administration's own program. This program would rely on a ground-based system. Nothing associated with the additional funds in any way conflicts with the ABM Treaty or even with the administration's own 3-plus-3 NMD Program.

I would also remind all Senators that Congress added $375 million above the budget request for NMD in fiscal year 1996, which the administration is presently obligating. The Department of Defense recognized that additional funds were needed. The Director of BMDO has stated this explicitly, and the committee added the funds in an

effort to reduce technical risk and preserve a realistic deployment option around 2003.

Mr. President, in closing, let me urge my colleagues to oppose the Dorgan amendment and to support the additional funds for NMD risk reduction.

I yield to the able Senator from Oklahoma, Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. Five minutes.

Mr. NICKLES. I will be very brief. I compliment the Senator from South Carolina for his leadership. I urge my colleagues to vote ''no'' on this amendment. This amendment would strike $300 million of money that is used for research and development for missile defense. It is kind of a shocking thing for most Americans to find out that we do not have capabilities now to shoot down incoming missiles if you think the primary responsibility of the Federal Government is the protection of our people, the protection of our freedom. Yet, we do not have the capabilities today to shoot down an incoming missile from wherever it comes from. It may come from a belligerent nation, it may come from other rogue nations, it may come from someone getting control over missiles in the former Soviet empire.

But we do not have the capability to shoot them down. That bothers me. Somebody might say, well, we have the Patriot. The Patriot worked semisuccessfully in the Persian Gulf war. It shot down some Scud missiles when they were right over their backyard. Not very effective. As a matter of fact, we had American soldiers who lost their lives in Saudi Arabia because of Scud missiles that were 20-some-odd years old that landed in that neighborhood. The Patriot did not stop these. They stopped some missiles. It is not effective.

We need to be able to have the capability to shoot down missiles before they end up in our backyard. The threats are becoming more serious all the time, and we need to be moving now in research and development so we will have the system capability sooner rather than when it is too late. When you have North Korea firing missiles in the direction of Japan, when you have China firing missiles in the direction of Taiwan, when you have China making implicit threats to the United States, and even specifically Los Angeles, you realize this is a much more dangerous world than it was 3 years ago.

We are now using our money to help Israel develop missile defense capabilities. I support that. But it is very ironic that we do not give ourselves the capability and enough resources to develop missile technology to defend ourselves against an incoming missile, whether it be an incoming intercontinental ballistic missile, with whatever warheads—nuclear warheads, biological or chemical warheads. We should not leave ourselves defenseless.

I am afraid that if we adopt the amendment by our friends on the other side, we are doing just that—we are cutting back too much. People like to call missile defense star wars, and maybe they score political points by doing so. But they leave us without the capability of moving forward rapidly, as quickly as possible, to shoot down incoming missiles. The No. 1 priority of the Federal Government should be the protection of our people, the protection of our freedom. We need to have the capability to destroy incoming missiles from whatever source. We need this money.

I compliment the chairman of the Armed Services Committee. I hope our colleagues will vote to delete and vote against this amendment. I yield the floor.

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

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute 45 seconds. The Senator from North Dakota has 45 seconds.

Mr. THURMOND. I will yield back my time, unless somebody wants to speak.

I understand the Senator from Oklahoma desires to speak.

The PRESIDING OFFICER (Mr. NICKLES). The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the Senator for his leadership in this issue that we are discussing. Nothing new can be said on this subject. I know what the final remarks will be from the Senator from North Dakota. I want to talk about two things. No. 1, the threat; No. 2, the cost. If anybody out there believes it is going to cost so that we will ultimately have the ability to save ourselves, protect ourselves from missile attack—look at the CBO report and the figures that they are batting around, $30 to $60 billion over 14 years, and that has now been downgraded.

It is quite obvious that we wanted to have an Aegis ship with the space sensors. We already have a $50 billion investment in 22 Aegis ships that are out there. We can upgrade those, and reach into the upper tier for about $3 to $4 billion over 4 years. If you add the $5 billion for sensors we could have a system in place that will stop an incoming ballistic missile for the United States. Right now we have nothing.

The vast majority of American people believe that after we have spent all of this money that we have a system but we do not. We are almost there. It is 90 percent paid for, and the threat is real.

For those who question the threat, remember the words of James Woolsey who was the CIA Director for President Clinton. He said 2 years ago that we know of between 20 and 25 nations that have or are in the final stages of developing weapons of mass destruction and the missile means of delivering those weapons. One expert after another expert testified that threat is out there, that threat is real.

So, I would only say when you are considering taking out this little bit of money that we have to try to go forward with this program, stop and realize and stop and ask yourself the question. What if all of these experts are right? Look at Oklahoma City. The Presiding Officer and I represent the State of Oklahoma. We saw the devastation that took place there. That was what is comparable to one ton of TNT. The smallest nuclear warhead known is a kiloton, 1,000 times that power.

So if you are wrong, we are making a terrible mistake if we pass this amendment.

Mr. DORGAN. Mr. President, this is not about whether there should be a missile defense program in this country. There exists in the bill brought to this floor $2 billion for theater missile defense. I think everyone probably knows that. It has not been mentioned. The implication was that there was nothing in this bill for missile defense. There is $2 billion for theater missile defense and $508 million was proposed by the Pentagon for national missile defense. The bill comes to the floor saying $508 million for research and development is not enough.

I simply say for the people who support throwing dollars at this problem on national missile defense that it is not going to solve the problem. The uniformed officers say $508 billion is enough of research and development. Those of you who think that there is not an amount that is enough, the more the merrier and let us spend as much as we can spend are wrong.

This is a very simple vote to cut $300 million from this authorization bill.

I hope my colleagues will support the amendment.

The PRESIDING OFFICER (Mr. INHOFE). The question is on agreeing to the amendment of the Senator from North Dakota.

Mr. THURMOND. Mr. President, how much remains?

The PRESIDING OFFICER. All time has expired.

Mr. NICKLES. Mr. President, 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.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR], the Senator from Arkansas [Mr. BUMPERS] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. BUMPERS] and Senator from New

Jersey [Mr. BRADLEY] would each vote ''aye.''

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

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—44

Akaka	Ford	Leahy
Baucus	Glenn	Levin
Biden	Graham	Mikulski
Bingaman	Gregg	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hatfield	Murray
Bryan	Hollings	Pell
Byrd	Jeffords	Reid
Conrad	Johnston	Robb
Daschle	Kassebaum	Rockefeller
Dodd	Kennedy	Sarbanes
Dorgan	Kerrey	Simon
Exon	Kerry	Wellstone
Feingold	Kohl	Wyden
Feinstein	Lautenberg	

NAYS—53

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Nunn
Brown	Grassley	Pressler
Burns	Hatch	Roth
Campbell	Heflin	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Cohen	Inouye	Snowe
Coverdell	Kempthorne	Specter
Craig	Kyl	Stevens
D'Amato	Lieberman	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner
Frahm	McCain	

NOT VOTING—3

Bradley	Bumpers	Pryor

The amendment (No. 4048) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, the Democratic leader and I are continuing our negotiations with respect to the minimum wage issue. Therefore, in hopes of reaching some agreement with respect to this issue and other related matters, I now ask unanimous consent that no minimum wage amendment or legislation be in order prior to the hour of 1 p.m. today and, at 1 p.m, the majority leader be recognized so we can discuss this issue.

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

Mr. LOTT. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 4049

Mr. BIDEN. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The business before the Senate is the Kyl-Reid amendment to S. 1745.

Mr. BIDEN. Mr. President, I ask unanimous consent I be able to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, might I ask the Senator to yield for one moment so I may ask for the yeas and nays on the amendment which is pending?

Mr. BIDEN. Sure.

Mr. KYL. Mr. President, 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.

THE ATTACK ON HARIS SILAJDZIC

Mr. BIDEN. Mr. President, I rise today to deplore in the strongest possible terms the brutal assault last Saturday on former Bosnian Prime Minister Haris Silajdzic.

For more than 4 years, I have protested the bloody aggression by Serbia and its Bosnian Serb proxies against the Republic of Bosnia and Herzegovina. Even today Senator LIEBERMAN, Senator LUGAR, and I are introducing a resolution calling upon our Government to give stronger support to the International War Crimes Tribunal in the Hague, including making it an urgent priority for IFOR to detain and bring to justice persons indicted by the tribunal.

But, Mr. President, it was not Bosnian Serbs under the direction of the war criminals Karadzic and Mladic who attacked Haris Silajdzic. Nor was it carried out by the notorious Bosnian-Croat thugs from Herzegovina.

No, the attack was carried out by Bosnian Muslims belonging to the ruling party of democratic action, the SDA, of Bosnian President Izetbegovic. Former Prime Minister Silajdzic was making an election campaign speech in the Bihac area of northwestern Bosnia when about 100 young toughs waving SDA flags reportedly began terrorizing citizens at the rally. Some of them struck Prime Minister Silajdzic on the head with a metal bar, opening a bloody wound on his temple. He was rushed off to a hospital.

Many of my colleagues and I regard Haris Silajdzic as the single best hope for a multireligious democracy in Bosnia. For years he has fought against the vicious tribalism that unscrupulous politicians have used to stir up hatreds, even as he has tirelessly struggled to keep his embattled country alive.

Undaunted earlier this year after he was forced out of the prime ministership, Haris Silajdzic founded the party for Bosnia and Herzegovina, a coalition of Bosnian Muslims, Bosnian Serbs, and Bosnian Croats whose vision rises above the pathetic provincialism of the ethnic and religious-based parties intent on fragmenting the country.

The reaction of the ruling SDA in Sarajevo was, sad to say, typical of people who learned their politics at the foot of the old Yugoslav league of Communists.

Mr. Silajdzic has been harassed at every turn. Knowing of his broad international contacts, the authorities made it impossible for him to place telephone calls abroad. For example, when I have wanted to talk with him during the past few months, I have had to phone his home from Washington. And our conversations are routinely cut off in mid-sentence.

This is the treatment that President Izetbegovic's government accords a former prime minister with a worldwide reputation for bravery and integrity.

Moreover, Haris Silajdzic's multi-religious party for Bosnia and Herzegovina has been systematically denied a level playing field in the campaign for national elections, which according to the Dayton accords must take place by September 14.

They have found it excruciatingly difficult to get television time with which to spread their message of tolerance and democracy. I have already described how the SDA hoodlums broke up their campaign rally last weekend.

Mr. President, I would submit that the Bosnian people have no better friend in this Congress than this Senator. But let me be absolutely clear: The patience of even the strongest supporters of Bosnian independence has limits.

President Izetbegovic and his party must understand that we have not sent young American fighting men and women at the head of an international force thousands of miles from home merely to make it safe for a power-hungry, narrow-minded Bosnian Muslim clique to mimic the vicious, anti-democratic behavior of their Bosnian Serb oppressors.

The clock is ticking on the implementation of the Dayton accords. There are still many fundamental problems to solve. Until now the record of the Bosnian Government, though far from perfect, has been better than that of Serbia and Croatia and their respective Bosnian proxies.

But this latest outrage against Haris Silajdzic is a terrible step in the wrong direction. I call upon President Izetbegovic to take heed: Either get your party to clean up its act, or the United States of America may have to reconsider its Bosnian policy.

I thank the Chair, and I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 4049

Mr. SIMON. Mr. President, I rise in opposition to the amendment offered by Senator KYL from Arizona. I knew our distinguished colleague from Arizona when he was in the House, but I did not know him well. I have come to have great respect for him as a legislator. He really is a legislator who works

on bills and does the nitty-gritty work that is so important. But I believe that an amendment to authorize the resumption of nuclear testing is very ill-timed.

First of all, we have had over a thousand nuclear tests in the last 50 years. We do not need additional nuclear tests. If we were trying to perfect some new nuclear weapon, then it makes sense. But that is not the policy of this Government.

But more important than that, India and Pakistan are reluctant to join in a comprehensive test ban. What we need now is for all nations with nuclear power to come aboard. China, apparently, is coming aboard. But India and Pakistan we do not know yet.

We should not do anything that is going to move a comprehensive test ban further away. We need it as soon as possible. It is in the interest of the United States, and it is in the interest of the world.

I think this amendment, and I know the motivation is good on the part of our colleague from Arizona, but I think it is an ill-timed amendment that is not in the national interest.

Mr. President, if no one else seeks the floor, 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. INHOFE. Mr. President, I ask unanimous consent that the quorum call in progress be vitiated.

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

Mr. INHOFE. Mr. President, I ask unanimous consent that I be able to proceed for up to 5 minutes as in morning business.

The PRESIDING OFFICER. The Senator from Oklahoma wishes to be recognized to speak as in morning business for 5 minutes. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. INHOFE pertaining to the introduction of S. 1885 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. INHOFE. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. Mr. President, I just want to say that we are sitting here waiting and doing nothing. Why? Because those who have amendments are not coming forward to present them. We are wasting the Government's time. We are wasting the Senate's time. Why do those who have amendments not come forward? I urge those who have amendments—hotline both sides and tell them anybody who has amendments to bring them. We want to get through this bill. We are supposed to finish this bill tonight. We may have to go until 3 or 4 o'clock in the morning. Let us get going now and finish this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NUNN. Mr. President, the amendment that will be presented in a few minutes by the Senator from Hawaii deals with the Army and Air Force Nurse Corps and the promotions of the nurses in that corps.

This amendment has been examined by our staff, and from the Democratic side of the aisle, we would recommend when it is presented that the Senate accept the amendment. That would be our position on the amendment.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. We can accept the amendment on our side.

Mr. INOUYE. Thank you very much.

Mr. NUNN. I say to my friend from Hawaii that we recommended the amendment be accepted. So we just wanted to let him know that.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Without objection, the pending amendment will be set aside.

AMENDMENT NO. 4050

(Purpose: To amend title 10, United States Code, to codify existing practices of the Army and Air Force regarding the grade of the Chief of the Army Nurse Corps and of the Chief of the Air Force Nurse Corps, and the minimum grade required for appointment to the positions of Chief and Assistant Chief of the Army Nurse Corps and to the positions of Chief and Assistant Chief of the Air Force Nurse Corps; and for other purposes)

Mr. INOUYE. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 4050.

Mr. INOUYE. 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:

At the appropriate place, insert:

SECTION 1. CHIEF AND ASSISTANT CHIEF OF ARMY NURSE CORPS.

(a) CHIEF OF ARMY NURSE CORPS.—Subsection (b) of section 3069 of title 10, United States Code, is amended—

(1) in the first sentence, by striking out ''major'' and inserting in lieu thereof ''lieutenant colonel'';

(2) by inserting after the first sentence the following: ''An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general.''; and

(3) in the last sentence, by inserting ''to the same position'' before the period at the end.

(b) ASSISTANT CHIEF.—Subsection (c) of such section is amended by striking out ''major'' in the first sentence and inserting in lieu thereof ''lieutenant colonel''.

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade''.

(2) The item relating to such section in the table of sections at the beginning of chapter 307 of title 10, United States Code, is amended to read as follows:

''3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade.''.

SEC. 2. CHIEF AND ASSISTANT CHIEF OF AIR FORCE NURSE CORPS.

(a) POSITIONS AND APPOINTMENT.—Chapter 807 of title 10, United States Code, is amended by inserting after section 8067 the following:

''§ 3069. Air Force nurses: Chief and assistant chief; appointment; grade

''(a) POSITIONS OF CHIEF AND ASSISTANT CHIEF.—There are a Chief and assistant chief of the Air Force Nurse Corps.

''(b) CHIEF.—The Secretary of the Air Force shall appoint the Chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general. The Chief serves during the pleasure of the Secretary, but not for more than three years, and may not be reappointed to the same position.

''(c) ASSISTANT CHIEF.—The Surgeon General shall appoint the assistant chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after section 8067 the following:

''3069. Air Force Nurse Corps: Chief and assistant chief; appointment; grade.''.

Mr. INOUYE. Mr. President, I rise today to introduce an amendment that would put into law a designated position and grade for the chief nurses of the U.S. Army and the U.S. Air Force. To the credit of the past and present leadership of our Armed Services, they have appointed a chief nurse in the rank of brigadier general since the 1970's. However, for the Army and the Air Force, this practice has never been codified in law, although I am pleased to note that the Navy has designated their chief nurse as a rear admiral. Our military chief nurses have an awesome responsibility—a degree of responsibility that is absolutely deserving of flag officer rank.

You might be surprised at how big their scope of duties actually is. For example, the chiefs are responsible for both peacetime and wartime health care doctrine, standards, and policy for all nursing personnel. In fact, the chief

nurses are responsible for more than 80,000 Army and 26,000 Air Force nursing personnel. This includes officer and enlisted nursing specialties in the active, reserve and guard components of the military. If an executive officer in a large American corporation had this much responsibility, he or she would undoubtedly have a position title and salary at least comparable to that of a brigadier general, and would certainly have a seat at the corporate table of policy and decisionmaking.

You might wonder why it would be necessary to put these provisions in law since this practice is already occurring. Sadly, I am most concerned that without this official designation, these positions are vulnerable to being downgraded or even eliminated. In recent years, downsizing mandates and new ways of providing health care have led to many reorganization efforts. Unfortunately, reorganization has become a euphemism for eliminating positions—and health care reorganization has too often become an excuse to eliminate nursing positions, particularly senior and executive leadership positions.

There has been much discussion about the so-called glass ceilings that unfairly impact the ability of women to achieve the same status as their male counterparts. While I do not want to make this a gender-discrimination issue, the reality is that military nurses hit two glass ceilings: one as a nurse in a physician-dominated health care system and one as a woman in a male-dominated military system. The simple fact is that organizations are best served when the leadership is composed of a mix of specialty and gender groups—of equal rank—who bring their unique talents to the corporate table. For military nurses, the general officer chief nurse position is the only way for nurses to get to the corporate executive table.

Mr. President, I strongly believe that it is very important, and past time, that we recognize the extensive scope and level of responsibility the military chief nurses have and make sure that future military health care organizations will continue to benefit from their expertise and unique contributions.

Mr. President, as noted, the distinguished managers of the measure have both agreed to its adoption.

I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4050) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. THURMOND. 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. THURMOND. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

Mr. THURMOND. Mr. President, we have been waiting here now a long time to act on these amendments. Again, I want to tell the Senators, if they have amendments, to come forward with them. I want to inform all Senators that I intend soon to ask unanimous consent that only amendments that have been offered will be in order on this bill. So it is important for them to come forward and offer their amendments, otherwise, they may not be considered. I urge all Senators who have amendments to come to the floor and offer them now—I repeat—now, not later.

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

Mr. KYL. Will the Senator withhold? I would like to discuss the pending amendment.

Mr. THURMOND. Certainly.

AMENDMENT NO. 4049

Mr. KYL. Mr. President, the pending amendment is the Kyl amendment, cosponsored by Senator REID from Nevada. The distinguished chairman of the committee spoke in support of this amendment last night when I offered it. Since then, there has been virtually no discussion of it. Several people have asked me questions, and I thought I would come to the floor and try to answer those questions because, for the life of me, I cannot understand why this would be a controversial amendment. I am advised that at least one Senator is awaiting instructions from the White House.

I suggest that this body can take the action that it deems appropriate. Certainly the White House will have its say in anything that we do on the Defense authorization bill. But this ought not to be that controversial. So let me attempt to explain again what I am trying to do with this amendment. Again, I thank the distinguished chairman of the Armed Services Committee for his support of the amendment.

Probably the best way I can do this, Mr. President, is to do it graphically. Above this line we have the status quo, the current law with respect to nuclear testing. Just to set the stage, we have not conducted nuclear tests for a long time. The tests that have been conducted in the last decade have been primarily to ensure safety and reliability of our nuclear stockpile. I might add that about a third of the problems that have been discovered with the stockpile were found as a result of safety testing.

I also make the point, in general, with respect to testing, that it has always seemed odd to me that while we hear speeches that we should fly before we buy, we should be sure that we test the equipment that we are going to buy for our military uses, we should make sure that we continue to maintain our equipment, understand how it works, and whether it might not work, and we want to make sure that all of the things that we are going to have to rely upon will in fact work, that the one thing that we do not want to test to see if it will continue to work is the most sophisticated weapon we have in our inventory, namely, our nuclear weapon.

On that we are going to close our eyes and say, ''Well, we tested these a long time ago. We maybe built these systems 20 years ago, but we're just going to hope that they continue to work if we ever have to use them.'' I submit that that is not an intelligent way for us to maintain our nuclear stockpile. But that is essentially where we are right now. The administration does not want to test, is not testing. We currently have the authority to test, if the President decides to do so.

That is what is indicated here. We have a test moratorium in our country, but we could test for safety reasons or to determine the reliability of a system. So that if, for example, the Department of Energy came to the President and said, ''Mr. President, we think we may have a problem with one of these systems. It seems to be acting funny. We obviously don't want to send it up in an airplane or put it on top of a missile if something might happen. Therefore, we need to conduct a test to determine exactly what's wrong here or how to fix it,'' the President could do that today.

But that authority will expire on September 30 of this year under existing law. The President will no longer have that capability.

That was done in order to anticipate the fact that a Comprehensive Test Ban Treaty, the so-called CTBT, would be entering into force. The problem is, it has not been ratified by this country. It is obviously not going to go into force for some time. Therefore, we are left with a hiatus, a period between September 30 of this year and whenever the CTBT comes into effect, if it comes into effect.

After the CTBT comes into effect, there are no tests except in a very extreme situation called supreme national interest which, in effect, would only exist if there was some grave emergency that existed where the country was threatened and there was some need to do so.

So what we are talking about is simply extending this September 30 date until the CTBT goes into effect. It is not anti-test-ban treaty. Anyone who favors a test-ban treaty should not be concerned about this. In fact, I would think they would be supportive because it would maintain the status quo until the CTBT goes into effect.

What actually changes? Two things. No. 1, we continue to require the administration to report to the Congress on the status of the stockpile. There is nothing wrong with that. I assume

there is no objection to that. So the test moratorium would continue and the reporting requirements would continue. But the President could still test for stockpile safety and reliability purposes beyond the September 30 date until some date in the future if and when the CTBT goes into force or when the U.S. Senate ratifies it.

The other difference is that under the test moratorium that will exist if we do not change the law, there is one circumstance under which the President can test. But it does not make any sense. The President could test if another country tests. We do not need to test just because China conducts a test or just because France conducts a test or Russia conducts a test. That is no reason for the United States to conduct a test. We are not testing in retaliation for what another nation does. There is no rational reason to base our testing on whether another nation tests.

Whether another nation tests will depend upon whether that nation believes it to be in that nation's interest to test. Likewise, whether the United States tests prior to the implementation of the CTBT, ought to be based upon whether it is in our national interest to do so. Just because France tests should not mean that the President should call for the United States to do so.

But by the same token, if the Department of Energy or the Department of Defense should discover a problem with one of our weapons, it is the height of irrationality for us to close our eyes and say, ''But we can't fix that weapon.''

Until this Nation has effective missile defenses and defenses against any other way in which a nuclear warhead would be delivered to the United States, we are relying upon our strategic retaliatory nuclear capability. That is a fact. Therefore, it has to work and it has to be safe. It makes no sense to say that we should not have the capability of ensuring that safety.

I doubt very seriously whether President Clinton would ever order a test, but why tell him that he cannot do so? For those who believe, well, maybe it will not be President Clinton next year, maybe it will be President Dole, and he is going to be irresponsible in this regard, my amendment also requires that the Congress not disapprove the decision. So Congress has a check on the President's actions. The President cannot unilaterally call a test.

I do not know what could be more reasonable, Mr. President. All we are saying is that the deadline that is going to expire on September 30 be continued—not the deadline—but that the ability to test be continued, the power of the President to call for a test. We are not saying he has to do anything. This has no relationship to the CTBT. We are simply saying, until the CTBT comes into effect, the President would have the ability to call for a test, but Congress would have to not disapprove it.

Let me read some statements, perhaps, that will give people a little sense of security in supporting this if they think there is some hidden meaning to it. There is not. The administration's testing policies, as articulated by the President himself, are totally consistent with what we are doing.

On August 11, 1995, the President gave his statement regarding the CTBT. He acknowledged that the possibility of future underground tests might be needed. In fact, there is a specific safeguard in his policy enumerated ''Safeguard F'' which reads as follows:

> If the President of the United States is informed by the Secretary of Defense and the Secretary of the Energy (DOE)—advised by the Nuclear Weapons Council, the Director of DOE's nuclear weapons laboratories and the Commander of the U.S. Strategic Command—that a high level of confidence in the safety or reliability of a nuclear weapon type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard ''supreme national interests'' clause in order to conduct whatever testing might be required.

That is the end of Safeguard F.

Mr. President, what we are proposing here is something far short of that. The President has made the point here that he needs a mechanism for conducting an underground test if it is in the supreme national interest to do so. We are simply saying until there is a CTBT, he should have that same authority. A fortiori, once the CTBT goes into effect, the President is saying he should still have that authority in the supreme national interest. I agree. It does not make any sense for that authority to exist at that time after this CTBT has already gone into effect, and not to have the authority before it goes into effect.

Following the President's own understanding of the potential need for an underground test to ensure safety and reliability of our weapons, we simply gave him that authority beyond the deadline that it would otherwise expire, and base it on what the President has said he would need to base it on; namely, safety and reliability, rather than on whether another nation tests. I cannot imagine anything more reasonable and more rational.

I will read a quotation from one of the President's top advisers in this entire area, former staff member for the distinguished ranking member of the Armed Services Committee, Bob Bell, in a speech at the National Missile Defense University Foundation. On May 8 of this year, Bob Bell, who is a member of the National Security Council, suggested that a key element of the administration strategy to defend America is deterrence, both conventional and nuclear deterrence. He said,

> The second line of defense against weapons of mass destruction is deterrence, both at the conventional and nuclear level. Any rogue nation foolish enough to contemplate using nuclear, chemical, or biological weapons against the United States, its Armed Forces or our allies must not be confused about how we would respond. As Secretary Perry stated, it would be ''devastating'' and ''absolutely overwhelming.''

Now, Mr. President, you cannot rely upon a nuclear deterrent that is not safe or does not work. You have to know that it is safe and it will work. That is why we have always maintained the ability, the right, to test these weapons, to make sure they will work and that they are safe. That is what the law provides today. That authority terminates on September 30. For the life of me, I do not understand why anyone would object to simply continuing the President's right to do what he said he needed to have the ability to do. Not that he would ever do it. I am sure everyone would acknowledge this President's inclinations would not be to do it, but as he himself said, if he were advised by the Secretary of Defense, the Secretary of Energy, the Nuclear Weapons Council, and the commander of the U.S. Strategic Command that they did not have a high level of confidence in the safety or reliability of a weapon type that was deemed critical for nuclear deterrent, then he would need that authority. If we are going to give him that authority after a CTBT goes into effect, why should he not have that authority before it goes into effect?

Mr. President, all I can do is continue to repeat the point that I wish somebody would challenge it, would argue it, would debate it. This amendment has been pending since last night. I said I am happy to explain it, to debate it, but can we not have a discussion on it, and then vote? I cannot imagine why anyone would oppose it.

Now, there have been two reasons suggested to me. One is that the Comprehensive Test Ban Treaty negotiations are in a delicate stage now and we do not want to do anything that might upset them. How would this upset them? It has nothing to do with the CTBT. Surely, people who want us to enter into the CTBT want us to do so with weapons that are safe and reliable. Surely, they do not want us to deny ourselves the ability to enter into the treaty, knowing we have safe and reliable weapons. Why would they want us to have a period of time where our weapons could deteriorate or become unsafe and we could not do anything about it, and then enter into a comprehensive test ban limitation? That would not make any sense.

We want to enter into the comprehensive test ban knowing that our weapons are in good shape. I guarantee you, Mr. President, other countries will make very sure that their weapons are in good shape before they enter into it. Look at the evidence. What did France do? France thumbed its nose at the international arms limitation community by saying, ''We are going to test until we are confident that our weapons are reliable and safe and they will do the job.'' They conducted their tests, notwithstanding opposition from

practically, it seemed like, everybody in the world. When they finally had concluded they had done enough testing and they were confident of their weapons, they said, ''Fine. Now we will join up.''

China, likewise, has been conducting tests. They just concluded one. They have said they are going to do another one. They have said, ''We think we have to do one more to make sure that our system is reliable, safe, and workable. After that, we will join up, or at least consider joining up.'' It may be that Russia has conducted tests. There have been reports of activity at their test site that may suggest that some kind of activity has occurred there. I submit that other nations will do the same thing if they believe their weapons are deteriorating or they need to do something to improve the safety or reliability. They will test to make sure that can be done.

All we are saying is the President of the United States ought to have the authority to do that, with Congress not overruling, to ensure that our nuclear deterrent, as Bob Bell said, is a meaningful deterrent. That is to say that countries of the world will know that it is workable, and that we, in fact, will employ it.

The argument that CTBT negotiations are underway does not suggest any reason why we should not proceed with this. Are those negotiations so touchy that if anybody talks about nuclear testing or continues authority that currently exists in law, that they somehow are going to full apart? I cannot imagine that. If that is the case, there is something drastically wrong. Are those negotiations dependent upon an elimination of our authority to test after September 30? That would not be good policy for the United States, and I cannot imagine that other countries of the world have made that a precondition. I have not heard any evidence to that effect. Just because the CTBT negotiations are going on does not mean that we cannot extend the President's authority beyond September 30. We are not telling him he has to test, he should test or anything of that sort. We are saying if he thinks it is necessary to test, as he himself pointed out, he should have the authority to do that, subject to Congress not saying no.

Now, I do not know of any other reason, except one reason expressed to me by someone who said, ''Well, I have always been so much in favor of absolutely eliminating all nuclear weapons from the world that I would not want to do anything even to extend the ability of the United States to test until there is a CTBT. If we can stop it on September 30, boy, that is great.''

Mr. President, if all of the other nations in the world were as idealistic as this particular individual, I would not have a problem with that. As we have already seen, since the United States has stopped testing, since our moratorium, other nations, both friendly and unfriendly, have decided it is in their best interests to go ahead. We are not going to stop them from doing what they think is necessary and in their national interests, and particularly where it relates to safety, it seems to me, we ought to retain the ability to test. That should have very little to do with the argument of whether or not all the nations of the world will eventually agree to a comprehensive limitation.

One final point I make, Mr. President. When I served in the House of Representatives, I was the ranking member of the Department of Energy's nuclear facilities panel, along with Representative SPRATT from South Carolina. We had the jurisdiction, basically to deal with the Department of Energy programs, including the nuclear stockpile. During that time, it came to light that a very new and sophisticated and technical way of utilizing very new and powerful computers could actually help us understand the dynamics of nuclear weapons much better than we ever had before. This computer analysis seemed to suggest that there might be some vulnerability to certain of our weapons that we should look into.

Just to talk hypothetically, what we are talking about, if a nuclear weapon were to be dropped, for example, could that possibly trigger some kind of emission of radioactive material? In the past we had done a lot of telephoning and we said, ''No, we think it is very safe.'' This new computer technology suggested that maybe there would be a bit of a problem. So we caused a commission to be created called the Drell Commission. The members of the commission were very prominent nuclear scientists who studied for over a year whether there were safety or reliability problems with our weapons—primarily safety problems. They made recommendations to the Congress, which we have largely carried out, and which the military has largely carried out, that caused us to make some changes in the way that we handle our nuclear weapons. Some weapons were removed from active alert status on strategic bombers. Certain changes were made in the way that weapons were handled in their loading and unloading.

Without getting into too much technicality, or classified material, those recommendations demonstrated that we have to be constantly vigilant of the potential for accidents, because the last thing in the world that we want is an accident with a nuclear weapon. We know that there have been some, and we do not want that to ever happen and cause harm to anyone in the world. So safety has been a primary consideration—at least in recent years—with respect to our nuclear stockpile.

For the life of me, Mr. President, I cannot imagine that people who are interested in consumer safety, who are interested in the health, safety, and welfare of our citizens, who frequently support measures to protect us from all sorts of things that might cause damage to us, who are interested in reducing smoking by teenagers and adolescents, and I cannot imagine why people who are interested in protecting the American citizenry would say, however, when it comes to one of the most potentially devastating threats of all—not a threat that is likely to occur, but if it ever did occur, it would be very devastating—a release of radioactive material as a result of an accident with a nuclear weapon, and we are not going to do anything about that. We are just going to trust that weapons that are 20 or 30 years old, and that have not been tested for years, are going to continue to work all right, behave all right, and not pose any safety threat. We are going to close our eyes to the possibility that there could ever be a problem there, and we are going to legally prohibit the President from testing those weapons to see that they are safe—not to develop a new weapon; we are not talking about testing for new weapons. We are going to bind the President and say that, after September 30, he cannot test to determine the safety of a nuclear weapon anymore. I just, for the life of me, cannot understand how people would make that argument.

Now, Mr. President, there are Senators on the floor now who would like to enlighten me as to why this perfectly innocent amendment is not appropriate. I will conclude by simply reminding you of what it does. It simply says the power that the President has to test, which will expire on September 30, will continue until there is a CTBT. If the Congress does not approve a test, the President cannot do it.

I hope people who want to debate the issue will do that so I know what we are trying to respond to here because, right now, I cannot think of any arguments against this amendment. I hope we can quickly get a time agreement so that, as the distinguished chairman of the Armed Services Committee said, we can get on with this bill. This is a minor amendment in the overall scheme of things with this very important defense authorization bill. The chairman is right that we have to get on with it. I do not intend to take any time with this. If we can reach a time agreement for 10 minutes, that is fine with me.

I thank the chairman of the committee for supporting my amendment.

Mr. THURMOND. Mr. President, I want to again compliment Senator KYL for his detailed explanation of his amendment. This is a sound provision. It enhances the President's authority to ensure that the Nation maintains the capability to maintain a ready and safe nuclear stockpile. I do not understand the other side's reluctance to debate this amendment and agree to a time limit.

Again, I urge Members to come to the floor and let us go forward and make progress on this bill.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. I ask unanimous consent that the pending committee amendment be laid aside.

Mr. EXON. Mr. President, reserving the right to object, I inquire of the Senator from Minnesota, about how much time does he wish? There has been some talk about moving ahead on this matter. I prefer to move ahead on this matter, and I simply inquire, before I withdraw my right to object, about how much time the Senator from Minnesota feels he needs, and on what subject, before we set aside the pending business of the Senate.

Mr. GRAMS. I expect to take 10 minutes, and it relates to the closure of Pennsylvania Avenue.

Mr. EXON. With that understanding, I withdraw my objection. Is the Senator intending to propose an amendment?

Mr. GRAMS. It is a sense of the Senate.

Mr. EXON. Then, Mr. President, I object on the grounds that I am prepared to move ahead on the amendment before us. Certainly, I would like to accommodate the concerns of the Senator from Minnesota and his sense-of-the-Senate amendment. But I suggest that in order to try and move ahead on this matter, it would probably be best at this time to proceed with debate on the amendment that is before us rather than offering another amendment at this juncture. With that caveat, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Minnesota has the floor, unless he chooses to yield the floor.

Mr. GRAMS. I ask the Chair, am I allowed to go ahead and offer my sense-of-the-Senate amendment?

The PRESIDING OFFICER. There must be approval to set aside the pending amendment and that has been objected to.

Mr. GRAMS. I yield the floor, Mr. President.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I say to my friend from South Carolina, the chairman of the committee, which I have observed now for 18 years, and also my colleague from Georgia, the ranking member of the committee, that I understand the difficult position they find themselves in with regard to trying to move this bill along. I certainly am not here to cause any problems in that effort because, certainly, the defense authorization bill, which I voted for as it came out of the Armed Services Committee, is an important piece of legislation, and I think that we should move expeditiously ahead. Certainly, any Senator has a right under the rules of the Senate to offer any amendment.

But I would simply say that I intend to make some remarks at this time in strong opposition to the Kyl amendment, and then would plead to the managers of the bill—since the Kyl amendment nor nothing like it was included in the authorization bill that came out of the committee—that it would probably be best, in the interest of moving ahead with this bill, that the Kyl amendment be withdrawn and probably and possibly considered at some later more appropriate date. Mr. President, there could not possibly be a worse time, a more inopportune time, if you will, to consider the amendment offered by the Senator from Arizona.

Here we are, Mr. President, 9 days away from the self-imposed June 28 deadline by the multination negotiators now delicately moving toward hopefully an agreement for a comprehensive test ban treaty. And the deadline is June 28. That is 9 days from now. To be specific, that is a week from this coming Friday.

These are extremely delicate negotiations. I have talked on numerous occasions to our Ambassador who is involved in those detailed negotiations. I have been in close touch with the Secretary that has responsibility in this area, the Secretary of Energy. I have been in close touch with the White House, and the National Security Council. They all agree with myself, Senator MARK HATFIELD, and many others who will speak in opposition to this amendment, that there could not possibly be a worse time for the U.S. Senate to begin meddling in matters of this delicate nature 9 days ahead of the June 28 self-imposed date by the negotiators to try to come up with a comprehensive test ban treaty that in the opinion of this Senator, and in the opinion of most people who understand the procedure, would be to the greatest benefit of mankind for as far as we can see into the future.

What we are talking about here is whether or not we are going to have less reliance on nuclear weapons in the future. Since the end of the cold war we all have been working, and quite well, I might say, with Russia and the former states of the former Soviet Union to the point where we do not have nuclear warheads pointed at each other. Behind all of this is the attempted emergence of new nations to nuclear power.

If we can put in place and keep in place the nuclear test ban treaty that is now being delicately renegotiated in Geneva it would be the greatest boon to mankind and the safety of mankind that one could imagine. No. I suspect that none of us can see into future time when we will have not have nuclear weapons. But certainly we should be able to recognize and realize that the United States of America which is far ahead on the ability to test, which is far ahead on the ability to make tests with computers, which is far ahead in inventory of any other part of the world, it would seem evident to me that it would be not only in the national security interests of the United States of America but also the right thing to do to recognize that we should continue to be a leader in trying to end for all time, if we can, nations testing nuclear devices.

So, Mr. President, I speak now not only for myself but other Members of the U.S. Senate on both sides of the aisle in strong opposition to the Kyl-Reid amendment. It is being sold here just to give the President a little flexibility, and so forth and so on. If the U.S. Senate would pass the Kyl-Reid amendment, which I think it will not—I think I have been here long enough to have a pretty good understanding of the Senate and its rules—I say to the managers of the amendment, and I say to the managers of the bill that there could be long and delayed debate on this amendment. I think it has little chance of surviving the opposition that we will mount against it. I want to unmask, if I can, Mr. President, the feeling that this is a harmless amendment; that it is not going to hurt anything at all. I would simply say that regardless of what the intentions of the authors of the amendment are for the U.S. Senate to be even debating such a proposition 9 days ahead of the final deadline, whether we pass it or not, only gives the opposition around the world, wherever it is and for whatever reason, more chances of disrupting and eliminating any chance of a comprehensive test ban treaty based on negotiations—very delicate negotiations, I might say, Mr. President—in Geneva today.

Why is it that 9 days ahead of the deadline we have some Senators coming on the floor of the U.S. Senate trying to make changes in what we are going to do in the future with regard to nuclear tests? No one knows at this juncture.

Mr. KYL. Mr. President, will the Senator yield?

Mr. EXON. I have not interrupted the Senator from Arizona. I will not yield. He will have ample time to make his points at a later time.

I simply say that this amendment is ill-timed. It is ill-advised. At least the authors should recognize and realize, if they are so certain that this amendment is all-important, that it would be more in line with reality and reason to at least wait until follow-on bills after the 28th day of June, a week from Friday, when we will know by that time whether or not the hard work and the delicate balance to try to reach an international comprehensive test ban treaty is successful.

I do not know what their motives are. It may well be that the authors of this amendment are totally in support, as I hope they would be in being behind our negotiators and our administration who fully recognize and realize the dangers that we are working with here; that the authors of this amendment would simply say, yes, this is probably not the best time and this amendment should not be offered.

Mr. President, this amendment, or something like it, was discussed by members of the Armed Services Committee before our markup and before

our hearings in the Armed Services Committee on the defense authorization bill. It was agreed unanimously that this is a matter that should not have been taken up at this time. And for that reason, and principally for that reason, there was no move inside the Armed Services Committee to make any such suggested changes. And I believe that the chairman of the Armed Services Committee knows and understands that full well. The chairman of the Armed Services Committee has every right to support this amendment, if he wants to, on the floor of the U.S. Senate. That was not the reasoning of his committee during those deliberations.

Mr. President, later on today I will insert into the RECORD statements by the White House, statements by the Secretary of Energy, and others in strong unqualified opposition to this amendment principally along the lines that I have outlined.

I cannot imagine anything I would oppose more than the Kyl-Reid amendment authorizing the resumption of nuclear testing beginning on October 1 this year under certain conditions. While proponents of the amendment contend that this change to the 1992 Hatfield-Exon-Mitchell law closes some sort of a loophole in the American nuclear testing policy and should have no impact on the comprehensive test ban negotiations now underway in Geneva, this simply is not—I emphasize, Mr. President, is not—the case. The Kyl-Reid amendment is the proverbial wolf in sheep's clothing, an innocent appearance cloaking a more sinister inner nature. Whether intended or not, passage of this meddlesome amendment would send a chilling ripple around the world that the Senate has pulled the rug out from under our Nation's treaty negotiators on the very eve of finalizing a landmark treaty designed to halt the global spread of nuclear weapons.

After decades of failed efforts and ineffectual agreements, the world's nuclear powers have finally made some progress in not only curbing the increase in the number of nuclear weapons States but also reducing the number of nuclear weapons systems targeted on population centers around the world. The INF Treaty, START I Treaty, and now START II are historic mileposts in the history of arms control in that they compel for the first time the destruction of nuclear delivery systems while still maintaining the geopolitical balance and the ability to deter an attack by a potential aggressor.

Defense and foreign policy experts agree that the most significant security challenge facing the United States and the rest of the world is curbing the proliferation of weapons of mass destruction, most dangerous of which is a nuclear warhead. Closing Pandora's box, as I have referred to these nonproliferation efforts in the past, is a formidable undertaking, but I believe history will judge the leaders of our era in great measure on how successful we are in meeting this challenge.

While the bipartisan Nunn-Lugar program has made remarkable progress in addressing the secure transportation, storage, and destruction of thousands of former Soviet nuclear weapons, another threat reduction effort designed to enhance our national security is close to agreement. That is the agreement I talked about that is hopefully scheduled to be agreed to in 9 days.

What in the world, whatever are their intentions, is the reasonableness of Members of the Senate coming in 9 days ahead of that formidable undertaking with an amendment that could only cause great mischief and possibly lead to further division of the nations that are having enough trouble already in coming to agreement in Geneva on the nuclear test ban treaty a week from this Friday—9 days away. I cannot imagine any Member of the Senate, Mr. President, I cannot imagine any Member of the Senate believing it would be wise, if they understood the possible consequences, for any Member of the Senate to endorse this amendment for the reasons that I have stated and very likely for other reasons as well.

For the past 3 years, the 37-member nation conference on disarmament has been meeting in Geneva to negotiate a verifiable comprehensive test ban or CTB Treaty. A CTB Treaty is an important linchpin in our efforts to prevent new nations from developing a nuclear weapons capability by depriving them of the ability to test and verify the performance and capability of the new weapons. In effect, the CTB Treaty, if realized, would go a long way in cutting off membership to the nuclear weapons club, depriving autocratic rulers and Third World rogue nations of the means to develop such weapons with confidence in the future.

After 40 years of effort, the world community is now 10 days away, hopefully, 10 days away, Mr. President, from its self-imposed negotiating deadline of June 28—that is this June 28—to finalize a CTB agreement. Not only are we in the last hours of the negotiations end game in the context of the historical debate on the test ban concept, we are in the final minute of this long and difficult endeavor. For this reason, it is no surprise that some opponents of the Comprehensive Test Ban Treaty and advocates of continued nuclear testing would look for ways to undermine an agreement.

I am not saying that the authors of this amendment necessarily fall into that category. I hope they do not. It might well be that some people pushing this amendment were not here in 1992 when Senator Mitchell, Senator EXON and Senator HATFIELD came about with a bipartisan agreement, stepped aside from political considerations and worked out an agreement that passed the Senate and has been the framework ever since and has been endorsed by the President of the United States and indirectly endorsed by other nations of the world and has resulted in the ongoing negotiations at Geneva.

In large part, the bipartisan Hatfield-Exon-Mitchell law of 1992 jump started American interest in joining the world's other nuclear powers in pushing for a comprehensive test ban treaty. By requiring that future U.S. nuclear weapons testing be linked to the correction of prospective safety and reliability problems, the Hatfield-Exon-Mitchell provision confirms what most scientists, military leaders, and policymakers understood: The United States has the safest, the most reliable nuclear weapons arsenal in the world.

Furthermore, after conducting over 1,000 nuclear tests, with the data resulting therefrom, at our test facility in Nevada, we have developed more advanced simulation technology than any other power in the world. The time was ripe for phasing out our testing program over 3 years and start seriously negotiating a comprehensive test ban agreement. Basically, Mitchell-Exon-Hatfield played a key role in that development. And I am astonished at this amendment because, however well intended, it is ill-advised as I have outlined.

Now, 4 years later, when we are on the verge of possibly reaching a comprehensive test ban agreement, a mere 9 days away from lowering the lid on the nuclear Pandora's box, it is in this context that the Kyl-Reid amendment should be judged. The Kyl-Reid amendment would authorize the President to seek authorization to resume nuclear testing after October 1 up until the time when a comprehensive test ban treaty is ratified by the Senate. Unlike the existing requirements of Hatfield-Exon-Mitchell, these tests could be for any reason, not necessarily to correct any safety or reliability problem. I should reiterate, there is no known safety or reliability problem with our nuclear weapons. It is worth noting that even if the President did seek to resume testing it would take approximately 2 years—let me repeat that, Mr. President—even if suddenly, today, the President of the United States should find that we have a serious problem with our nuclear deterrent, it would take approximately 2 years to reready the nuclear test site to conduct tests to verify if there is a problem and to help identify what would be necessary to correct it. If that should happen, I believe there is no question but the U.S. Senate would join in, would recognize and realize the serious threat, and take action as the President has outlined.

But that is not the case, and we should not be using or relying on that type of scare tactic to justify this ill-conceived and ill-timed amendment here on this date, late in June 1996, 9 days away from the final deadline in Geneva. According to the Department of Energy's best estimate, we would

have to take 2 years, if we needed it, to reready the test site in Nevada. In that context, the amendment before us is meaningless.

This reality raises the question of what is the true value of the Kyl-Reid amendment if it professes to give the President the means by which to resume testing up to a point of the Comprehensive Test Ban Treaty ratifications? The President of the United States is firmly against this. He does not need any additional authority at this time. The Secretary of Energy, who has prime responsibility under the President of the United States, and the National Security Council, are firmly opposed to this amendment, primarily for the reasons I have outlined. Even if there was a reason to test, and there is not, we would have to wait 2 years at least before detonation could take place and tests could be conducted even underground at the Nevada test site, far more time than the anticipated delay between signing the Comprehensive Test Ban Treaty and its subsequent ratification by the U.S. Senate.

In light of this, and the fact that there is no known safety or reliability reason to test, the question that needs to be asked is, Why is this amendment being proposed now, and what would the consequences be if the amendment was agreed to?

As I have stated, I am very fearful that they would be devastating. The prospects of a comprehensive test ban agreement by June 28 were greatly enhanced just recently when China agreed to join the rest of the world's declared nuclear weapons states in adhering to a testing moratorium and forsaking the right to test, ending all testing once an agreement is reached, which might be in the immediate future.

For the first time in history, all five permanent members of the Security Council are in agreement to adhere to a true zero yield test ban treaty. The Chinese decision clears the most difficult and significant hurdle in reaching agreement on a comprehensive test ban treaty text. What is more, the world's nonnuclear states, the potential new admissions to the nuclear club, are poised to sign on to a treaty relinquishing their right to develop or obtain these highly lethal and destabilizing weapons of mass destruction. If the United States were to approve the Kyl-Reid amendment on the eve of the Comprehensive Test Ban Treaty agreement, changing U.S. policy so as to authorize tests for any reason—for any reason, I emphasize, Mr. President, up until the time of Senate treaty ratification—the effect on our Nation's nonproliferation efforts in Geneva I am afraid would be devastating.

I am afraid, Mr. President, that under those circumstances the United States would become the pariah of the international arms control community and the reactions of condemnation from around the world would undoubtedly be swift, not unlike what occurred following the French and the Chinese weapons tests earlier this year.

My suggestion to Senator KYL and Senator REID is that this issue be withdrawn and reconsidered at some later date this year or maybe next year, or sometime after that when we will know whether or not the comprehensive test-ban negotiations were successful. While we have learned a great deal about all of these problems, with regard to reliability and safety of our nuclear weapons arsenal, and we have a lot to learn in the future, but there is no justifiable reason to resume testing now or in the foreseeable future. There is, however, a compelling reason to push hard in the final days of the comprehensive test-ban negotiations in Geneva, without having to bother with the uproar that is sure to follow if the Kyl-Reid amendment, regardless of how well intended, would be passed by the U.S. Senate or even considered and defeated under the rules that we have at our disposal in the U.S. Senate.

Mr. President, I urge my colleagues to stay the course and work in a positive way to halt the spread of nuclear weapons around the world. The Comprehensive Test Ban Treaty will do just that. Mr. President, the Kyl-Reid amendment regrettably would work to the contrary. Approval of this amendment by the Senate would be self-defeating and could very well snatch defeat from the jaws of victory, scuttling the Comprehensive Test Ban Treaty at a time 9 days—9 days away from possible success. Such a happening would undermine our own collective security and that of our allies by allowing nonnuclear states to potentially join what has been, up to now, an exclusive group of nations capable of killing millions with the push of a button. Rejection or withdrawal of the Kyl amendment would give us a chance—and I underline the word chance—of success at Geneva. I fear history will not judge this Senate kindly if our actions, whether intended or not, are instrumental in killing the Comprehensive Test Ban Treaty as it is prepared, hopefully, to be enacted and to join other landmark arms control agreements which have brought greater peace to all Americans and all people in the world, as we look not only just at today, but at tomorrow as well.

Mr. President, I urge my colleagues to reject the Kyl-Reid amendment. I will do everything that I can, within the powers that I and others have in the U.S. Senate, to see that this amendment does not prevail. There will be many other speakers who will follow me in opposition to the Kyl-Reid amendment. I emphasize only, again, in closing that, while this amendment may be well-intentioned, it is ill-conceived and the timing could not be worse. Those are the essential elements that the White House and the Secretary of Energy joined me on and, in my conversations with them, asked me to relate along with their strong opposition to this amendment.

I thank the Chair and I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, I ask unanimous consent that Mr. Bob Perret, a congressional fellow in Senator REID's office, be provided privilege of the floor.

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

Mr. KYL. Mr. President, let me simply respond to the argument of the Senator from Nebraska with three quick points. I hope the Senator from Nebraska does not misunderstand what the amendment would do. He said there is no justifiable reason to test now. There is nothing in this amendment that calls for testing now. Nothing whatsoever. It merely continues the existing authority of the President to ask for a test. I have no reason to believe that the President would do so. It has nothing to do with engaging in any tests now.

Second. the Senator from Nebraska said, ''Why bring it up now?'' The answer is very simple: Because the distinguished chairman of the Armed Services Committee said if you have any amendments to the defense authorization bill bring them to the floor now. I am following the request of the distinguished chairman. And on the assumption that the bill is going to be dealt with within the next few days, we need to bring the amendment up now, not later.

But I offer to my colleague from Nebraska this good-faith offer: If the Senator from Nebraska would agree with me that we could vote on this amendment on June 29, the day after the 28th, which is the big date in the Senator's mind, I would be happy to enter into such a UC agreement. We have no reason to have a vote necessarily before or after the 28th. We are simply proposing the amendment at the time it is supposed to be proposed.

So if the Senator will agree to a unanimous-consent request to vote on the 29th, I would be delighted to enter into such an agreement with him.

The third point is that nowhere in the Senator's speech about how the timing could not be worse because it comes only 9 days before the 28th of June, which is the self-imposed deadline for the parties negotiating the CTBT to reach an agreement, nowhere in his discussion was any suggestion as to why this would somehow disrupt the agreement, why anybody would consider this relevant in the least, why they would object to it.

I understand that they have this self-imposed deadline to reach an agreement by the 28th. What we are doing here is absolutely irrelevant to that; it has no bearing on it. I cannot imagine somebody standing up and saying, ''Well, U.S. Negotiator, we can agree with you on the CTBT, but the U.S. Senate just considered this amendment

that allows the President to continue to test up to the time we have a CTBT.''

Every other country in the world has that right. I suspect the United States would be the only country in the world that as of September 30 will not have that right by law, because that is when the President's authority expires. Other countries that we are negotiating with can test right up to the time there is a CTBT. Why is that not disruptive?

There is no logic to the Senator's argument: ''We're going to have 9 more days to negotiate, so your amendment shouldn't be voted on.'' What is the connection? Why should anybody object to our amendment being voted on in these negotiations? Our amendment has absolutely nothing to do with this CTBT. It, by definition, only deals with the period of time up to the CTBT.

If we put the chart back up again, I will try to make it crystal clear. Graphic: The law allowing the President to test expires September 30. Up until the time that there is a CTBT, he would not be able to test for stockpile safety and reliability. We simply extend his ability to do so. That is all. How can anybody in the CTBT negotiations object to that? All of the other states will already have that right.

So, Mr. President, I heard the Senator from Nebraska, but I do not understand the logic of the argument.

Two final quick points. We are going to have to change the law at some time, because when we enter into a CTBT, if we do, we are going to have to legislatively give the President the authority to test in the supreme national interest, as the President said he would need the authority to do, and I quoted the President's safeguard section (f) in that regard.

So if this law expires on September 30, that is not the end of it. We are going to have to legislate.

Second, I note that the administration itself has said that until three different countries—I think two of them were Pakistan and India—agreed to sign up that we are not going to be entering into a CTBT. I am just not at all sure this magic date of the 28th is all of that magic. It may well be we are not able to reach an agreement by that self-imposed deadline.

But it does not matter, because all my amendment does is to allow the President the authority he has today, subject to Congress saying, ''No, you can't test,'' allow him to call for a test up until the time the CTBT goes into effect. It has no effect whatsoever on the CTBT. It does not affect it in the least. Granted, the 28th date is out there, but I do not know what relevance that is as to what we are doing here today.

I did want to clear those up since the Senator had raised the question of our motives in bringing it up at this time. I know Senator REID and I both want to make it crystal clear—that was the point in my seeking recognition a moment ago—to assure the Senator from my home State of Nebraska that our motive was to simply comply with the distinguished chairman of the Armed Services Committee to get any amendment we had to this bill presented before the bill was taken from the floor.

That is why we brought it up today. We could have easily brought it up tomorrow or the next day. I think we are happy to agree to any unanimous consent request that the Senator would be agreeable to enter into to have a vote after the date of the 28th, if there is a concern doing it before then would be disruptive in Geneva.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I listened with great interest to my colleague from the State of Arizona. I will simply say to him that everything that I had just said in my statement in this regard is totally accurate, to the best of my knowledge.

With regard to his counterarguments that this is going to help the President of the United States, the President of the United States says he does not need help. ''Thanks, but no thanks.''

The President of the United States is simply saying that the timing of this amendment is so outlandish, regardless of how well-intentioned it might be, that it has the chance of doing a great deal of harm and little, if any, enhanced possibilities of success at Geneva.

I will certainly say to my friend from Arizona that I am very willing to try and work with him in the future when the time might or might not be right to do some of the things that he says his amendment is designed to do. But I must tell him that the White House, the negotiators at Geneva, most if not all of the experts in this area that I know of and have worked with over the years, feel that his is an especially ill-timed amendment, notwithstanding his intentions.

I, therefore, simply say to him that I am not in a position at this time to agree to any time certain for a time limit or a time certain for a vote on this matter on the defense authorization bill that is before us, and certainly it is not possible for me to make any commitments at this time as to some date certain in the future as to when I might agree to allow that to happen, other than to say I think the Senator from Arizona knows that this Senator is totally approachable, intends to be reasonable, and understands the other person's point of view.

I try very hard to walk in another's shoes, see both sides of the debate. I will not walk in the shoes of those that are trying to push ahead on this amendment that this Senator feels, and other Senators like me on both sides of the aisle feel, that this amendment at this time is a disaster from the standpoint of trying to reach a comprehensive test ban treaty at Geneva that I think is essential for the future of mankind. Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent that the current amendment and the pending committee amendments be laid aside.

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

AMENDMENT NO. 4052

(Purpose: To express the sense of the Senate regarding the reopening of Pennsylvania Avenue)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. Grams], for himself and Mr. ROBB, proposes amendment numbered 4052.

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

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

The amendment is as follows:

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

SEC. . SENSE OF THE SENATE.

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

(1) In 1791, President George Washington commissioned Pierre Charles L'Enfant to draft a blueprint for America's new capital city; they envisioned Pennsylvania Avenue as a bold, ceremonial boulevard physically linking the U.S. Capitol building and the White House, and symbolically the Legislative and Executive branches of government.

(2) An integral element of the District of Columbia, Pennsylvania Avenue stood for 195 years as a vital, working, unbroken roadway, elevating it into a place of national importance as ''America's Main Street''.

(3) 1600 Pennsylvania Avenue, the White House, has become America's most recognized address and a primary destination of visitors to the Nation's Capital; ''the People's House'' is host to 5,000 tourists daily, and 15,000,000 annually.

(4) As home to the President, and given its prominent location on Pennsylvania Avenue and its proximity to the People, the White House has become a powerful symbol of freedom, openness, and an individual's access to their government.

(5) On May 20, 1995, citing possible security risks from vehicles transporting terrorist bombs, President Clinton ordered the Secret Service, in conjunction with the Department of the Treasury, to close Pennsylvania Avenue to vehicular traffic for two blocks in front of the White House.

(6) While the security of the President and visitors to the White House is of grave concern and is not to be taken lightly, the need to assure the President's safety must be balanced with the expectation of freedom inherent in a democracy; the present situation is tilted too heavily toward security at freedom's expense.

(7) By impeding access and imposing undue hardships upon tourists, residents of the District, commuters, and local business owners and their customers, the closure of Pennsylvania Avenue, undertaken without the counsel of the government of the District of Columbia, has replaced the former openness

of the area surrounding the White House with barricades, additional security checkpoints, and an atmosphere of fear and distrust.

(8) In the year following the closure of Pennsylvania Avenue, the taxpayers have borne a significant burden for additional security measures along the Avenue near the White House.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President should direct the Department of the Treasury and the Secret Service to work with the Government of the District of Columbia to develop a plan for the permanent reopening to vehicular traffic of Pennsylvania Avenue in front of the White House in order to restore the Avenue to its original state and return it to the people.

Mr. GRAMS. Mr. President, the legislation we debate today sets out the broad defense policy for the Nation. It affords us an opportunity to outline our defense priorities, and the opportunity to reflect on what role this Nation is to play in the defense of freedom worldwide.

What I have come to the floor to address today is the defense of freedom within our own borders, indeed, right here in the heart of our Nation's Capital. I rise, along with Senator ROBB, my colleague from Virginia, to offer an amendment seeking the reopening of Pennsylvania Avenue in front of the White House. Mr. President, the two-block section of Pennsylvania Avenue fronting the White House was closed to vehicular traffic on May 20, 1995, by order of the President.

I have been to the floor several times in the year since to voice my concerns that the loss of this historic roadway—which travels across one of the busiest sections of one of the busiest cities in the world—has had a devastating impact on the District of Columbia. I have talked about the damage the closing has done to Washington's business community. There are well-founded concerns that it is scaring off new jobs and prompting potential retail and commercial tenants to stay away from the downtown area. I have discussed the hardships caused by the closing for District residents, and anyone whose paycheck depends on access to the avenue, people like cab drivers and tour bus operators.

I have outlined the numerous problems the closing has created for the District itself, which had one of its major crosstown arteries unilaterally severed by the Federal Government without any consultation. At a time when this troubled city could least afford another blow, this has hit especially hard. I have discussed the inconvenience for the 15 million tourists who come to Washington each year, especially the elderly and disabled, many of whom are being deprived of a close look at the White House.

And I have talked about the cost for the taxpayers, which has already reached into the millions of dollars, and, if the National Park Service prevails, could rise by at least $40 million more.

Mr. President, I have raised each of those aspects of the closing because each is important. But there is another side to this issue that is easy to overlook amid all the other more obvious problems: the question of what the closing of Pennsylvania Avenue says to the American people, and what we give up as a free society when we give in to fear.

Generations of visitors to Washington would hardly recognize the stretch of Pennsylvania Avenue that has stood for nearly 200 years as America's Main Street. Today, it is a vacant lot, empty of any traffic. Gone is the thrill for visitors of driving by the White House for the first time—the concrete barricades have put an end to that.

Gone, too, is the sense of openness that inspired Americans to feel close to the Presidency and close to their Government when they visited the Executive Mansion. And 1600 Pennsylvania Avenue has become a Federal fortress, and the effect is unnerving.

In a city that boasts of such inspiring symbols of freedom as the marble of the Lincoln Memorial, the columns and porticos of the White House, the massive stones that lift the Washington Monument into the sky, and the great dome of the U.S. Capitol itself, the gray, concrete barricades of Pennsylvania Avenue are a national embarrassment.

How do we explain the blockades to our visitors, whose first glimpse of the home of their President is marred by the sight of a White House seemingly under siege? What do we say when those visitors are children, who have been taught how this Nation has fought for freedom and values it above all else, and yet find a different message along the now-empty stretch of Pennsylvania Avenue?

Mr. President, I must make this clear: in each conversation I have had about the future of Pennsylvania Avenue, everyone has been emphatic that the safety of the President must be our primary concern. So it is—without question. And because the need to ensure the safety and security of the President of the United States is paramount, there was little argument when Pennsylvania Avenue was closed in the weeks immediately following the bombing of the Federal building in Oklahoma City. At the insistence of the Secret Service, temporary restrictions on Pennsylvania Avenue seemed prudent, and because it was a temporary move, people went along.

But months passed, and then a year, and now, the National Park Service is moving ahead with plans to forever close ''America's Main Street'' to traffic in front of the White House. Because they are thorough and efficient and utterly dedicated to protecting the President, the Secret Service can't be blamed for pushing for the closing of Pennsylvania Avenue. They have been trying for 30 years to shut it down, beginning with the Kennedy administration and every President since. They have long seen Pennsylvania Avenue as a threat, and used Oklahoma City as the justification to move ahead with a plan they have been eager to put in place for more than three decades. If the Secret Service had its way, we would build a protective bubble around the President from which he'd never emerge. But that is not what being President is all about, especially when you are an outgoing, gregarious leader like President Clinton, who exposes himself to danger a thousand times a day inside and outside Washington, because he thrives on the public contact that comes with being President. Keep this President away from the people? Well, you would have better luck keeping Cal Ripkin away from the ballpark. And that is the way it should be. That is what people need their President to be. We cannot eliminate every risk, Mr. President, because that is the nature of a democracy. When we resort to the temptation to try, we start down a slippery slope. Turning these two blocks of Pennsylvania Avenue into a $40 million park will not hide the fact that we're wrapping the White House in another layer of protection and further insulating our leaders from the public.

Mr. President, an entire year has come and gone since the closure of Pennsylvania Avenue, and the circumstances have changed with time. A decision that seemed prudent a year ago now demands to be reexamined, and the sense-of-the-Senate amendment I introduce today offers us that opportunity. It simply calls on the President to direct the Secret Service—working alongside the Treasury Department and the District government—to develop a plan for the permanent reopening of Pennsylvania Avenue in front of the White House. It puts this Senate on record as saying we are not a nation that cowers to terrorists. My amendment—based on Senate Resolution 254, which 46 of my Senate colleagues agreed to cosponsor when I introduced it as stand-alone legislation last month—enjoys widespread, bipartisan support here on Capitol Hill, throughout the District of Columbia, and among the American people themselves. I am proud to have Senator ROBB join me as an original cosponsor. Many of his constituents deal every day with the closure of Pennsylvania Avenue. I am grateful our efforts have the added support of Congressmen DAVIS and MORAN and Congresswoman NORTON in the House, along with Senator LEAHY, as well, here in the Senate, and that we have been joined by Mayor Barry, the D.C. Council, and more than two dozen of this city's most influential business, civic, and historic organizations.

Mr. President, I ask unanimous consent that this list of supporters, the original cosponsors of Senate Resolution 254, and a resolution of support passed by the D.C. Council be printed in the RECORD.

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

WE SUPPORT THE SENATE RESOLUTION CALLING FOR THE REOPENING OF PENNSYLVANIA AVENUE IN FRONT OF THE WHITE HOUSE

District of Columbia Mayor Marion Barry.
DC Council Chairman David A. Clarke.
DC Councilmember Frank Smith.
DC Councilmember Jack Evans.
DC Councilmember Charlene Drew Jarvis.
AAA Potomac.
American Bus Association.
Apartment and Office Building Association of Metropolitan Washington, Inc.
Association of Oldest Inhabitants of DC.
Chamber of Commerce of the United States.
Citizens Against Government Waste.
Citizens Planning Coalition.
Committee of 100 on the Federal City.
DC Chamber of Commerce.
District of Columbia Building Industry Association.
District of Columbia Preservation League.
DuPont Circle Advisory Neighborhood Commission 2B.
Federation of Citizens Association.
Frontiers of Freedom.
Georgetown Kiwanis Club.
Greater Washington Board of Trade.
Hotel Association of Washington DC.
Interactive Downtown Task Force.
International Downtown Association.
Arthur Cotton Moore Associates.
National Capital Area Chapter of the American Planning Association.
Restaurant Association of Metropolitan Washington.
Washington Cab Association.
Washington DC Historical Society.

S. RES. 254

REOPENING PENNSYLVANIA AVENUE TO THE PEOPLE

Current cosponsors of S. Res. 254, which calls for the President to order the Secret Service to develop a plan for the permanent reopening of Pennsylvania Avenue to vehicular traffic in front of the White House:

Spence Abraham, John Ashcroft, Bob Bennett, Hank Brown, Richard Bryan, Conrad Burns, Ben Nighthorse Campbell, John Chafee, Dan Coats, Bill Cohen, Paul Coverdell, Larry Craig.

Al D'Amato, Pete Domenici, Lauch Faircloth, Bill Frist, Chuck Grassley, Judd Gregg, Orrin Hatch, Mark Hatfield, Jesse Helms, Jim Inhofe, Jim Jeffords, J. Bennett Johnston.

Nancy Kassebaum, Jon Kyl, Patrick Leahy, Dick Lugar, Connie Mack, John McCain, Mitch McConnell, Barbara Mikulski, Frank Murkowski, Don Nickles, Larry Pressler, Chuck Robb.

Bill Roth, Rick Santorum, Richard Shelby, Al Simpson, Bob Smith, Arlen Specter, Ted Stevens, Craig Thomas, Fred Thompson, Strom Thurmond.

RESOLUTION 11–382 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Resolved, by the Council of the District of Columbia, That this resolution may be cited as the ''Sense of the Council Pennsylvania Avenue Reopening Emergency Resolution of 1996''.

SEC. 2. The Council finds that:

(1) One year ago the United States Department of the Treasury closed Pennsylvania Avenue in front of the White House, the national symbol of an open democracy.

(2) The National Park Service has submitted a proposal to permanently close that portion of Pennsylvania Avenue, leaving the downtown disfigured and dysfunctional.

(3) Pennsylvania Avenue is the major east-west artery in the District of Columbia.

(4) The temporary closure of Pennsylvania Avenue has seriously affected the ability of District residents to navigate city streets and has greatly disrupted traffic patterns, commerce, and tourism.

(5) The permanent closure of Pennsylvania Avenue will exacerbate the serious financial and traffic problems that have been created by the temporary closure.

(6) Pennsylvania Avenue is not a park.

(7) The concern for heightened security is understandable. Nevertheless, with the technological capability of the United States, another solution can be found to address security interests without permanently damaging the District of Columbia.

(8) In this time of fiscal austerity at the local and national levels, it is neither desirable nor justifiable to spend the amounts proposed to permanently alter Pennsylvania Avenue.

(9) The proposal submitted by the National Park Service does not address the impact the closure will have on the residents and businesses of the District of Columbia.

(10) The future of Pennsylvania Avenue should be decided with the cooperation and approved of the elected officials and citizens of the District of Columbia.

SEC. 3. It is the sense of the Council that the United States Congress enact legislation requiring the reopening of Pennsylvania Avenue.

SEC. 4. The Secretary of the Council of the District of Columbia shall transmit copies of this resolution upon its adoption to the President of the United States, the Mayor of the District of Columbia, the District of Columbia Delegate to the United States Congress, the chairpersons of the committees of the United States Congress with oversight and budgetary jurisdiction over the District of Columbia, the Chair of the District of Columbia Financial Responsibility and Management Assistance Authority, the Secretary of the United States Department of the Treasury, the Secretary of the United States General Services Administration, the Secretary of the United States Department of Transportation, the Secretary of the United States Department of the Interior, the Chairman of the National Capital Planning Commission, the City of Administrator, the Assistant City Administrator for Economic Development, the Director of the District of Columbia Department of Public Works, and the Director of the District of Columbia Office of Planning.

SEC. 5. This resolution shall take effect immediately.

Mr. GRAMS. Mr. President, we have come together—Republicans and Democrats, without regard to party affiliation and without any political agenda—to ask the President to reverse a decision that has had widespread, unintended consequences. In the Capital City of a nation built ''of the people, by the people, and for the people,'' there is no room for fear, roadblocks, or barricades.

The American people agree, and I am heartened by their support. By mail and through the Internet, hundreds of them have urged me to continue this campaign to restore Pennsylvania Avenue to its historic use. I wish I could share each of their messages with you. I want to tell you, though, I have heard from military experts who tell me the present closure would do nothing to blunt a terrorist attack, former—even current—White House employees who are ashamed of what Pennsylvania Avenue has become, long-time residents and more recent transplants to the District, and Americans from every corner of the country. They have said it many different ways, but their message is the same and that is: give us back Pennsylvania Avenue.

This month, two former residents of 1600 Pennsylvania Avenue joined in the national discussion by speaking out against the closing. President Gerald Ford said, quote, ''There ought to be a better solution.'' President Jimmy Carter labeled it, quote, ''unnecessary and a mistake.''

There is one letter I keep coming back to, a letter that sums up more eloquently than any other the closing of Pennsylvania Avenue because it was written by a man who lived alongside the fear of terrorism for 444 days, yet still refuses to bow to it.

He urged me to continue my efforts, and sent me a copy of a letter he had printed in the Washington Post just days after the avenue's closure. It reads: ''By closing Pennsylvania Avenue, we have succumbed to the atmosphere of fear that terrorists—domestic and foreign—seek to foster among us.''

If there is any American who should fear the power of a terrorist, it is Minnesota native Bruce Laingen, the senior diplomat among the U.S. Embassy employees held hostage in Tehran beginning in 1979. If Bruce Laingen is not willing to give in to terrorism, then neither should we.

Mr. President, through almost 200 years of this Nation's colorful history, Pennsylvania Avenue survived, through assassinations, civil and world wars, political unrest, and events that have often led us to question what it means to live in a free society where risks are an inescapable part of our everyday life.

The transformation of Pennsylvania Avenue from a national symbol of freedom into a testament to terrorism is something average Americans tell me they cannot understand. It is time to reopen Pennsylvania Avenue, for our visitors, our business community, our commuters, our residents—for every American who celebrates freedom and will defend it at all costs. Kings live in castles, protected by moats. Dictators hide themselves away in the safety of bunkers. Presidents live alongside busy streets like Pennsylvania Avenue, close to the people who give them their strength.

I ask my colleagues to support the Pennsylvania Avenue amendment.

Mr. THURMOND. Mr. President, I rise to support the sense-of-the-Senate resolution offered by the distinguished Senator from Minnesota, Senator GRAMS. Judging from the number of cosponsors, this resolution has broad bipartisan support.

I would also like to associate myself with the Senator's remarks, particularly with his point that the White House has become a powerful symbol of freedom, openness, and citizens' access to their Government. This resolution informs the President that the Senate

believes the Department of the Treasury and the Secret Service should develop a plan to reopen Pennsylvania Avenue. I commend the Senator for his leadership in this matter.

Mr. GRAMS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. COATS. Mr. President, I am tempted to move the question here because the Senator has presented his amendment, and he has presented his argument. There is no one on the floor to either argue against the Senator's amendment, to speak for the Senator's amendment, or to offer an amendment to the bill that we are debating.

Here it is now 12:30 p.m., and we are in this typical nothing-happens-during-daylight hours in the U.S. Senate. We have an important bill on the floor. We have amendments that we are aware of, but no one is here to offer those amendments.

I am not going to move for adoption of this amendment by voice vote yet, in deference to those that may want to speak against it or for the Senator's interest in getting a rollcall vote, but the bill before the Senate, the defense authorization bill for fiscal year 1997, is not being debated. The Senate is wasting a lot of time. Once again, we will find ourselves here late into the evening doing work that we ought to be doing during the day.

I urge colleagues who have an interest in this bill, who have amendments that they wish to offer to this bill, to notify the managers of their interest so that we can structure some time for them to do this. Without that, we are going to, at some point, come to the conclusion that no one is interested in amending the bill as it is presented, other than the amendment, the two amendments that are currently up, and we will have to move to some disposition.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMS. 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. GRAMS. Mr. President, I ask for the yeas and nays on my amendment I offered earlier, amendment No. 4052.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, if I could direct a question to Senator GRAMS, who offered the pending sense-of-the-Senate resolution. It is my understanding—and I have not been on the floor—that this would be a sense-of-the-Senate resolution that would indicate that Pennsylvania Avenue should be reopened; is that true?

Mr. GRAMS. That is correct.

Mr. REID. Mr. President, I believe that we should proceed with caution on something as serious as this. I know my friend from Minnesota has probably been inconvenienced, as has this Senator. I have had to change one of my routes to my residence in Washington as a result of the closure of Pennsylvania Avenue. It has been inconvenient for me. I went to a meeting at the White House yesterday, however, and pulled into Pennsylvania Avenue and the guards were there. I was very impressed as to what was going on on Pennsylvania Avenue, the part of it that has been closed. Vehicular traffic is stopped, but foot traffic is heavier than ever. In fact, out in front of the White House on Pennsylvania Avenue, they had a street hockey game going on—in fact, several of them.

Now, every one of us here on the Senate floor, Members of the Senate, have access to what goes on in the Intelligence Committee. I think it would be constructive for every Member of the Senate to have a briefing on why Pennsylvania Avenue was closed. When I came here 14 years ago, all these entrances coming into the Capitol complex were open—those that now have these big cement flower pillars there. They were open when I came here. You could come in and out at your leisure. There was no security of any consequence on those routes.

The first year that I was in the House of Representatives the Nevada State Society had a meeting over here in the Rayburn Room. And it ended sometime in the evening at 8 o'clock or so. Shortly after the Nevada people left that room there was a huge explosion that took place that did damage in here and did tremendous damage in the Rayburn Room, and all out through there.

The security slowly but surely has tightened up, and it has not been done just as a whim of the Capitol Police. They are short handed like everyone else. They have had to beef up their security in an effort to make the Capitol complex safer—safer for the Senators and Congressmen but also for the millions of people who visit this building and the office buildings surrounding the Capitol complex.

I think it would be bad policy for the U.S. Senate to start handling security for the White House. I think it would be bad public policy for the U.S. Senate to start handling security of the Capitol complex, especially without congressional hearings.

Simply to walk in here and say, ''In 1791, George Washington commissioned L'Enfant to draft a blueprint for America's new Capital City; they envisioned Pennsylvania Avenue as a bold, ceremonial boulevard physically linking the U.S. Capitol Building and the White House, and symbolically the legislative and executive branches of Government.''

In over 200 years things have changed. There were no automobiles, of course, then.

The Senate resolution goes on to say:

> An integral element of the District of Columbia, Pennsylvania Avenue stood for 195 years as a vital, working, unbroken roadway, elevating it into a place of national importance as America's Main Street.

No one would dispute that.

> 1600 Pennsylvania Avenue, the White House, has become America's most recognized address and a primary destination of visitors to the Nations Capital; the People's House is host to 5,000 tourists daily, and 1,500,000 annually.

It would be more than that. As we all know, they are limited to a small facility to the numbers of people that can go there. Those people we want to be safe also.

> As home to the President, and given its prominent location on Pennsylvania Avenue and its proximity to the people, the White House has become a powerful symbol of freedom, openness, and an individual's access to their Government.
>
> On May 20, 1995, citing possible security risks from vehicles transporting terrorists bombs, President Clinton ordered the Secret Service, in conjunction with the Department of the Treasury, to close Pennsylvania Avenue to vehicular traffic for two blocks in front of the White House.
>
> While the security of the President and visitors to the White House is of grave concern and is not to be taken lightly, the need to assure the President's safety must be balanced with the expectation of freedom inherent in a democracy; the present situation is tilted too heavily toward security at freedom's expense.

Mr. President, I think that we are really lurching into an area here that deserves a little caution. A year ago the Secretary of the Treasury, Robert Rubin, directed the Secret Service to close a segment of Pennsylvania Avenue—it is not all closed—to vehicular traffic following the conclusion of the White House security review. The review of security to the White House is the most extensive ever conducted. Pennsylvania Avenue remains accessible to visitors, and the area will be converted to a pedestrian park, which I think people coming to visit Washington will certainly be well served by rather than the traffic jams we have had there since I can remember.

This sense-of-the-Senate resolution says:

> It is the sense of the Senate that the President should direct the Department of the Treasury and the Secret Service to work with the Government of the District of Columbia to develop a plan for the permanent reopening to vehicular traffic of Pennsylvania Avenue in front of the White House in order to restore the Avenue to its original state and return it to the people.

I say with as much respect as I can that this is not a good sense-of-the-Senate resolution. I think it should be defeated. I do not think it prudent national security policy that, absent hearings, we take this measure up on the floor of the Senate. This resolution

has no business in the Defense authorization bill. There have been no hearings held on this. There are committees with jurisdiction to handle matters dealing with intelligence.

I personally feel for my Government that it is better that it be closed. I have not heard a single person from the State of Nevada—and a lot of them come back here—complain because that area has been blocked off. I have heard people who complain it is harder to get home now. There is no question that it is. The Secretary of the Treasury has the legal authority to restrict vehicular traffic on Pennsylvania Avenue. As long as he, the Secretary of the Treasury, and the head of the Secret Service continue to determine that as a factual matter—doing so is necessary to protect the President—I am going to go along with that.

Based on information from the Secret Service, the closure is necessary to protect the President and all those who work at and visit the White House every day. The Department of Treasury remains committed to that decision. This, Mr. President, is not a decision to protect President Clinton. It is a decision to protect the President of the United States and those thousands of people that work in, and have contact with, the White House on a daily basis.

Closure was necessary because the White House security review was not able to identify any alternative to prohibiting vehicular traffic on Pennsylvania Avenue that would ensure the protection of the President and others in the White House complex from explosive devices carried in vehicles near the perimeter.

Mr. President, an explosive device in the trunk of a car out on Pennsylvania Avenue would do significant damage to the White House, its property, and the people in the White House.

The Secretary of Treasury's review recommended a number of things, and his recommendations were not done alone. They were not done by him alone. He made the final decision. But the review recommendations were fully endorsed by an independent, bipartisan advisory group which included former Secretary of Transportation William Coleman and the former Director of the CIA and the FBI, Judge William Webster. The review consulted with numerous experts on public access, architecture, and the history of the White House. He stated that a pedestrian park had numerous advantages other than security.

Someone coming from the State of Nevada to look at the White House would certainly be more impressed with an open park atmosphere rather than honking cabs back-to-back with smoke puffing out of the cars. A pedestrian mall concept is consistent with President Washington's vision for the White House similar in identity, and which Mrs. Kennedy endorsed more than a generation a ago.

At President Clinton's direction, the Department of Interior's National Park Service has been working with a preexisting committee on a comprehensive design plan for the White House; a design for a pedestrian park.

On Wednesday, May 22 of this year, the Director of the National Park Service was in the process of announcing the design plan for Pennsylvania Avenue and, Mr. President, we are confident that when this plan is completed the area will be much more inviting than it was when that area was not blocked off. It will be an important public space. We would look back with derision to an amendment like this to create and maintain a roadway for vehicular traffic through the front of the White House.

The Department of Transportation's Federal Highway Administration is continuing its work with the District of Columbia Department of Public Works on short- and long-term traffic plans to alleviate traffic problems for the area.

Although closing Pennsylvania Avenue has had an impact on traffic, it has not had a negative impact on the public's access to the White House. People who were driving in front of the White House with rare exception were people who were not coming to see the White House. They were there because they were doing business in and about that area.

It has not prevented public access to the White House. Tours have continued. They have continued uninterrupted. Visitors can now enjoy walking, as I indicated, rollerblading, participating in street hockey, and other games out in front of the White House, and they are biking down Pennsylvania Avenue without the noise and danger of passing motorists. The White House, Mr. President, does remain the people's house.

Mr. President, I hope that we would not have to vote on this sense-of-the-Senate resolution. I think that we are really stepping out of where we are supposed to be by trying to micromanage security at the White House. With all the problems we have had in this country and around the world, with leaders being assassinated, bombs being placed in cars, I just think that this is the wrong way to go, and I certainly hope that this sense-of-the-Senate resolution would not have to be voted on, and if we do I hope that we would not pass it. I think it should be defeated.

Mr. President, I feel that there are a lot of things we should be talking about on this defense bill but one of them is not how to micromanage security at the White House. Should we pass a sense-of-the-Senate resolution overriding what the Capitol Police do around the Capitol complex? Should we amend this sense-of-the-Senate resolution—I ask in the form of a question to my friend from Minnesota, would the Senator be willing to modify his amendment to provide for the opening of all the streets around the Senate Office Buildings and the Capitol?

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, at the hour of 1 p.m., the majority leader was to be recognized.

Mr. REID. I certainly cannot interfere with a unanimous-consent request that has previously been entered, but I hope that I would not lose the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, if the Senator will yield at this time, we did have a commitment to notify the Members of the progress that was being made at 1 o'clock and get a unanimous-consent agreement as to how we would continue to proceed. And then, of course, we would go right back to where the Senator is, and we would have an opportunity to work together on that, so I will be very brief.

Mr. President, for the information of all Senators, the Democratic leader and I have just concluded another meeting to further discuss the possibility of an agreement with regard to the minimum wage and the small business tax package. Both leaders will now be contacting various Members to continue to clear the agreement, and I thank all Members at this time for their cooperation. I hope to be able to resolve this matter by the close of business today. We are being very careful because we want to make sure all Members know exactly what is involved, and before we agree to any further step we both go back to our Members to discuss it with them further. In the meantime, I urge Members who have amendments to the DOD authorization bill to come to the floor and be willing to accept reasonable time agreements with respect to their amendments.

I ask unanimous consent now that no minimum wage amendment or legislation be in order for the remainder of today's session.

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

Mr. KENNEDY. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. We want to certainly cooperate with the majority leader and our minority leader as well on the issue of the minimum wage and to try to work out an adequate procedure by which the Senate will have an opportunity to address this issue. I had understood at a previous time that that negotiation had been in process and that they in effect were in agreement with the exception of the notification on the particular language that was going to be offered, one by the Republicans, one by the Democrats, on the minimum wage, and then one by Republicans and Democrats on the various tax provisions; and that there would be then a conclusion of the results on it and we would go to the conference.

That was I thought pretty well understood or announced on Sunday. I heard my friend and colleague from

Mississippi talking on a national program about the desire to work that out. It is Wednesday now at 1 o'clock.

The way it had been initially outlined seemed to me to be a way that made the most sense in proceeding, to try to do the defense authorization and then to move off the dime.

Could the Senator give us some idea as to where these negotiations are, because I think I am one of many who believe that we have been back and forth on this issue of the minimum wage for some period of time. It does not seem to be an enormously complicated question to try to work out and a process and procedure which should be satisfactory to the majority and the minority. But I am wondering if he could give us some idea about where we are at this time. We are all being asked about this by the press. I think the public ought to have at least some understanding. I know that the leaders have to work these measures through in terms of a variety of considerations, but I should like to inquire as to where we are because we are giving up the opportunity to address this. We are only in 1 more week prior to the Fourth of July recess and, as the Senator knows, one of the factors of the Fourth of July was that was to be the time when the minimum wage was supposedly increased. That was to be the triggering year for the increase of the 40 cents. So it is of interest, I imagine, to millions of Americans who wonder whether we are going to do this before the Fourth and to try and get some action so that they might be able to participate in an increase or whether they are not and what the circumstances are about it.

Mr. LOTT. Mr. President, if I could respond——

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. To the comments of the distinguished Senator from Massachusetts, I want to emphasize that this involves a lot more than the minimum wage. It does involve a package of small business tax amendments that could be very helpful to small businesses in America, where most of the jobs are created in America anyway, or the majority of them and particularly where most of the entry-level people are working. And so that is a part of this package. The gas tax issue, whereby there would be a repeal of the 4.3-cent-a-gallon gas tax, has been involved in all of this. The issue of the taxpayer bill of rights is involved, as well as the TEAM issue which had been offered earlier, so that we could have cooperation between employees and employers.

As our colleagues know, this issue took on more and more issues as it languished for 1 month or 6 weeks and every time it came up there was another angle to it. So that is point No. 1. Second, I think we were very close to having an agreement between Senator DASCHLE and myself last night, or late yesterday afternoon, one that was not universally appealing on our side of the aisle or on the other side of the aisle, but then I believe Senator DASCHLE found there were some concerns on your side of the aisle with what we were trying to get an agreement on.

We have met subsequently, and we have discussed other ways that maybe that can be dealt with. But we are being extra careful because we want to develop a relationship that is one of trust and respect. We are making sure that when we talk about something, I understand what he is saying and he understands what I am saying. We are trying to reduce it to writing with our staff working on both sides. We have just come through a meeting which I pointed out in which we came up with some suggestions as to how amendments, for instance, on gas tax provisions, would be allowed, how many, because there are some Senators on that side who want to have more than one and there are some Senators on our side who would like to have more than one on the small business tax provision. I am sorry; I misspoke myself—on the small business portion of it. So, we are being extra careful to make sure that we understand each other and that colleagues on both sides can live with it. But what we are trying to do is to deal with this matter in absolutely a fair way, an open way, so that we can deal with other business that is very important for our country—Department of Defense authorization, campaign finance reform next Monday, we have the Federal Reserve Board nominees. We are going to vote on those Thursday.

So this Gordian knot that has been tied up here, we are trying to take it one string at a time, and we are making progress. But we ask—I ask our colleagues here, give us a little more time. We are working in good faith and we are very close to something, I think, that would be fair, understandable, and we could all agree with. I think we are going to try very hard to have that done by the close of this session.

Mr. KENNEDY. Just further reserving the right to object, just to make a brief comment, Mr. President, I am unpersuaded by the Senator's position that this is a Gordian knot and that it has been languishing here. The reason it has been languishing is those who for over a year and a half have denied this body the opportunity to vote when we have been able to demonstrate in previous votes a majority of the body will vote for an increase in the minimum wage.

I reject, also, the suggestion that it is our side of the aisle that has somehow complicated these negotiations. I have privity to those, and when the Senator talked about what was going to happen or not happen with regards to the TEAM Act on Sunday and said that was not going to be called up this year and then had a change of mind, trying to add other things to these negotiations which had been tentatively agreed to, it was not this side of the aisle that was complicating the negotiations. It was his side of the aisle.

Now, the American people are enormously interested in these provisions on small business. As I understand it, it is 12 or 13 billion dollars' worth. They are interested, the taxpayers, in the gas tax; I am sure in the TEAM Act. But I think it is a very simple issue. We are asking an up-or-down vote on minimum wage, which we have historically voted on seven different times at other times in our history. That is something we are being denied, even though the time has been moving on and the triggering time for the increase in the minimum wage is July 4.

So, I must say to my friend and colleague, I will not object at this time. But I, quite frankly, am enormously troubled by the failure to make it very clear whether we are going to have the opportunity to vote on this measure in a way the Members can know when it will be called up and to vote on it, and just have this continuously dragged through. We have a right to offer this on different measures. The reason that we do is because we are denied the opportunity to vote on it as a separate bill. As long as the majority refuses to give us that opportunity to vote on a separate bill, then we are going to be required to use any particular device.

I do not object at this time, but I certainly hope we would conclude these negotiations through the afternoon and all Members will have a chance to look at what is actually going to be proposed on a unanimous consent. Because otherwise this minimum wage is going to be right on the defense authorization before this week ends.

Mr. LOTT. Mr. President, I renew my request for the unanimous consent.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. LOTT. If I could just claim some leader time, perhaps, to comment further on that. First of all, I might just say that in the proposal we have, the Senator will have an opportunity to have a clear vote on his amendment the way he wants to do it. So the opportunity is there. I think it is only fair that we have an opportunity to have our version of that issue.

As far as the time that you have been delayed, you had 2 years when you were in the majority when you did not offer a minimum wage increase. To now say you are being blocked from that, I just wonder why you did not offer it in those earlier 2 years. But having said that——

Mr. KENNEDY. Do you want an answer?

Mr. LOTT. We are trying to find a way to get the job done, and I am working at that diligently.

I want to say this. As far as the TEAM Act, saying I was not going to call it up this year, I did not say that. I said we were trying to work up an agreement that would not have the TEAM Act in as a part of the minimum wage and small business tax relief.

That is the direction we are working in. But I did not mean to imply and I did not say we were not going to call it up this year. That is an issue a lot of people feel very strongly about. The American people, I think, would agree with it. So I want to make that clear.

The other thing I must say, the problem is not on the Democratic side of the aisle alone. We have people over here who do not like this very much either. So there is an equal grumbling about it. But as leaders here, we are trying to find a way to get everybody just unhappy enough that they do not like it but they will not object to it. And we are about to get there. So give us that latitude, and I think we will get an agreement that will work.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID] is recognized.

Mr. REID. Mr. President, I had the floor. I wanted——

Mr. KERRY. Does the Senator from Nevada yield for a question?

Mr. REID. I will be happy to.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. I wanted to ask my colleague how long he might be proceeding and whether he thinks there might be time, since Senator MCCAIN and Senator SMITH are here, for a quick interlude to act on an amendment that has been agreed upon and restore the floor to the Senator from Nevada.

Mr. REID. We should not be long. I have a few questions.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID] is recognized.

AMENDMENT NO. 4052

Mr. REID. The first question I ask my friend from Minnesota is: Would the Senator think it would be appropriate to modify this sense-of-the-Senate resolution to provide for the opening of streets around the Capitol, the House office buildings and Senate office buildings and the arteries in and out of the Capitol?

The PRESIDING OFFICER. The Senator from Minnesota [Mr. GRAMS].

Mr. GRAMS. I wanted to remind the Senator from Nevada, last year I did make that recommendation, talking about removing barriers as well around the Senate office buildings that have been enclosed at the same time as Pennsylvania Avenue, so I would have no objection to so move and make those modifications to this amendment.

Mr. REID. So the Senator from Minnesota feels that the proper way to determine security of the Capitol complex and the White House is on the floor, without congressional hearings of any kind? Any kind of hearings?

Mr. KYL. We do have hearings that are planned for the Government Affairs Committee. The amendment has been cleared with Senator STEVENS and also the chairman of the D.C. Subcommittee, Senator COHEN. Both have assured me that this amendment complements their efforts regarding the reopening of Pennsylvania Avenue, and they plan to hold hearings regarding this.

But I would also remind the Senator from Nevada that there were no hearings, there were no consultations with anybody, when Pennsylvania Avenue was closed because it was an imposed closure, only temporary, and then that has evolved into a permanent closure. Now the only option being offered is to keep it closed. We do not think that is correct either. So we have asked this. Again, I remind the Senator from Nevada, this is only a sense of the Senate to move ahead with this.

Mr. REID. I hope the American public, on this interchange between the distinguished Senator from Minnesota and the Senator from Nevada, would not think this is how we do business all the time; that is, take legislative action and then hold hearings later. It seems to me we should reverse that order, hold the hearings and determine the legislative action necessary.

I also hope there is no one of the opinion that, regarding the security of the President and the visitors who come to the White House, the people who work there, and this Capitol complex, any time the Capitol police or Secret Service want to make a decision, they would have to have congressional approval to do so. Knowing how slowly we have moved on most things around here, there would not be much action taken, especially if it involved the security of the President or people around the Capitol complex.

I ask my friend from Minnesota another question, through the Chair to the distinguished Senator from Minnesota. Would the Senator consider an amendment to the resolution that, after the word ''people,'' which is the last word in the sense-of-the-Senate resolution, we add the words, ''provided that the Secretary of the Treasury and the Secret Service certify that such a plan protects the security of those who live in and work in the White House''?

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I have to apologize to the Senator from Nevada, I could not hear him very well.

Mr. REID. I am sorry. After the word ''people'' there would be a comma or semicolon and we would say ''provided that the Secretary of the Treasury and the Secret Service certify that such a plan protects the security of those who live in and work in the White House.''

Mr. GRAMS. No, I would not accept that as a substitute for the amendment.

Mr. REID. The Senator would not.

Mr. GRAMS. No.

Mr. REID. Can this Senator direct another question to the Senator from Minnesota and ask why?

Mr. GRAMS. Because, again, this is the same situation we are in now. This decision was made arbitrarily by these individuals, and we feel there should have been an open process.

In fact, there are laws on the books, I believe, that say before the Federal Government can permanently close any street in the District of Columbia, it has to have full consultation with the District and open hearings for the public. That was never done as well.

Mr. REID. Mr. President, I hope that the decisions that were made for the President's security, whether that President be a Democrat or Republican, or people who work in the White House, people who visit the White House, people who are elected officials to serve in the Capitol complex, in the House and the Senate, people who work here and visit here, I hope that when there is something involving security as a result of terrorist threats that are picked up through intelligence efforts, that we certainly will not have to go through a congressional review process as to whether or not they could close a road or walkway.

Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment.

Mr. REID. 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. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that this vote be delayed until the hour of 2:15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The vote will be delayed until the hour of 2:15.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN].

Mr. MCCAIN. Mr. President, I see the Senator from Massachusetts is on the floor. I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The vote on the Grams amendment has been postponed until 2:15, so the Senator may offer an amendment.

Mr. KERRY. I thank the Chair.

AMENDMENT NO. 4055

(Purpose: To provide for the Secretary of Defense to make payment to Vietnamese personnel who infiltrated into North Vietnam to perform covert operations as part of OPLAN 34A or its predecessor)

Mr. KERRY. Mr. President, I send an amendment to the desk on behalf of myself, Senator MCCAIN, BOB KERREY, BOB SMITH, LARRY PRESSLER, CHUCK ROBB, TOM DASCHLE, and PAT LEAHY.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. MCCAIN, Mr.

KERREY, Mr. SMITH, Mr. PRESSLER, Mr. ROBB, Mr. DASCHLE, and Mr. LEAHY, proposes an amendment numbered 4055.

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:

At the end of subtitle E of title VI add the following:

SEC. 643. PAYMENT TO VIETNAMESE COMMANDOS CAPTURED AND INTERNED BY NORTH VIETNAM.

(a) PAYMENT AUTHORIZED.—(1) The Secretary of Defense shall make a payment to any person who demonstrates that he or she was captured and incarcerated by the Democratic Republic of Vietnam after having entered into the territory of the Democratic Republic of Vietnam pursuant to operations conducted under OPLAN 34A or its predecessor.

(2) No payment may be made under this Section to any individual who the Secretary of Defense determines, based on the available evidence, served in the Peoples Army of Vietnam or who provided active assistance to the Government of the Democratic Republic of Vietnam during the period 1958 through 1975.

(3) In the case of a decedent who would have been eligible for a payment under this section if the decedent had lived, the payment shall be made to survivors of the decedent in the order in which the survivors are listed, as follows:

(A) To the surviving spouse.

(B) If there is no surviving spouse, to the surviving children (including natural children and adopted children) of the decedent, in equal shares.

(b) AMOUNT PAYABLE.—The amount payable to or with respect to a person under this section is $40,000.

(c) TIME LIMITATIONS.—(1) In order to be eligible for payment under this section, the claimant must file his or her claim with the Secretary of Defense within 18 months of the effective date of the regulations implementing this Section.

(2) Not later than 18 months after the Secretary receives a claim for payment under this section——

(A) the claimant's eligibility for payment of the claim under subsection (a) shall be determined; and

(B) if the claimant is determined eligible, the claim shall be paid.

(d) DETERMINATION AND PAYMENT OF CLAIMS.—(1) Submission and Determination of Claims. The Secretary of Defense shall establish by regulation procedures whereby individuals may submit claims for payment under this Section. Such regulations shall be issued within 6 months of the date of enactment of this Act.

(2) Payment of Claims. The Secretary of Defense, in consultation with the other affected agencies, may establish guidelines for determining what constitutes adequate documentation that an individual was captured and incarcerated by the Democratic Republic of Vietnam after having entered the territory of the Democratic Republic of Vietnam pursuant to operations conducted under OPLAN 34A or its predecessor.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the total amount authorized to be appropriated under section 301, $20,000,000 is available for payments under this section. Notwithstanding Sec. 301, that amount is authorized to be appropriated so as to remain available until expended.

(f) PAYMENT IN FULL SATISFACTION OF CLAIMS AGAINST UNITED STATES.—The acceptance of payment by an individual under this section shall be in full satisfaction of all claims by or on behalf of that individual against the United States arising from operations under OPLAN 34A or its predecessor.

(g) ATTORNEY FEES.—Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Section, more than 10 percent of a payment made under this Section on such claim.

(h) NO RIGHT TO JUDICIAL REVIEW.—All determinations by the Secretary of Defense pursuant to this Section are final and conclusive, notwithstanding any other provision of law. Claimants under this program have no right to judicial review, and such review is specifically precluded.

(i) REPORTS.—(1) No later than 24 months after the enactment of this Act, the Secretary of Defense shall submit a report to the Congress on the payment of claims pursuant to this section.

(2) No later than 42 months after the enactment of this Act, the Secretary of Defense shall submit a final report to the Congress on the payment of claims pursuant to this section.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KERRY. Mr. President, this is an amendment that seeks to address yet another painful chapter in the long legacy of painful chapters with respect to Vietnam, and it specifically addresses what some might characterize as our own form of a bureaucratic Phoenix Program that sought to eliminate from existence a group of commandos who served faithfully during the war under our organizational effort and command effort.

This amendment would reimburse this group of commandos for their years of incarceration in North Vietnamese prisons while they served in the mutual cause with us in the war in Vietnam.

What the amendment seeks to do is to authorize $20 million for payment to Vietnamese personnel who infiltrated into North Vietnam to perform covert operations during the Vietnam era and who were captured and incarcerated by the Democratic Republic of Vietnam.

Under the amendment, a lump-sum payment of $40,000 would be provided to each claimant determined eligible by the Secretary of Defense, and I am pleased to say that the administration has worked very closely in designing this amendment and in signing off on it and now fully supports it, as do, I believe, the chairman of the Armed Services Committee and the ranking member of the Armed Services Committee.

Those of us who offer this amendment recognize that the United States worked with many Southeast Asian forces during the Vietnam war, but our intent here is to only single out for recognition the Vietnamese commandos who participated in a specific program, in OPLAN 34A and its predecessor, and who sought under that program to infiltrate into North Vietnam, who were captured and who were incarcerated in the process.

In designing guidelines for proof of eligibility for payments under this amendment, the Secretary of Defense is to take into account that these claimants, because of the war and the incarceration, may not have complete documentation proving eligibility. But it is our intent that the standard of proof here be set low enough to do justice in this situation.

Mr. President, 30 years ago, Vietnam presented us with a host of questions and difficult contradictions, and now in this situation, we find a new chapter that is a surprise for all of us. In many ways, this chapter is old because we have always known through the centuries that war is cruel. On the other hand, it is new because, as Americans, none of us have ever expected that we would allow something to happen that purposefully or inadvertently attacks or diminishes our own sense of honor.

The truth is that we sent heroic Vietnamese commandos into North Vietnam to do our bidding, risking their lives and even their families' lives, and then we left them there, denied their existence, and walked away leaving them to be imprisoned, tortured or killed.

So we are here today simply to right a wrong, to pay for an injustice and to seek fairness and put this still another disturbing chapter about Vietnam behind us.

These are the quick facts, and I will just run through them very, very quickly.

In the early days of the war, the United States and South Vietnamese Governments initiated a joint covert intelligence-gathering operation against North Vietnam, and recruited were commandos from among Vietnamese civilians and the Armed Forces of the Army of the Republic of Vietnam.

The United States, through the CIA and later through the Defense Department, provided training and funding, including salaries, allowances, bonuses, and death benefits. Together, the United States and South Vietnamese officials determined where and when the commandos, who were organized into teams, would be infiltrated into North Vietnam. Many were dropped by parachute, but some were inserted by land or sea. Some also conducted counter-intelligence activities against North Vietnam and against Laos.

ARES, the first team, was inserted in early 1961. By the early 1970's, there were 52 teams comprising nearly 500 commandos who had been inserted behind enemy lines. Initially, the mission was confined to intelligence gathering, but subsequently it grew to include sabotage and psychological warfare.

From the very beginning, Mr. President, it was clear that this operation was a failure. Recently, declassified Defense Department documents show that the teams were killed or captured very shortly after landing and that the CIA and the Defense Department, which took over the operation in early 1964, knew it at that time.

It is now apparent that the missions were compromised and that Hanoi ran

a counterespionage operation against us and our South Vietnamese ally by forcing our commandos to radio back the information that they, Hanoi, wanted us to hear.

The preponderance of the evidence that has come to light in the last year leaves little doubt that the United States Government at that time continued to insert Vietnamese commandos behind enemy lines, knowing full well that it was sending them on near impossible missions with little chance of success.

The Defense Department then compounded this tragedy by writing off the lost commandos as dead, apparently in order to avoid paying their monthly salaries.

An example: A six-man team, called Attila, was dropped into Nghe An province on April 25, 1964. The team was immediately captured. Two months later on July 16, Radio Hanoi announced the names and addresses of the six team members, the dates they were captured, and the start of their trials.

Declassified Defense Department documents indicate that we knew the team had been captured, but, nevertheless, by the beginning of 1965, only months later, the Defense Department had declared the entire team dead and paid small death benefits to their next of kin. The process of declaring the commandos dead on paper was reaffirmed in 1969 by the colonel in charge of the operations for MACSOG, the Military Assistance Command Studies and Observations Group. He said:

> We reduced the number of dead gradually by declaring so many of them dead each month until we had written them all off and removed them from the monthly payrolls.

So, Mr. President, after sending these men on these extraordinary missions, after cutting off their pay, we then committed the most egregious act of all. We made no effort to obtain their release, along with the American POW's, during the peace negotiations in Paris. As a result, many of these brave men, who fought alongside us for the same cause, spent years in prison, more than 20 years in some cases.

After their release from prison in the 1970's or 1980's, a number of the commandos made their way to the United States. They are now seeking acknowledgement from our country for their service and payment from the U.S. Government for their period of incarceration.

In a lawsuit, they have asked for $2,000 a year for an average of 20 years spent in captivity. We believe, those of us supporting this amendment, that the United States owes these men a debt that can never be repaid. We can at least give them the recognition that they deserve and the small amount of compensation that they were promised three decades ago.

Speaking for myself, I am not here, nor do I think any of us are here, to try to point fingers at people individually, nor even to find scapegoats or scalps. I do not think any purpose is served by that. But we do want people to understand what happened 25, 30 years ago so that it will not happen again. We are here also to do the right thing. It is clearly important not to compound judgments that were wrong 25 and 30 years ago with judgments that are wrong today. It would be wrong to avoid executing our responsibility today.

So, Mr. President, we can honor their service and make it clear to those who might join us again at any time, now or in the future, in the struggle for freedom and democracy, that we are big enough in our country to admit mistakes when they are made and to move to rectify them, and that while sometimes people may make mistakes, a great country will always honor and thank those who fight with us in a common cause.

Mr. President, I believe the amendment that we are offering today will help to provide that recognition, and I urge its adoption.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, the amendment requires the Secretary of Defense to make payments to Vietnamese nationals who were trained and commanded by the United States Government to fight behind enemy lines during the war.

The amendment purposely creates a low standard of proof to be met by the commandos, and it is our intention and hope that it be interpreted liberally. All that those men must prove in order to receive payment for their services is that: First, they entered North Vietnam during the war under an operation called OPLAN 34A or its predecessor; and second, they were captured and incarcerated by the Democratic Republic of Vietnam as a result.

For approximately 7 years, beginning in 1961, the United States apparently contracted with South Vietnamese nationals to conduct covert military operations in North Vietnam. At first under the authority of the CIA and later under the authority of the Defense Department, hundreds of commandos were sent into North Vietnam, and more than 450 were killed or captured.

Those captured were convicted of treason and remained in captivity until 1979, when they began to be released. At a minimum, each served 15 years at hard labor. Many of them suffered through more than 20 years of imprisonment.

A recently declassified study done in 1970 by the Joint Chiefs of Staff, which oversaw the commando program, indicates that the commandos were funded by DOD and that the majority of them were captured alive and taken prisoner by North Vietnam.

More recently, only weeks ago, 80 boxes of documents were discovered in the National Archives related to the employment of these brave men. These documents, 240,000 in total, include DOD payroll rosters for the commandos and records of death gratuities.

To address this injustice, the amendment provides the commandos with $20 million in back pay, approximately $40,000 each. As the Senator from Massachusetts pointed out, this amounts to about $2,000 for each year each commando spent in prison. We have chosen as the number of commandos the outside estimate of 500. The cost may ultimately be as low as $11 million, but because the number of eligible Vietnamese veterans may increase as time goes by, we thought it important to give the Secretary the spending authority to meet the contingency of more claims.

The administration, until very recently, citing an 1875 Supreme Court case, maintained that it had no obligation to these men because they were employed under a secret contract. I am pleased to report, however, the commandos now have the support of the administration. Senator KERRY and I and Senator SMITH, Senator ROBB, and other Senators have worked very closely with the administration in formulating this amendment.

The CIA began the program, but later turned it over to the Department of Defense, at which time the numbers of teams and individuals sent into North Vietnam approximately doubled. The late former CIA Director, William Colby, who in 1961, as the chief of the Agency's Far Eastern Division, was tasked with directing the commando program, indicated his support for the commandos' claims and specifically endorsed a legislative solution.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the current acting CIA Director, George Tenet, also supporting a legislative solution to the problem, and in addition, a letter to me from John F. Sommer, Jr., Executive Director of the American Legion, and a letter to me from Paul A. Spera, Commander in Chief of the Veterans of Foreign Wars.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, June 18, 1996.

Hon. ARLEN SPECTER,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Director, I welcome the opportunity to provide our views with respect to an amendment to provide relief to those who have come to be called the ''Lost Commandos.''

This Administration supports an amendment recognizing the hardships endured by those of the Lost Commandos who were captured and incarcerated during the Vietnam War. Although many of our Vietnamese allies suffered during and after the war, the mission of these Commandos and the suffering they have endured set them apart and make them uniquely deserving of recognition. Whether or not the mission of these Commandos was a mistake is not relevant to our moral obligations to them now. The creed of the Central Intelligence Agency, then as now, is to protect, defend, and compensate its assets for the sometimes mortal risks they take on our behalf. That is the

only credible position for a secret intelligence service to take if it is to win and hold the loyalty of its assets. We strongly believe that, in the case of these commandos, the United States Government has a similar, morally based obligation.

Congress, not the courts, is the proper forum for the recognition of such an obligation. I must note that the United States Government is currently the defendant in a lawsuit brought by 281 persons claiming to be among these Lost Commandos. Our position is that their claims are not justiciable and in fact are in the wrong forum. Accordingly, the Government has filed a Motion to Dismiss. Our Motion is based in major part upon the principle, first enunciated in *Totten* v. *United States*, that an intelligence service cannot exist if its secret assets—actual or imagined—can sue it publicly for money or benefits. That principle was upheld in 1988 in *Vu Duc Guong* v. *United States*, an earlier suit by an individual claiming to be a Lost Commando.

The Totten principle is vital to the ability of this Agency to obtain secrets, run assets, and conduct operations without the threat of blackmail of public exposure through lawsuits for money. Underlying that principle is the necessity that CIA administer its assets fairly and fulfill its obligations meticulously. This we do. I would be pleased to provide any appropriate level of detail on this point in closed session. Underlying the Totten principle as well is the recognition that Congress, not the courts, has oversight responsibility for the conduct of our operations.

I regret that I am unable to provide factual information in an open session to assist in the preparing of an amendment. Doing so, I am advised, could jeopardize the Totten principle and impede the transfer of this issue from the courts to the Congress, where it belongs. Let me repeat, however, that I am pleased to support legislative relief for these brave, deserving men. That relief will be more than a measure of their suffering: It will be a measure as well of our commitment to our former allies.

Sincerely,

GEORGE J. TENET,
Acting Director.

THE AMERICAN LEGION,
Washington, DC, June 19, 1996.

Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: The American Legion most certainly supports the amendment to provide payments to former South Vietnamese Commandos or their survivors. America's obligation to the commandos, who were written off by our government, must be fulfilled to recognize their honorable service, their commitment to the principles of freedom and their personal sacrifices.

History has shown that the wages of war go on long after the guns are silenced, the treaties are signed and the parades are over. This issue warrants serious reexamination of America's national policy on service personnel who are prisoners-of-war and missing-in-action. If our government places young men and woman in harms way, it has a moral and ethical obligation for the repatriation of each and every one of them. Equally as important is the fact the families of these military personnel must be cared for by a grateful Nation.

The American Legion applauds the purpose of this amendment, as it reflects a good-faith effort to recognize the sacrifices of our former allies. However, nothing can erase this terrible chapter of the Vietnam War. We trust there are lessons learned from this travesty of justice.

Sincerely,

JOHN F. SOMMER, JR.,
Executive Director.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, June 19, 1996.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am writing in support of your amendment to the National Defense Authorization Act seeking back pay for Vietnamese commandos captured and interned by the Vietnamese.

We believe, as you do, that these Vietnamese who performed dangerous and covert operations as part of our secret war in Indochina and who suffered as a consequence of these operations should be recompensed for their service and sacrifice.

For too long, these brave men, once declared dead by our Government, lived in limbo, unrecognized for their achievements and their hardships.

Now we find out that our own Government, knowing they were in captivity, systematically wrote them off as dead in order to avoid paying them their salaries. In good conscience, we believe this was wrong and strongly support your amendment to provide back pay to these brave men.

Please advise your colleagues in the Senate of our strong support for the Kerry-McCain Amendment.

Sincerely,

PAUL A. SPERA,
Commander-in-Chief.

Mr. MCCAIN. I point out, Mr. President, the amendment has the support of the Veterans of Foreign Wars and the American Legion.

All of the details and legalities aside, one thing is clear; these men sacrificed for a cause, the same cause for which all veterans of the Vietnam war sacrificed—a free Vietnam. And they suffered horribly for their commitment. For many years United States immigration policy has provided programs which ease the process for those Vietnamese associated with the United States war effort. We do so because it is our obligation to our wartime allies. All that the cosponsors of this amendment are asking is that we similarly honor the full extent of our obligations to the commandos and correct this gross injustice.

One of the commandos is quoted in Saturday's New York Times as saying, ''They didn't want to remember us because we represent the failure of the United States in Vietnam.'' I have always made the case that as a nation, and as individuals, we must put the Vietnam war behind us. To continue to deny the service of these men is not the way to do it.

I also strongly subscribe to the words of President Reagan who said it as succinctly and coherently as possible when he stated that: ''The Vietnam veterans who served, served in a noble cause.'' I repeat, ''a noble cause,'' as did these South Vietnamese commandos.

Mr. President, we send a bright signal by passing this legislation today: The United States of America lives up to its agreements with its friends because it is a nation of honor and a nation of laws.

Mr. President, I strongly urge the adoption of this amendment. I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I am very pleased to join with my colleagues in cosponsoring this particular amendment. The case for support has been eloquently stated by the distinguished Senator from Massachusetts, the distinguished Senator from Arizona, and could be made by others. I will not repeat it.

I will simply say that what was done in the name of the United States in the instance of these particular commandos is appalling and unconscionable. This is clearly the right thing to do to atone for the actions that were taken some time ago and without the knowledge of apparently very many people in the Government at that particular time. In any event, I applaud my colleagues for taking this particular action.

AMENDMENT NO. 4052

Mr. ROBB. Mr. President, while I have the floor for just one moment, the last amendment that was debated, and on which the yeas and nays have been ordered, and which was temporarily set aside for a vote at 2:15, I would like to just say—as I was prepared to say at that time, but could not—that I am a cosponsor of that particular amendment. I reiterate for my colleagues, particularly on this side of the aisle who may not have heard the arguments, this is simply a sense-of-the-Senate resolution which is attempting to deal with a very difficult problem here in the Nation's Capital.

It does not direct the President or the Secretary of the Treasury or the Secret Service to do anything. It is a sense-of-the-Senate resolution that asks them, in effect, to work together to try to solve the problem. I hope my colleagues will join in this case in opposing the motion to table when we vote on it at 2:15.

Mr. REID. Mr. President, would the Senator from Virginia yield for a question?

Mr. ROBB. Mr. President, I am happy to yield to the Senator.

Mr. REID. Mr. President, I say to my friend, it is a sense of the Senate that the President should direct, and lists a number of people.

Mr. ROBB. Mr. President, I respond to my friend that it is a sense of the Senate. We are simply expressing the sense of the Senate that that is what we hope the President will do in that particular instance. It is not statutory. It does not require that particular action.

I might also say, Mr. President, when the distinguished Senator from Minnesota initially drafted the particular piece of legislation and sent it to my

office, there was some language I felt could easily be interpreted as partisan in nature. I did not think it was appropriate. I asked him if he would be willing to make some concessions in that regard, which he was kind enough to do, so we would approach it on a bipartisan basis and attempt to deal with the problem in a way that involved the various agencies of Government that have some responsibility for this particular action.

Again, I agree wholeheartedly with my distinguished friend from Nevada that the floor of the U.S. Senate is not the place to debate or make a decision. This is simply a request to go through the kinds of procedures that I think will lead to a proper decision.

More importantly, this is the best solution to this particular problem. No one wants to place either the First Family of the United States or others in particular jeopardy. I agree with the Senator from Minnesota that any inclusion of some of the additional street closings would also be appropriate for study and consideration.

I ask unanimous consent a letter from the president of the U.S. Chamber of Commerce be printed in the RECORD as part of that debate.

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

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, June 19, 1996.

MEMBERS OF THE U.S. SENATE: The U.S. Chamber of Commerce—the world's largest business federation, representing 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 76 American chambers of commerce abroad—urges your support for Senator Rod Grams' resolution calling for the reopening of Pennsylvania Avenue, which will appear as an amendment to the Defense Appropriations Bill for FY97.

A little over a year ago, Pennsylvania Avenue was closed between 15th and 17th Streets. The U.S. Secret Service requested this action be taken following the bombing of the Murah Federal Building in Oklahoma City. At the time, it was said to be a temporary measure. Interestingly, two former presidents—Gerald Ford and Jimmy Carter—have said the closure was requested during their presidencies as well, but was rejected. The National Park Service has since released a plan to turn the ''temporarily'' closed portion of Pennsylvania Avenue into part of Lafayette Park at a cost of $45 million. The U.S. Chamber does not feel this is an expense that should be spent on a ''temporary solution.'' Furthermore, an unfair burden of economic loss and traffic congestion has been placed on the local residents of the park and this city without appropriate consultation.

The U.S. Chamber of Commerce has been a resident of historic Lafayette Park since 1924. Now with H Street a main east/west thoroughfare, the northern boundary of the park has been damaged. This boundary is represented by historic buildings such as the Decatur House, St Johns Church, the Madison House, and the Hay-Adams Hotel.

The closure of Pennsylvania Avenue has taken away one of the main symbols of democracy and American freedom. While the President's safety is of the utmost importance, according to security experts the closure of Pennsylvania Avenue does not make the White House complex significantly more secure. It will, however, result in having one of our symbols of freedom and democracy become more distant from the people. We have allowed fear to dictate our actions. Returning Pennsylvania Avenue to the people will restore the freedom for which it stands.

Now, with the June 28th deadline approaching for public comment on the proposed closure, we must work together to give Pennsylvania Avenue back to the people. We urge you to support this amendment.

Sincerely,

RICHARD L. LESHER.

AMENDMENT NO. 4055

Mr. ROBB. Mr. President, it is my understanding with respect to the amendment before the Senate, there is no objection from either side. The Senator from New Hampshire may wish to comment. If he does not, I ask that the Senate proceed to take action on that amendment by voice vote at this time.

The PRESIDING OFFICER. The Senator from New Hampshire, Mr. SMITH, is recognized.

Mr. SMITH. There is no objection on this side, and we have no objection to voice voting. I do have a few remarks I will make. Subsequent to that, we can proceed to do that.

Prior to that, Mr. President, in regard to the previous unanimous consent for a vote at 2:15, there are some Members who apparently are tied up at a White House meeting. I ask unanimous consent that the vote which was previously scheduled for 2:15 now occur at 2:30 today.

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

Mr. SMITH. Mr. President, I am pleased to join the Senator from Massachusetts, Senator KERRY, the Senator from Nebraska, Senator KERREY, and the Senator from Arizona, Mr. MCCAIN, in offering this amendment. It is an amendment that needs to be offered. It is one of those very painful chapters in American history that occasionally we have to deal with. It is a great tribute, I think, to America that when we find a wrong, that we do have the capacity to admit that wrong and to right it.

Over 35 years ago, the United States Government asked the Republic of Vietnam to provide some South Vietnamese military personnel for special commando missions into North Vietnam. The best figures that we have, and there is some variation here, but approximately 350 of these commandos were trained by U.S. Government agencies.

They were inserted into North Vietnam by our military forces, and, as has already been said, they were captured by the Communist forces and forced to spend the next 20 to 30 years in reeducation camps. The term ''reeducation camp'' does not really, Mr. President, accurately define what exactly these men went through. We know they were tortured. So reeducation is hardly the correct word.

For the record, Mr. President, it is clear that these commandos knew what they were doing. They knew they were taking great risks. Indeed, many of their fellow comrades died during these very operations, and some died after the missions while they were in North Vietnam. They also knew what was at stake with the Communist aggression if we did not contain the Communist aggression in Southeast Asia.

More importantly, the United States certainly was aware of the dangers involved with these missions. That is why I believe a solemn commitment was made to these commandos and their families that they would be compensated for the sacrifices they made.

It is interesting, these Vietnamese worked for the CIA and the United States military in, basically, a doomed effort to infiltrate North Vietnam between 1961 and 1969. They were dropped behind enemy lines by parachute. Some secretly swam ashore after being taken there in speedboats, and then they were captured.

It is clear that as we stand here now, the United States has yet to live up to that commitment that was made to these South Vietnamese commandos in the 1960's. In point of fact, a cold and uncaring bureaucracy was allowed to write these men off, literally, as dead three decades ago, even though there was convincing evidence that many had been captured. To put it bluntly, their families were told they were dead when, in fact, they were alive.

It is a documented historical fact that in 1969, in then secret testimony before the Joint Chiefs of Staff, a DOD official stated: ''We reduced the number of commandos on the payroll gradually by declaring so many of them dead each month until we had written them all off and removed them from the monthly payroll.''

It is really bizarre to think these kinds of things do happen in our Government, but, as I said earlier, the fact that we right these wrongs is perhaps a better comment about what America is like. The families were paid a very small token of death gratuity, and that was it. Knowing these men were alive, the DOD official told the Joint Chiefs of Staff that we were writing them off as dead, and the widows and surviving family members were paid a small stipend and then informed that these people were dead when, in fact, we knew they were not.

The majority of those men had put their lives on the line for the United States' national interests. They were not Americans, but they put their lives on the line for America, and they were shackled in North Vietnamese prisons, and our Government knew it and our Government never told the families.

The amendment that my colleagues are offering today, along with me, will authorize back pay, very simply, for the men who participated in these daring missions. It is a bit late, for sure, but it comes out to about $2,000 per commando for each year spent in North Vietnamese prisons. It is the least we can do.

I note as a comparison that our distinguished colleague from Arizona and

many others who were captured by the North Vietnamese and imprisoned and tortured, they received full pay, as they should have, during the time they were in Communist activity. So there is certainly a well-established precedent for this amendment. There is nothing dramatic about it. It is just the right thing to do.

Let me also point out after a year of fighting this case in U.S. claims court, the administration has decided that granting this back pay to these commandos is the right thing to do. I think we should give credit to National Security Adviser Tony Lake, because he has been very supportive and very helpful in getting this done.

I think that the tragedy which befell these commandos was only made worse by the initial attitude of the Justice Department and DOD and the CIA in the claims court. Again, we had to drag them kicking and screaming in to right the wrong, but the wrong is righted. I commend, again, Tony Lake for reversing this attitude and coming out in support of the amendment.

Finally, Mr. President, as we continue to seek answers about the fate of our own missing American servicemen from the Vietnam war, I think it is imperative for the administration to assure that each of these South Vietnamese commandos has been interviewed for any information they might possess on any missing American, dead or alive. This is very important. Some of these men have been in prison in North Vietnam for 20 years. Who knows what they might know. They all should be debriefed thoroughly. This would include making arrangements to speak to all of them who are reportedly still in Vietnam awaiting approval for departure to the United States.

Let me commend my colleagues, again, who served with me on the Senate committee in 1992, including the Senator from Virginia, who is here on the floor, for working with me on this amendment. We were all concerned when we saw the news accounts, and we were all committed to doing something about it. We reacted quickly. I am proud to be an original cosponsor, and I urge all of my colleagues to support it.

Mr. President, I might say that there is no one on our side that I know of who wishes to speak on the amendment. I yield to the Senator from Virginia to move the amendment.

Mr. ROBB. I know of no one else who has requested an opportunity to speak on this amendment. I, therefore, urge adoption of the amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 4055) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada, Mr. REID, is recognized.

Mr. REID. Mr. President, what is the order of business now before the Senate?

The PRESIDING OFFICER. Under the previous order, the Grams amendment has been postponed until 2:30.

AMENDMENT NO. 4052

Mr. REID. Mr. President, I will give some general statements. We have been called upon to vote on a motion to table at 2:30 today. There being no other business here on the Senate floor, I will talk a little bit about that amendment and the motion to table that sense-of-the-Senate resolution.

Mr. President, it seems unusual to me that, with all the many problems we have in America today—and there are significant problems—such as minimum wage, problems dealing with health care reform, significant problems dealing with the environment, we are here today talking about a block of Pennsylvania Avenue.

The loudest complaints we hear about Pennsylvania Avenue being blocked off for the security of the people that live in, work in, and visit the White House, come from lobbyists. Most of the lobbyist offices are downtown, on the 18th Street corridor, down that way. It makes it difficult for them to travel back and forth. It is very difficult for many of them to maneuver their limousines through some of the small, closely packed District of Columbia streets with the big pot holes. But that is not what we should be debating here.

We should be talking about whether or not, if someone has health insurance and they leave a job, they can take it with them, or whether or not someone who has a son or a daughter with a preexisting condition, when they graduate from college, can they still get insurance someplace, or someone is injured on a job and, for whatever reason, loses that job and now wants to get insurance for them and their family. Under present conditions, most times they cannot do that because of preexisting condition restrictions that insurance companies place on obtaining insurance. I have spoken to people in the insurance industry. They are hoping that this is debated to a finality and that there is a decision made.

So I hope the motion to table is agreed to. If it is not, there is going to be a series of amendments offered to improve the amendment that is now before the body.

Mr. President, in the break that we have had, I went back to the cloakroom and received a call from the Secretary of the Treasury. The Secretary of the Treasury, who is head of the Secret Service, wanted me to inform the U.S. Senate—and these are his words, not mine—that ''It is imperative that that street remain blocked off.''

We cannot be sending a message to terrorists around the world, or to anyone else, that we are going to ease up on our security. I served for several terms as chairman of the Legislative Branch Appropriations Committee, where we funded the Capitol Police force. We had hearings on their important duties and how they have changed as a result of international terrorism.

Mr. President, we all know how weaponry has changed. No one now needs to drive a tank next to the White House to blow it up, or on Pennsylvania Avenue. You can have a vehicle loaded with plastic explosives that would blow up the White House. This is an issue that we should not be involved in.

It is difficult for me to understand, with all of the priorities we have, how we can be debating for the people of Nevada whether or not a block of Pennsylvania Avenue should be closed. What I would like to be talking about is minimum wage, as an example. Minimum wage, as you know, is not just for teenagers flipping hamburgers at McDonald's. The fact of the matter is that 60 percent of the people who draw minimum wage are women, and for 40 percent of those women, that is the only money they get for their families. That is one of the issues we should be talking about.

There is talk that the Treasury Department decision to close Pennsylvania Avenue in front of the White House was nothing more than a knee-jerk reaction to fear. Well, the fact is, it was done under very strong consultation. And, also, Mr. President, what we have to appreciate is that the Treasury Department came to Capitol Hill and briefed the leadership of both the Senate and the House, the Republican and Democratic leadership, and told them what they were going to do. There was no objection from any of the leadership.

I also say that we have to understand that any Member of the U.S. Senate can have a briefing. If they had a briefing, I am sure they would be enlightened as to how little it takes to do a lot of damage. For us to stand on the Senate floor and say, well, this resolution really is only a sense-of-the-Senate resolution, it does not mean anything, I respectfully suggest that it does mean something. The U.S. Senate is going on record and saying it is the sense of the Senate that the President should direct the Secret Service to develop a plan for the permanent reopening of vehicular traffic on Pennsylvania Avenue in front of the White House. That is about as direct as you can get and about as assertive as you can get. I think it is wrong that we would even consider doing something like that.

Mr. President, in fact, earlier this month, the directors of the U.S. Secret Service stated, the Secret Service ''remains steadfast in its belief that the threat to the White House complex by explosive-laden vehicles is genuine, and that given an opportunity, an attack will occur.''

That is about as direct as you can get, Mr. President. The Secret Service ''remains steadfast in its belief that the threat to the White House complex by explosive-laden vehicles is genuine, and that given the opportunity, an attack will occur.'' That is not some kind of bureaucratic jargon where you have to read between the lines. It is direct and to the point.

The avenue in front of the White House should be closed to vehicular traffic. The decision to close Pennsylvania Avenue was, in part, based on the recommendation of the Advisory Committee of the White House Security and Review, a nonpartisan distinguished panel of experts. The committee was impaneled following several security incidents at the White House, most notable being the air crash on the south grounds.

Do not forget, also, colleagues and Mr. President, that the White House was sprayed with gunfire within the past year. Someone came to the front of the White House and Pennsylvania Avenue and simply sprayed the White House with gunfire. This was not a knee-jerk reaction. The recommendation was based on a thorough technical analysis. Concerns about the vulnerability of the White House were heightened by the truck bombing of the U.S. Marine barracks in Beirut—we all remember that—and confirmed by the bombings of the World Trade Center in New York and the Murrah Federal Building in Oklahoma City. It was only about 2 weeks after the White House was closed and Pennsylvania Avenue was closed to vehicular traffic that the Federal building in Oklahoma City was destroyed and 140 people were killed.

So we have heard it from the head of the Secret Service. We have heard it from the Secretary of the Treasury, and his words I repeat. ''It is imperative that the area be closed.''

On this defense bill we are dealing with billions and billions of dollars of taxpayers' money that will be spent during this next year for the security of this Nation, and hopefully the peace and security of the rest of the world—very important, weighty issues. I personally, respectfully suggest that our talking about a block of Pennsylvania Avenue closed to vehicular traffic that has caused some inconvenience to lobbyists and some of the people trying to get home at night should not be what we are spending our time about here. I believe we should be talking about doing a better job of balancing the budget. I think we should be talking about doing something about the delivery of health care to the people across America. I think we should be talking about doing something to make sure that we have clean air and clean water, and that our cities are areas where there is job growth rather than job drought. We talk about the drought happening all across the United States. We have had a drought of jobs. We need to get involved.

I do not think we should be worrying about Pennsylvania Avenue. I think we should leave that to the experts. I do not believe we should be micromanaging what the Secret Service says.

The general scheme of things, it seems to me, is that we should not be concerned about a block of sidewalk when we should be talking about minimum wage, welfare reform, and health care reform. We could come on the Senate floor and talk about some of the good things that are happening. There are good things happening, too. It is not all bleak. It will be the fourth year in a row where we have had declining deficits—not declining enough in my mind and in the minds of others. But for the fourth year in a row, we have had declining deficits.

For the first time since the Civil War years, we have had 4 years in a row of declining deficits, and the lowest unemployment and the lowest inflation in some 40 years. Job creation: Over 9 million jobs, and 60 percent of them are high-wage jobs. We are doing some good things. We should be talking about that rather than the sidewalk in front of the White House that is the travel route for the lobbyists in their limousines.

If I thought in good faith that we are going to have a sense-of-the-Senate resolution directing the President to open Pennsylvania Avenue to vehicular traffic, should we not at least say that we should be letting the Secretary of the Treasury and the Secret Service tell us that it protects the people who live in the White House and who work in the White House?

We have problems with welfare. If there is an issue that the people in Nevada would like to hear some conversation about here on the Senate floor, it should be welfare reform. I cannot guarantee the viewing audience much, but I can guarantee that the viewing audience would rather we were talking about welfare reform than whether or not the street in front of the White House is closed.

What about Medicare? We know that Medicare is something that we should be talking about here. And Medicaid we need to talk about.

So I hope that my colleagues will see this sense-of-the-Senate resolution for what I respectfully suggest it is. It is something that we should not be involved in. Whether or not the White House is secure or not cannot be decided here on the Senate floor.

I heard an astounding remark from the question I asked of my colleague. ''Well, we are going to hold hearings later.'' Well, I have served in legislative bodies for many years in my life. I believe we should hold the hearings first and then do our voting later. There are ways we can determine if, in fact, the vehicular traffic in front of the White House should be cut out.

On this east front of the Capitol of the United States, when the Presiding Officer and I came to Washington, as you will remember, this was a parking lot. Hundreds and hundreds of cars were parked out here. Because of security threats, those cars were eliminated.

What are we going to do out here? We are going to build a beautiful mall. We are going to have a visitors center where people who come and want to visit the Capitol do not have to do it in the blaring sun with the humidity of the summertime in Washington or the terrible winters we have here on occasion. But we will have a visitors center where people can come in out of the elements and come in order into the Capitol, one of the most sought after places in America. That is the same thing they are basically going to do at the White House. As indicated, there are institutions which are now studying the best way to do that.

Mr. President, I hope when this matter is voted on at 2:30 that my colleagues will support the motion to table. This should not be a partisan issue. The security of the White House and the Capitol complex should not be a part of this issue. We should, on a bipartisan basis, vote to table this sense-of-the-Senate resolution, which I think is ill-placed, ill-timed, and really something that we should not be debating here. I believe this is something that should be done in the security offices throughout this Government. I think the two intelligence committees of the House and Senate can give us all the vision as to why it is important that we have security.

I think on this defense bill we should get to the many issues that are now going to take up days of our time. The ranking member of the full committee indicated in the meetings that we had yesterday that we are going to have a very hard time with the schedule that is now before us to complete this bill next week. I am paraphrasing what he said. But it is going to be almost impossible to finish this bill within the next day or two.

So, Mr. President, I hope that we will join together, join hands and table this sense-of-the-Senate resolution. If we do not, then the Senator from Nevada—and I am sure others—will offer amendments to, in effect, not let the U.S. Senate micromanage what the Secret Service and the Capitol Police do, and put us back in the business we should be in—and that is legislation.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I just want to take a couple minutes to talk a little bit about the pending vote coming up and that is on the question of Pennsylvania Avenue. I know and I agree with my colleague from Nevada that there are many, many important issues before the Senate and that we could debate them if we had the opportunity. Many of those issues have been brought to the floor, and we have never had the opportunity to debate those. But that does not take away from the question that we have at hand, or the issue that we are facing.

I know there is a concern about whether there has been hearings held or whether we should wait for hearings. I should like to remind my colleague from Nevada and others that the House has already held an entire day of hearings, having witnesses from all sides of this issue. And what came out of those hearings already was an overwhelming support for this amendment, and that is just to ask the President to reopen Pennsylvania Avenue.

Now, the committee chairman in the Senate has also said that he plans on holding hearings, and he has told me that this sense-of-the-Senate resolution is complementary to what he plans to do in holding these hearings. So this sense-of-the-Senate by no means is going to interfere with gathering more information and being able to listen to the public and get an idea of their feelings.

By the way, we have a web page on the Worldwide Web asking the people from around the country. The Senator from Nevada says the people in Nevada are not that concerned about this, but they should be. On our Worldwide Web, over 3,100 people have contacted our web page in just over 2 weeks, and the overwhelming number, nearly 85 percent—this is people from around the country, not just the nearly 100 percent of the residents in this area—want this street reopened but for many reasons. The people around the country see the same concern, that you cannot put a wall around freedom; you cannot give in to the terrorists by erecting walls in front of the White House.

Now, the question was raised about whether we should or not. I do not think alternatives have been fully explored. And we talk about closing off Pennsylvania Avenue, that it would eliminate some of the problems that have already happened, such as snipers and a plane crashing into the south lawn of the White House. Closing Pennsylvania Avenue would have done nothing to prevent that type of activity.

When you talk about whose opinion is this, this is not only my opinion or the opinion of many others as well, but two former residents of the White House have come out in support of reopening Pennsylvania Avenue. Former President Jimmy Carter said closing the avenue was a mistake. Every President since John F. Kennedy has been given the same briefings by the Secret Service with their same reasoning for closing off Pennsylvania Avenue, to provide more protection to the President, but each one of those Presidents—John F. Kennedy, Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, George Bush—has said no, after hearing those same briefings from the same Secret Service with those same reasons. They have all said not on my watch, we are not closing what Thomas Jefferson called America's Main Street.

Now, this is not Tiananmen Square. Is not Red Square. We cannot wait for the Park Service to put in $40 million worth of mall before we make some kind of a decision, or at least ask the President to reconsider. Are we going to spend $40 million, are we going to allow the Park Service to railroad this through, to impose this edict as they have not only on the District of Columbia but the entire country as well and we are going to stand back and say, well, go ahead, spend $40 million and make a park out of this and then what, tear it up? There are a lot of things that are done when you have a bureaucracy with a right hand that does not know what the left hand is doing.

I just think this is not out of order. I think this is complementary to the process that is going forward, that we should at least ask the President and the Secret Service and the Treasury to open hearings on this to the public. Let the public voice their concerns. They have not done that. The only comments they are taking now are, what kind of park do you want? That is not a very good alternative.

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

Mr. GRAMS. Yes.

Mr. FORD. On the Worldwide Web the Senator is talking about, that you got 1,300 responses, and so forth, did they respond to your explanation of Pennsylvania Avenue or were they responding to the Secret Service's explanation of closing it?

Mr. GRAMS. We have posed the question of what has happened and what can be done, and their response has been by 83.9 percent to reopen Pennsylvania Avenue.

Mr. FORD. So, Mr. President it has been the response of what you put on the web not what the Secret Service put on the web and therefore is a political grandstand.

Mr. GRAMS. No, Mr. President, it is not. The only response that the Park Service is taking is something they believe is their grandstand, and that is to say, what kind of park do you want? They are not opening their web page. They are not opening their comment period to any individual to voice their opinion, only to comment on the Park Service opinion.

Now, I do not think that is very democratic. I do not think that is an open process. In other words, I think the decision has been made on their part and they are going to drive it no matter what it takes. They are not asking people whether it should be opened or reopened. They are just saying, well, we are going to do this and what color do you want it.

I do not think that is fair either. All we are asking is to give this some open air. Let the people decide. Have some public input. In fact, that is the way the process should have worked. And the only reason people allowed the street to be closed to begin with without raising an uproar is because it was posed to them as a temporary closure of Pennsylvania Avenue in the wake of Oklahoma City, and then they were going to determine what would be the best course of action in the future.

Well, there have been no talks. There has been no discussion, no public hearings or anything. So I am not trying to say that the Secret Service is not well intended, and they are taking this job of theirs very seriously. But again, they have used the same arguments for the last 35 years and not one President in that period of time has taken those arguments and said, yes, I need this additional security to protect myself.

I think they provide adequate security for the President. I think they have done a great job. I think right now this President decided that he would listen to the arguments, and that is fine—on a temporary basis. But we should have an opportunity, before it is permanently closed and before this is done, for the people to have a chance to make that decision. Again, the decision to close it a year ago might have been prudent, on a temporary basis, until we could stand back, look at it, look at the alternatives to see how we can, first and foremost, keep the avenue open and then provide absolute security.

Closing Pennsylvania Avenue is not going to remove 100 percent of the risks. This is a democracy. We have risks every day. And there are many, many other opportunities. This is a President who likes to jog up and down The Mall. He wants to be near the public. I do not know why closing Pennsylvania Avenue is the only alternative.

So I urge my colleagues when they come to the floor to at least consider that. Give democracy a chance to work a little bit. Get some input and have hearings. And I think if you listened to the hearings that were held in the House just last week, all the comments that were made, the vast, vast majority of the people who were there supported reopening Pennsylvania Avenue.

Now, you might say, well, it does not matter much here, and the people in Nevada might not care, but I would pose it, in my city of Minneapolis-St. Paul, if we would close one of our major streets such as Hennepin Avenue, what would that do to the downtown. I think you would have a lot of complaints. And in Las Vegas, if you closed off the strip because of possible dangers to some of the people there, I do not think you would be able to go for a couple minutes without hearing an outcry from the businesses and public in general.

So to impose this on a main street, America's main street, and a vital artery in one of the major cities in the world and to say it will have no impact, I do not think is logical.

Again, I urge my colleagues when they come to the floor to take that into consideration, and I hope they vote to override the motion to table and give us a chance to have a vote on this.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Las Vegas Strip, as important as it is, is not the center of Government of this country. The White House and the Capitol complex is. I would also say to people within the sound of my voice, in the statement of Director Bowron of the U.S. Secret Service, about a week ago, June 7, in a House committee he testified:

The Secret Service also identified a need to quantify the vulnerability of the complex to explosive detonations outside the perimeter. Southwest Research Institute, one of the oldest and largest independent, nonprofit research organizations in the United States, was selected to conduct this classified study. Their methodology involved obtaining structural data on the White House and selecting likely explosive detonation points on the streets surrounding the complex.

The Director went on to explain how you can use fertilizer to blow up huge buildings, like they did the building in Oklahoma City. He went on to say:

The Secret Service is committed to the use of technology in furtherance of our protective and investigative missions. Alternatives to closing Pennsylvania Avenue were examined without success.

It is not that they walked in and said, ''We are going to close Pennsylvania Avenue.'' The President did not want Pennsylvania Avenue closed. He told me and told many others that. The advisory committee required full explanations of all the possible options and why the options would not work before they concurred that the avenue should be closed. The panel had concluded that the closing was justified, even before the bombing in Oklahoma City. Their decision was made before that bombing. It was not a knee-jerk reaction to Oklahoma City. The bombing occurred after Pennsylvania Avenue was closed—I should say a portion of it. The Director went on to say:

Although specific intelligence information cannot be discussed in an open forum, it is known that members of certain foreign and domestic terrorist groups operate within the United States. Those terrorist and extremist groups have demonstrated a propensity for mounting their attacks to coincide with symbolic dates or at symbolic targets. The White House is one of the most symbolic targets in the United States. There is every reason to believe that given the opportunity, these groups will strike. This matter does not only concern the protection of the President and other government officials and a national landmark—it is a tremendous public safety issue with respect to individuals in and around the complex. Devices similar to those used at the World Trade Center and in Oklahoma City can cause destruction as much as five blocks away from the target. The fact of the matter is—the people who would undertake that type of act are present in this country. The means and ability to carry out this type of act are available. The only thing that is preventing the terrorist or extremist from mounting an attack is the lack of access. If you open Pennsylvania Avenue—they can, and at some point, they will destroy the White House.

If we have people around the country who are burning churches, do you think there is not someone going to try to blow up the White House? They have already tried to blow up the White House. We know that. We talk about our Government being open and free. You still have access to the White House. You just do not have the traffic jam in front of it, mostly taxicabs and lobbyists. That is all you eliminate. And you make it inconvenient because some of the other streets are a little more crowded.

But this is going to make the White House, in the opinion of most, better. It is going to be a nice mall, park out there. The Park Service is working on it now. Just the same as we are going to do out here at the east front of the Capitol. We are going to remove the asphalt. We are trying to raise the money. It is a private-public partnership.

I just have to say access to the White House is not harmed in any way. I spoke to Secretary Rubin within the past hour. These are his words, not mine: ''It is an imperative that that short piece of Pennsylvania Avenue be closed.'' What are we doing here today? We are being asked to vote to open Pennsylvania Avenue without a congressional hearing. Remember, the Secret Service, the Treasury Department came up here and briefed us all, they briefed all the leadership, Republican and Democrat, House, Senate, said they were going to close it. There was not a single objection.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Kentucky is recognized.

Mr. FORD. Mr. President, this amendment bothers me and many of my colleagues very much. As my friend from Nevada has said, we were briefed. After that briefing, there was no objection whatsoever. Now we want, without any other consideration—many of us not having had the opportunity to hear the briefing—to vote to open up Pennsylvania Avenue. I think it has been important that, in the years that I have been here and when we have had to make hard decisions, we err on the side of safety. I do not want any of those living or working in the White House to be exposed.

There are a lot of things the Secret Service has told us that cannot be public. The Senator from Minnesota knows that. He will not reveal that because he cannot. One of the reasons that Pennsylvania Avenue was closed was because of that unavailable information.

If you want to take the blood on your hands and say, ''We want to open up that 800 feet of pavement up there,'' and something occurs after that, then you are not going to do it with my vote. I want the safety of the First Family. I want the lives of those people who work there day and night to be as safe as possible.

I do not understand what is going on here. I really do not understand it. Oh, I can go back in history. I can quote Henry Clay. I can do lots of things. But today is today, not history. Today we have the problems. Today we have terrorists operating in this country. They will tell you that much. I have been there when we had to put out agents in many of the ports, waterways, and airways to check on people departing other parts of the world.

To say we want to take an opportunity here this afternoon to possibly eliminate the safety of the First Family? If President Bush had been reelected and he made this decision, the Senator from Minnesota would not be standing. He would not be standing making this effort today. It is because another President is in the White House he is making this decision. This is grandstanding.

I read the articles in Minnesota. They say he is more interested in 800 feet of pavement in Washington, DC, than he is the big issues of Minnesota. That is in his papers. I just paraphrase it. But why do we want to possibly jeopardize the lives of the people that are running this country? That is No. 1. I suspect, if those people who had answered him on the web had the ability to listen to the Secret Service and their briefing of the leadership of this Senate, they would change their minds. So I encourage my colleagues not to vote for this. Let us have another briefing. Let us try to do the right thing. Let us not expose people, particularly the President and his family and those who have the responsibility of leading this country.

So, Mr. President, I am hopeful the Senator will be kind enough to withdraw this amendment and let us sit down and try to understand the problems that are there. You cannot tell the American people all the problems that were given to us by the Secret Service. There are a lot of things you just do not do. And the decision was made based on that.

I am one who believes, after you weigh the facts, you err on the side of safety. So I believe the right vote here today is to table the amendment of the Senator from Minnesota and let us have an opportunity, if there is a need for it, to have more scrutiny, more input, and do the right thing.

I was there yesterday afternoon, along with leadership from both sides.

I did not see anybody protesting. I did not see anybody walking up and down Pennsylvania Avenue with signs saying, ''Open this street.'' I saw people enjoying it, walking back and forth across the street, looking at the White House, not being interfered with at all, did not have to worry about the traffic, were enjoying the park. I thought it was a right congenial group. There was no one there protesting the closing of Pennsylvania Avenue, and they were there from all across this great land of ours and foreign countries.

So, Mr. President, I encourage my colleagues to table this amendment.

The PRESIDING OFFICER. The time of 2:30 p.m. having arrived, by previous agreement, the motion to table the Grams amendment is subject to a vote. The yeas and nays have been ordered.

The question is on agreeing to the motion to lay on the table the Grams amendment. Those in favor of tabling the Grams amendment will vote ''aye; those opposed will vote ''no.'' The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York [Mr. D'AMATO] is necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS] is necessarily absent.

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

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—39

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Murray
Boxer	Harkin	Pell
Byrd	Heflin	Pryor
Cochran	Hollings	Reid
Cohen	Hutchison	Rockefeller
Conrad	Inouye	Sarbanes
Daschle	Kassebaum	Simon
DeWine	Kennedy	Warner
Exon	Kohl	Wellstone
Feingold	Lautenberg	Wyden

NAYS—59

Abraham	Graham	McConnell
Ashcroft	Gramm	Mikulski
Bennett	Grams	Moynihan
Bond	Grassley	Murkowski
Bradley	Gregg	Nickles
Breaux	Hatch	Nunn
Brown	Hatfield	Pressler
Bryan	Helms	Robb
Burns	Inhofe	Roth
Campbell	Jeffords	Santorum
Chafee	Johnston	Shelby
Coats	Kempthorne	Simpson
Coverdell	Kerrey	Smith
Craig	Kerry	Snowe
Dodd	Kyl	Specter
Domenici	Leahy	Stevens
Dorgan	Lott	Thomas
Faircloth	Lugar	Thompson
Frahm	Mack	Thurmond
Frist	McCain	

NOT VOTING—2

Bumpers	D'Amato

The motion to lay on the table the amendment (No. 4052) was rejected.

The PRESIDING OFFICER. The Grams amendment is still the pending business before the Senate.

AMENDMENT NO. 4056 TO AMENDMENT NO. 4052

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], proposes an amendment numbered 4056 to amendment 4052.

At the end of the amendment add the following: ''*Provided*, That the Secretary of the Treasury and the Secret Service certify that the plan protects the security of the people who live and work in the White House.''

Mr. REID. Mr. President, this amendment to the sense-of-the-Senate resolution now pending would state simply that prior to opening the street to vehicular traffic, the Secretary of the Treasury and the Secret Service would certify that the plan protects the security of the people who live and work in the White House.

It seems to me if we are not willing to adopt this amendment, then this body will go on record saying that there should be vehicular traffic on Pennsylvania Avenue in front of the White House, whether the people who live and work there are safe or not. I do not think we should go on record stating that.

As I indicated, Mr. President, the record is clear that the Secret Service is very concerned about opening this avenue in front of the White House. The Secret Service has said closing the avenue was not a unilateral Secret Service decision, but rather was the recommendation of the Advisory Committee to the White House Security Review, a nonpartisan distinguished panel of experts. This committee included former directors of both the FBI and the CIA, former chairmen of the Joint Chiefs of Staff, and others. The proposal to close the avenue was made before the Oklahoma City bombing. The panel had concluded, prior to Oklahoma City, that closing of the avenue was, indeed, justified.

Historically, people focus on security features after significant events. For example, ValuJet Airlines. Now we hear a lot about oxygen canisters in cargo holds. It is better we do something before. That is, in effect, what we did at the White House. The Treasury Department said, as previously stated on the record here, that there are terrorists who simply are waiting around for an opportunity to blow up the symbol of the American people.

Mr. President, during the last vote, some people told me, ''Well, people can walk in and blow up the White House.'' Not true. We are told that you need the trunk of a car to put the explosives in. You cannot put enough explosives on a bicycle or on the back of a skateboard or whatever gets in there now. You need a vehicle. You need access to a large area to blow up the White House. But if you did have the trunk full of explosives, and they simply pulled up in front on Pennsylvania Avenue, you would damage and destroy the White House.

What this amendment does is ask the Secret Service to certify that the plan protects the security of the people who live in and work in the White House. That does not seem like that is too outlandish. There have been many alternatives considered and suggested, but the options have simply been deemed unworkable. The panel required full explanation of all possible alternatives and why these would not work before concurring to close the avenue. Closing the avenue was something that was done as a last resort. In addition, physical barriers such as walls and berms were not viable for a number of obvious reasons.

Mr. President, in the last 4 years, studies have revealed that 45 percent of terrorist incidents have included the use of explosives. What greater symbol is there in the United States than the White House? I guess the second greatest symbol would be the Capitol complex here. For terrorists, vengeance is a motive, and the White House is a symbolic target.

The means are available to attack the White House if the avenue remains open. It does not have to be a sophisticated apparatus. An abundance of explosive materials is available to the public with an ease of delivery and destruction of a target. You need a vehicle to do it. In fact, the World Trade Center conspirators were convicted of conspiracy to blow up symbolic targets. Not only the World Trade Center, which they blew up, but the Holland Tunnel and the FBI office in New York.

To illustrate the effect of an incident to the American people, 33 years after President Kennedy was assassinated, this country continues to deal with the ramifications from that incident. It is impossible to have a public debate on the issues prior to the closure of the avenue. This would have created a window of opportunity. Therefore, the information was held to a small group of people. In fact, since closure of Pennsylvania Avenue, more information is available than the Secret Service would like with respect to the vulnerability of the White House.

In recent years, other official residences of heads of State have closed off vehicular traffic in proximity to their facilities. We know that canines remain the best source of explosive detection. We are not talking about a perceived threat, Mr. President. The threat is a real threat. I repeat again, the Secretary of the Treasury said within the last hour and a half that it is imperative that area remain blocked off.

There are terrorists here in this country, and it is everyone's responsibility to limit the opportunity for them to carry out their evil acts. The closing of Pennsylvania Avenue contains a real public safety issue. If you provide access to the target, then you are endangering the public and both those who work in and around the White House.

Mr. President, I do not think we should consider this giving in to terrorists because we blocked off Pennsylvania Avenue.

I do not think we should consider it a victory for terrorists because we have closed off Pennsylvania Avenue. Rolling up the White House would be a victory for the terrorists, not limiting their access to it. If this is perceived as giving in to terrorism, then what about people at night when they lock their doors before they go to sleep? Are they giving into the unlawful elements of our society? When you leave your home to go shopping or go to work and you lock your door, are you giving in to the unlawful elements of your community?

I think, Mr. President, that we should not allow the sense-of-the-Senate resolution to be adopted, unless we put this simple amendment on it, saying let us at least have the Secret Service certify that it is safe, whatever

plan we come up with, whether it is vehicular traffic or otherwise.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I want to back the statement of the Senator from Nevada. There has been no committee hearing on this. This bill is pending before the Governmental Affairs Committee. We have not had the hearing, we have not had the Secret Service people up, and we have not had testimony on what the danger is. Much of it, as I understand it, is classified. So we can have closed hearings, and everybody would know then what we are doing.

If we want to be this cavalier about how we are treating people at the White House, let us take all the flower pots out that protect the Capitol here, which prevent vehicular traffic here; let us take them out. I was amazed to find out that L'Enfant and George Washington did not somehow think it was nice to have a Capitol like this. But George Washington and L'Enfant did not have to deal with things like the Oklahoma bombing, the Unabomber, and everything else.

We have not had the first hearing on this, and here we are voting to take this off from in front of the White House after danger has been assessed, and it is done by a bipartisan group—Coleman and Webster were both on that. We are so cavalier about the White House, why do we not include this and have a second-degree amendment and take off all the protection all over the Nation's Capital, including at the Capitol right here—if we are so brave about this. Let people pull their vans up beside the Russell Building, which is blocked off, and behind the Hart Building, where my office happens to be.

We have very good reasons for thinking some of these protections are necessary and so does the White House. I think this vote was ridiculous. If we are going to take it off at the White House, take it off here and let us face the same danger together. Otherwise, let us agree with the people that have made this assessment, who were on this review committee, and say, yes, we need to assess this very carefully. We are about to do, with legislation, here what we should not be doing unless we have a very thorough hearing and understanding of the White House personnel.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in support of the measure of the Senator from Nevada. I would like to put it in a certain context. The first thing to know, if we are talking about our original plans, is that the L'Enfant plan connects what was termed the ''Congress' House'' with the ''President's House,'' at either end of Pennsylvania Avenue. It is the center of the plan. It is in a sense a diagram of the Constitution—the separation of powers in a unified Government.

Pennsylvania Avenue, in that original plan, comes to the Capitol Grounds, stops at the west end, and then resumes at the east end. That is the present arrangement on Capitol Hill. The identical arrangement was to be found at the west end of the avenue. The avenue moved up to the Presidential grounds, then stopped and resumed further west. That was before the Treasury Building was built, and before any roads were built. The city, at that point, was still very much a marshland, with this magnificent plan still to be realized.

I have been working for 35 years on the redevelopment of Pennsylvania Avenue, from the time President Kennedy, in his inaugural parade, looked to his left and to his right, south and north, at the avenue and found it was being abandoned. The center of the city, as the center of many cities, was just falling down. The city was moving out Wisconsin Avenue, out Connecticut Avenue. The Federal triangle was unfinished on the south side, which had begun under Andrew Mellon and President Hoover, following the McMillan plan of 1900, which gave us Union Station. It got the railroads off The Mall, for example. To the north, the Avenue was all but abandoned—two- and three-story buildings were empty, except for the occasional storefront selling firecrackers.

President Kennedy proposed redevelopment of the avenue. A commission was established. Nathaniel Owings was Chairman. Presidents Johnson, Nixon, Ford, Carter, Reagan, Bush, and now President Clinton, have worked on it with great care. We are just about completed. The Ronald Reagan Building, now three-quarters completed, will finish the Federal triangle. That site, sir, was cleared in 1928. So you cannot say we have been in any great rush to do this. And now just as we finish the route to the White House, we have this security problem.

I say to my friend from Nevada that President Clinton did a fine thing in establishing a committee headed by Roger Kennedy, who is the Director of the Park Service, an architectural historian of great talent. His works are incomparably intelligent. Orders From France, is but one example.

The committee has come up with a plan, which would extend the park northward in the manner envisioned by L'Enfant. But it need not be a barrier to the movement of people and vehicles along the avenue. An underpass could be completed that would serve this purpose. It is just so important that we not define ourselves as a beleaguered, besieged nation. Suggestion has been made by the ranking member of the Governmental Affairs Committee, the distinguished Senator from Ohio, that we get rid of the pots and barriers around the Capitol. Fine. We could extend the Capitol park down the western side of the Russell Office Building, add to that whole park complex, do everything that is desired, without putting up what look like emergency barriers.

That is not the message we want to send to ourselves and to the world. We can also do what is necessary for security at the White House without declaring us to be a nation under siege. We are not, and we should not say so. We are the most powerful nation on Earth. With equanimity and care we can take care of these difficulties. I hope we do.

Mr. REID. Will the Senator yield?

Mr. MOYNIHAN. I yield the floor.

Mr. REID. Before the Senator leaves the floor, Mr. President, through you to the distinguished Senator from New York, I want the RECORD to be spread with the fact that because of his diligent work—I do not know of anyone who is more responsible for driving down Pennsylvania Avenue today and seeing beautiful buildings and structures. The Pennsylvania Avenue Development Corporation in itself was a work of art.

One of the first things I did upon coming here on the Appropriations Committee was sit in on occasion for the distinguished senior Senator from West Virginia and conduct those hearings on the Pennsylvania Avenue Development Corporation and listen to the enthusiasm of the people on that corporation and what they were going to do. Now you drive down the street, and it has been done.

I further want the RECORD to be spread with the fact that I serve on the Public Works Committee with the distinguished senior Senator from New York. I can remember when we legislated a building on that ugly Federal triangle, a blank piece of dirt that was there. Now you drive by there and you see the thriving work that is there and that building which will add to the beauty of our Nation's Capital.

So I appreciate the Senator and what the Senator from New York said. But I also want to make sure to say some things that the Senator could not say for himself. But for him, we may still be where we were when President Kennedy had his inaugural parade. It is a beautiful parkway.

I also will read something that I think the Senator from New York would agree with. This is from a tour magazine which people get when they come to the Nation's Capital. L'Enfant had hoped that the grass ''* * * would serve as an extension of the White House grounds.''

So the original vision of L'Enfant was to have that whole area as an additional containment of the White House. Jefferson decided that was not the thing to do at the time.

But I just want to make sure that the Senator from New York knows and appreciates that the people will know, when the history books are written, about the work which he has done to make this city beautiful as the Nation's Capital.

Mr. MOYNIHAN. Mr. President, I am very grateful to the Senator from Nevada.

Might I close with just one line? In President Kennedy's proposal for the redevelopment of Pennsylvania Avenue, which we are talking about, he said the avenue ''should be lively, friendly, and inviting, as well as dignified and impressive.''

I think we can achieve that in the immediate environs of the White House. It is just the next challenge. Let us go forward and do it in good spirit and unity.

I thank again the Senator from Nevada.

Mr. NUNN. Mr. President, it is my understanding that the Senator from Nevada has a second-degree amendment now pending. Is that correct?

Mr. REID. Yes. I received word, I say to my friend, the ranking member, from one of the managers of this bill. I understand from what the note said that they will accept the amendment.

Mr. NUNN. I believe we are willing to accept the amendment on both sides who favor the original amendment. So I would suggest that the Senator might call the question on this amendment, and we can move on.

I hope on Senator BINGAMAN's amendment on ASAT, we can get a time agreement, if that is satisfactory to the Senator from South Carolina. Then it is my understanding that Senator MURRAY has an amendment on abortion in overseas hospitals. If we can get a time agreement on both of those, I believe we can move both of those along in the next couple of hours. I would like Senator BINGAMAN to be notified that we are prepared to take up his amendment on ASAT and also enter into a time agreement that is satisfactory to him.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Virginia.

Mr. ROBB. Mr. President, as the Senator from Georgia just indicated, those of us who are cosponsoring the amendment are entirely prepared to accept the language proposed by the distinguished Senator from Nevada. Indeed, the language is entirely consistent with the intent of the sponsors of this particular amendment. At the conclusion of the consideration of this amendment, I am going to propose a motion to change one word in the amendment, and then I hope we will be able to take up the matter on final passage. But the language that the Senator from Nevada has suggested is not only consistent but entirely appropriate. I fully support it. I believe the distinguished Senator from Minnesota shares that same opinion.

Mr. REID. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I wanted to concur with what the Senator from Virginia said. Without objection, we are willing to accept the second-degree amendment of the Senator from Nevada. We would like to go ahead with a voice vote on that.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I am willing to lend my encouragement to end this debate. But I do not want to close it without a brief statement. I have an amendment that I was about to send to the desk that said, if we think that we can expose the White House with the infrastructure and the President of the United States and the people who work in the facility to passersby, then I think we should do the same thing out here on the Capitol Grounds. I think we ought to say that no life here is worth more than a life there and nothing that goes on here is more important than what goes on in the White House in the executive offices of this country. I am willing to forgo it. But, Mr. President, I want to make the point, before we close the debate as far as this Senator is concerned, that ''do unto others'' is not an admonition that ought to pass by here. I think we ought to treat this facility no differently than we treat the White House.

If we are going to open up that street, I assure you that I will be here with an amendment that says open up the whole plaza here. Let of the traffic come through. Let them park cars, vans, whatever they choose. Let them park at the Hart, Dirksen and the Russell Buildings. I love this picture that says for the American people we are going to protect the Capitol, protect the Senators, and protect the Congressmen, but the President, let him beware.

That is the conclusion of my remarks. Mr. President, I congratulate the Senator from Nevada for his amendment to this proposition. Thank you.

The PRESIDING OFFICER. The question is on the second-degree amendment of the Senator from Nevada.

The amendment (No. 4056) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 4052, AS AMENDED, AS MODIFIED

Mr. ROBB. Mr. President, the amendment was never designed to be partisan nor to attack, certainly, the President. I would never have been a part of it. It was designed to try to clarify something that has been very troubling to many of the people who are directly involved, both for symbolic reasons as well as for practical reasons, in terms of the traffic flow of the Nation's Capital. I have lived in and around this area for 40 of my 57 years, or most of the last 40 of my 57 years. I am quite familiar with the traffic patterns and the inconvenience to those who have to traffic the area every day. I am very conscious of the symbolism of our Nation's Capital, and particularly the President's house.

I have discussed with the chief sponsor of the amendment the changing of one word that I think might make our intention even clearer. That would be to substitute the word ''request'' for the word ''direct'' which is contained on page 3, line 18. It would then read that it is the sense of the Senate that the President should request the Department of the Treasury and the Secret Service to work with the government of the District of Columbia to develop, et cetera.

I think there have been connotations that this is attempting to micromanage, or to take action that would be inappropriate. I fully respect those who have spoken and those who have concerns. It ought to be considered appropriately by the committees of jurisdiction. But we need to have a resolution of this question.

I applaud the Senator from Minnesota for bringing the question to our attention.

I move, Mr. President, to strike the word ''direct'' and insert the word ''request'' on line 18, page 3.

The PRESIDING OFFICER. Is there objection to modifying the amendment?

Mrs. BOXER. Mr. President, reserving the right to object, and I shall not object.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I shall not object. I would like to make an observation. I would like to wait until other Senators have spoken.

What is the parliamentary situation at the moment?

The PRESIDING OFFICER. A unanimous-consent request is pending to modify the existing amendment.

Mrs. BOXER. Let me just make a very brief remark reserving my right to object, if I might, which is this: I am going to support this amendment. I am glad there is agreement. But I really wonder sometimes where I am around here, if this is the city council or if this is the Senate of the United States of America.

I think it is very important that we address the issue of security for the President. We are in this amendment. And that we look at how we can make Pennsylvania Avenue work. But I have to say, Mr. President, and the reason I reserve my right to object, it is awfully frustrating to someone who would like to see us raise the minimum wage and to someone who would like to see us get to the issue of health care that we are on the defense bill and we are talking about Pennsylvania Avenue. With all due respect, I would not object at this time, but I do hope we can move forward and get on with this bill and others to make life better for people.

I yield the floor.

The PRESIDING OFFICER. Without objection, the modification is made.

The amendment, as amended, as modified, is as follows:

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

SEC. . SENSE OF THE SENATE.

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

(1) In 1791, President George Washington commissioned Pierre Charles L'Enfant to draft a blueprint for America's new capital city; they envisioned Pennsylvania Avenue as a bold, ceremonial boulevard physically linking the U.S. Capitol building and the White House, and symbolically the Legislative and Executive branches of government.

(2) An integral element of the District of Columbia, Pennsylvania Avenue stood for 195 years as a vital, working, unbroken roadway, elevating it into a place of national importance as ''America's Main Street''.

(3) 1600 Pennsylvania Avenue, the White House, has become America's most recognized address and a primary destination of visitors to the Nation's Capital; ''the People's House'' is host to 5,000 tourists daily, and 15,000,000 annually.

(4) As home to the President, and given its prominent location on Pennsylvania Avenue and its proximity to the People, the White House has become a powerful symbol of freedom, openness, and an individual's access to their government.

(5) On May 20, 1995, citing possible security risks from vehicles transporting terrorist bombs, President Clinton ordered the Secret Service, in conjunction with the Department of the Treasury, to close Pennsylvania Avenue to vehicular traffic for two blocks in front of the White House.

(6) While the security of the President and visitors to the White House is of grave concern and is not to be taken lightly, the need to assure the President's safety must be balanced with the expectation of freedom inherent in a democracy; the present situation is tilted too heavily toward security at freedom's expense.

(7) By impeding access and imposing undue hardships upon tourists, residents of the District, commuters, and local business owners and their customers, the closure of Pennsylvania Avenue, undertaken without the counsel of the government of the District of Columbia, has replaced the former openness of the area surrounding the White House with barricades, additional security checkpoints, and an atmosphere of fear and distrust.

(8) In the year following the closure of Pennsylvania Avenue, the taxpayers have borne a significant burden for additional security measures along the Avenue near the White House.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President should request the Department of the Treasury and the Secret Service to work with the Government of the District of Columbia to develop a plan for the permanent reopening to vehicular traffic of Pennsylvania Avenue in front of the White House in order to restore the Avenue to its original state and return it to the people.

At the end of the amendment add the following: *Provided*, That the Secretary of the Treasury and the Secret Service certify that the plan protects the security of the people who live and work in the White House.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Minnesota and the Senator from Virginia.

The amendment (No. 4052), as amended, as modified, was agreed to.

AMENDMENT NO. 4057

(Purpose: To express the sense of the Senate that the United States-Japan Semiconductor Trade Agreement should be renegotiated)

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I ask unanimous consent that the Kyl amendment and the pending committee amendments be laid aside for the purpose of offering an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. BINGAMAN, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. BURNS, Mr. DORGAN, Mrs. FEINSTEIN, Mr. HATCH, Mr. LEVIN, Ms. SNOWE, Mr. MURKOWSKI, Mrs. BOXER, and Mr. COHEN, proposes an amendment numbered 4057.

Mr. CRAIG. 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:

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

SEC. . SENSE OF SENATE REGARDING THE UNITED STATES-JAPAN SEMICONDUCTOR TRADE AGREEMENT.

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

(1) The United States and Japan share a long and important bilateral relationship which serves as an anchor of peace and stability in the Asia Pacific region, an alliance which was reaffirmed at the recent summit meeting between President Clinton and Prime Minister Hashimoto in Tokyo.

(2) The Japanese economy has experienced difficulty over the past few years, demonstrating that it is no longer possible for Japan, the world's second largest economy, to use exports as the sole engine of economic growth, but that the Government of Japan must promote deregulation of its domestic economy in order to increase economic growth.

(3) Deregulation of the Japanese economy requires government attention to the removal of barriers to imports of manufactured goods.

(4) The United States-Japan Semiconductor Trade Agreement has begun the process of deregulation in the semiconductor sector and is opening the Japanese market to competitive foreign products.

(5) The United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector.

(6) The mechanisms include joint calculation of foreign market share, deterrence of dumping, and promotion of industrial cooperation in the design of foreign semiconductor devices.

(7) Because of these actions under the United States-Japan Semiconductor Trade Agreement, the United States and Japan today enjoy trade in semiconductors which is mutually beneficial, harmonious, and free from the friction that once characterized the semiconductor industry.

(8) Because of structural barriers in Japan, a gap still remains between the share of the world market for semiconductor products outside Japan that the United States and other foreign semiconductor sources are able to capture through competitiveness and the share of the Japanese semiconductor market that the United States and those other sources are able to capture through competitiveness, and that gap is consistent across the full range of semiconductor products as well as a full range of end-use applications.

(9) The competitiveness and health of the United States semiconductor industry is of critical importance to the overall economic well-being and high technology defense capabilities of the United States.

(10) The economic interests of both the United States and Japan are best served by well functioning, open markets, deterrence of dumping, and continuing good cooperative relationships in all sectors, including semiconductors.

(11) A strong and healthy and military and political alliance between the United States and Japan requires continuation of the industrial and economic cooperation promoted by the United States-Japan Semiconductor Trade Agreement.

(12) President Clinton has called on the Government of Japan to agree to a continuation of a United States-Japan Semiconductor Trade Agreement beyond the current agreement's expiration on July 31, 1996.

(13) The Government of Japan has opposed any continuation of a government-to-government agreement to promote cooperation in United States-Japan semiconductor trade.

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

(1) it is regrettable that the Government of Japan has refused to consider continuation of a government-to-government agreement to ensure that cooperation continues in the semiconductor sector beyond the expiration of the Semiconductor Trade Agreement on July 31, 1996; and

(2) the President should take all necessary and appropriate actions to ensure the continuation of a government-to-government United States-Japan Semiconductor Trade Agreement before the current agreement expires on that date.

(c) DEFINITION.—As used in this section, the term ''United States-Japan Semiconductor Trade Agreement'' refers to the agreement between the United States and Japan concerning trade in semiconductor products, with arrangement, done by exchange of letters at Washington on June 11, 1991.

Mr. CRAIG. Mr. President, I will keep my remarks brief because it is my understanding that the amendment I have just sent to the desk has, in fact, been cleared by both sides.

Mr. President, as we surf the Net, drive our car to work, or complete a training mission in our F–16 fighter, we do not ask ''How is this possible?'' We simply go about the task at hand.

However, there is a common thread that drives technology in our lives, the everpresent semiconductor. Semiconductors are an increasingly pervasive aspect of everyday life, enabling the creation of the information superhighway and the functioning of everything from automobiles to advanced medical equipment.

Semiconductors are also the linchpin of our national defense capabilities. For example, the current design of the F–16 fighter includes 17,000 electronics components.

Mr. President, that is why I am offering an amendment today, with Senator BINGAMAN and 11 of our colleagues, that express the sense of the Senate that the United States-Japan Semiconductor Trade Agreement should be renegotiated.

The United States-Japan Semiconductor Trade Agreement is due to expire in July of this year. This trade agreement has a successful track record in opening Japanese markets and discouraging the dumping of semiconductor products by Japanese companies in the United States.

Mr. President, the United States and Japan have had a long history of difficulty in this area of trade relations. In 1986, when the first United States-Japan Semiconductor Agreement was signed, foreign share in the Japanese semiconductor market averaged only 8.4 percent annually. In the mid–1980's, the International Trade Commission determined that Japanese companies had dumped DRAM's, a commodity memory chip, into the United States market in an attempt to gain market share through predatory pricing. As a result, 9 of 11 American DRAM manufacturers were driven out of the market.

The United States-Japan Semiconductor Trade Agreement has made significant progress in countering these unfair trade practices. The agreement has opened the Japanese semiconductor market to foreign producers, with foreign market share growing to 25 percent in 1995.

The agreement has also discouraged dumping practices by requiring Japanese firms to have appropriate data regarding costs available on a standby basis. This allows the Department of Commerce to conduct a fast track investigation, so that there is a swift imposition of a remedy if dumping is found, or ends the possibility of litigation if there is no evidence of dumping.

Mr. President, the agreement has been very effective in easing the problems associated with this area of United States-Japan trade relations.

Earlier this week, the United States Trade Representative's office announced that the foreign share of Japan's semiconductor market increased during the first quarter of 1996 to a record high of 30.6 percent.

Acting USTR Charlene Barshefsky responded in a written statement, that this improvement ''demonstrates the progress that can be achieved when the United States and Japan work together in a cooperative spirit and is a tribute to strenuous efforts that both sides have made to improve market access and strengthen industry cooperation under the United States-Japan Semiconductor Agreement. It is essential that we preserve and continue this effort.''

Mr. President, this, and other recent developments are positive news. However, they provide added incentive to ensure that this important trade agreement be renewed. Given the range of trade issues currently being addressed between the United States and Japan, it would not be in our interest for another area of contention in trade to develop.

There is some evidence that the worldwide semiconductor industry may now be entering into a period when supply will exceed demand. Renewal of the United States-Japan Semiconductor Agreement has become even more important because of the recent drop in DRAM memory semiconductors. Prices, which have fallen by over 70 percent since the beginning of the year, are now at levels which are below many producers' costs.

This kind of dumping has thrown the market into uncertainty and has injured U.S. producers. This type of injury and uncertainty is what the agreement is designed to address, and has done so successfully for years.

If current trends continue, the United States-Japan agreement becomes even more vital to our national interest, since the protection it provides is doubly necessary to discourage dumping in a period of oversupply.

American semiconductor manufacturers are among the most efficient in the world, but they cannot be expected to compete against unfair trade practices.

More important, it is vital to our defense interests, because we cannot afford to lose this important industry as a result of predatory dumping, similar to what existed prior to the agreement.

In his speech at the Semiconductor Industry Association's annual awards dinner, Secretary of Defense William Perry noted the importance of this industry in meeting our defense and security needs.

In short, the competitiveness and health of the U.S. semiconductor industry is of critical importance to the overall economic well-being and high technology defense capabilities of the United States.

THE CASE FOR RENEWAL OF THE AGREEMENT

The purpose of both the 1986 and the 1991 United States-Japan Semiconductor Agreements is to allow foreign manufacturers equitable access to the Japanese semiconductor market, and to discourage Japanese dumping in the United States market. In short, the goal of the agreement is to open the Japanese market to the point where sales generally occur without respect to the nationality of the supplier.

U.S. semiconductor manufacturers are extremely competitive in all open markets across a wide range of applications and a wide range of products. However, there remains a sharp disparity, between the market share United States manufacturers account for outside the United States and Japan, and the share they account for inside Japan.

In the world market, excluding the United States and Japan, American manufacturers accounted for 40 percent of all semiconductor sales in 1995. United States semiconductor makers accounted for only 18 percent of sales in the Japanese market that same year.

The significant disparity between United States sales outside Japan and sales inside Japan indicates that sales in that country are not always made solely on the basis of market forces such as technology, price, quality, service, and delivery.

It is important to note that the disparity is not explained by the argument that the United States industry does better in the United States and the Japanese industry does better in Japan.

A comparison of the 40-percent share United States firms earn in world markets outside both the United States and Japan with the 18-percent share United States firms have in Japan demonstrates that a significant gap remains. But there is only a small difference between the 23-percent share Japanese firms have in the United States market and the 27-percent share they have in world markets outside both the United States and Japan.

KEY POINTS FOR A RENEWED AGREEMENT

Mr. President, as I already mentioned, the current semiconductor agreement expires July 31, 1996. It is essential that a new government-to-government agreement be negotiated with Japan before that time.

The Japanese electronic industry has proposed an industry-to-industry agreement with no government involvement as a replacement for the current agreement. An industry-level agreement is completely unacceptable. It would not ensure continued progress in increasing foreign market access in Japan, nor would it provide the necessary guarantee against Japanese dumping in our market.

Important features of a new government-to-government semiconductor agreement are:

It should provide for joint United States-Japanese Government calculation and publication of foreign market share in Japan;

And, it should provide for regular government-to-government consultations to assess progress in increasing foreign market access. These provisions regarding the governments' oversight roles are critical to ensuring continued progress.

Market access in Japan is critical for the continued growth and strength of the United States semiconductor industry. In 1995, the Japanese semiconductor market was $39.6 billion. It is expected to grow to $57.1 billion by 1999. Every percentage point increase in United States market access in Japan is therefore worth hundreds of millions of dollars in increased United States exports, thousands of additional jobs in the United States, and a stronger domestic industry to meet our growing national security and defense needs.

STATUS OF NEGOTIATIONS

Mr. President, bilateral talks are expected to begin this week. There is reason to be cautiously optimistic about

this development; however, it is imperative that the Japanese Government be prepared to discuss in good faith the role that government must continue to play in deregulating the Japanese semiconductor market and continuing the process of opening that market.

Mr. President, the deadline for the expiration of the United States-Japanese Semiconductor Agreement is fast approaching. No new progress toward renegotiation of this important trade agreement has been made. Meetings have now occurred, which is certainly a step in the right direction. However, Japanese and American officials just ended 12 days of unofficial semiconductor trade talks yesterday in Tokyo that yielded little progress. The next step will be a sub-Cabinet-level meeting held here in Washington tomorrow and Friday between MITI Vice Minister of International Affairs Yashihiro Sakamoto and Ira Shapiro, Ambassador in Charge of Japan and Canada at the Office of the United States Trade Representative.

Mr. President, these current events emphasize the importance of the message being sent today by the Senate, and that is that the United States-Japanese Semiconductor Agreement should be—and, most importantly, must be—renegotiated. Given the range of trade issues currently being addressed between our two nations, it would not be in either of our interests for another area of contention in trade to develop. Therefore, it is essential that a new government-to-government agreement be negotiated with Japan before the current agreement expires on July 31.

Mr. President, I have no further comments on this amendment.

Mr. HATCH. Mr. President, I want to add my support to the amendment regarding the United States-Japan Semiconductor Agreement.

The United States-Japan Semiconductor Agreement, first concluded in 1986, and renewed in 1991, has led to tremendous progress in opening the Japanese market. It has provided the framework for discussing trade issues before they became problematic and has been the catalyst for increasing cooperation between United States semiconductor makers and Japanese semiconductor-consuming industries. It has also promoted fair trade in the marketplace and, at least until recently, has helped to avoid situations of injurious dumping.

The current agreement expires at the end of July. It must be renewed. Moreover, both governments must play a significant role in any renewed agreement. Government-to-government involvement provides essential support and encouragement to all industry efforts, and permits the collection of relevant data regarding the calculation of market share. The agreement will not work unless this data can form the basis of the accountability in product pricing that can avoid antidumping actions.

Renewal of the United States-Japan Semiconductor Agreement has become even more important because of the recent dramatic price declines for memory chips. Average sales prices have fallen by over 70 percent in recent months. These prices are so low, in fact, that the specter of significant injurious dumping is again a reality. Dumping throws markets into a panic. This type of uncertainty and disruption must not take place again. I urge the President to use all the means at his disposal to conclude a renewed agreement before the current one expires on July 31.

Mr. KEMPTHORNE. Mr. President, I rise today in support of an amendment to express the sense of the Senate that the United States-Japan Semiconductor Trade Agreement be renegotiated. The current semiconductor agreement expires July 31, and it is essential that a new government-to-government agreement be negotiated with Japan prior to the expiration date.

The importance of semiconductors should not be underestimated. They are an increasingly pervasive aspect of everyday life, enabling the creation of the information superhighway and the functioning of everything from automobiles to advanced medical equipment. Semiconductors are also the fulcrum of our national defense capabilities. U.S. semiconductor manufacturers employ 260,000 people nationwide. Their products are the driving force behind the nearly $400 billion U.S. electronics industry, which provides employment for 2.5 million Americans. Our semiconductor industry is the world's largest and it has habitually been the market leader. U.S. sales, last year, totaled $59 billion, representing almost 41 percent of the $144 billion global market.

It is anticipated that the world semiconductor market will double by the year 2000, with projected sales of over $300 billion. Market access in Japan is critical for the continued growth and strength of the United States semiconductor industry. In 1995, the Japanese semiconductor market was $39.6 billion. It is expected to grow to $57.1 billion by 1999. It is well accepted that every percentage point increase in United States market access in Japan is worth hundreds of millions of dollars in increased United States exports and approximately thousands of additional jobs in the United States.

In 1986, President Reagan vigorously sought and concluded a 5-year agreement with the Government of Japan to grant foreign access to its semiconductor market. The primary purpose of the 1991 United States-Japan semiconductor agreement, like the 1986 agreement which preceded it, is to allow foreign manufacturers equitable access to the Japanese semiconductor market. The objective of the agreement is to level the playing field and open the Japanese market to the point where sales generally occur without respect to the nationality or origin of the supplier. The semiconductor agreement has led to tremendous progress in opening the Japanese market. Foreign share increased from 8.5 percent in 1985 to 25.4 percent in 1995. Of this 25.4 percent foreign share, the U.S. industry has 18 percent market share.

It is quite apparent that U.S. semiconductor manufacturers are extremely competitive in all open markets across a wide range of applications and a wide range of products. There remains a sharp disparity, however, between the share United States manufacturers account for in the neutral world markets outside the United States and Japan and the share they account for inside Japan. In the world market, excluding the United States and Japan, American manufacturers accounted for 40 percent of all semiconductor sales in 1995. United States semiconductor makers accounted for only 18 percent of sales in the Japanese market that same year. This huge difference in United States sales outside Japan and sales inside Japan is further evidence that sales in that country are, unfortunately, still not always made solely on the basis of market forces such as technology, price, quality, service, and delivery.

Statements that attempt to rationalize the inability of American manufacturers to gain adequate access to the Japanese semiconductor market tend to focus on the belief that it is purely natural that the United States industry does better in the United States and the Japanese industry does better in Japan—this is simply not true. A comparison of the 40 percent share United States firms earn in world markets outside both the United States and Japan with the 18 percent share United States firms have in Japan demonstrates that significant gap remains. But there is only a small difference between the 23 percent share Japanese firms have in the United States market and the 27 percent share they have in world markets outside both the United States and Japan.

This week, acting-U.S. Trade Representative Charlene Barshefshy is in Tokyo to hold inform bilateral talks. Although, I am cautiously optimistic about this development, it is imperative that the Government of Japan understand and be prepared to discuss in good faith the role that government must continue to play in deregulating the Japanese semiconductor market and continuing the process of opening that market. The Government of Japan must also resist efforts by its electronics industry to install an industry-to-industry agreement with no government involvement as a replacement for the current agreement. Such an industry-to-industry agreement would not ensure continued progress in increasing foreign market access in Japan and is totally unacceptable.

A government-to-government semiconductor agreement will provide for joint United States-Japan Government calculation and publication of foreign

market share in Japan and that it provide for regular government-to-government consultations to assess progress in increasing foreign market access. These provisions regarding the governments' oversight roles are critical to ensuring continued progress and are totally within the true spirit of competition.

Mrs. FEINSTEIN. Mr. President, I rise in support of the Craig-Bingaman amendment, urging the renewal of our semiconductor agreement. The agreement has reduced trade friction and promotes private sector cooperation. It is essential that a new government-to-government agreement is negotiated with Japan before the current agreement is allowed to expire on July 31.

The United States and Japan have a significant stake in trade harmony in this important economic sector. The current $100 billion world market for semiconductors is expected to grow to $300 billion by the year 2000. The semiconductor industry is the basis of our electronics industry and an increasingly pervasive part of our everyday life.

This agreement, first signed in 1986, creates a regular framework for business and government leaders to meet and review trade issues and business trends. This framework has helped build smooth, steady growth in the industry, defused potential disputes, and promoted trade harmony, rather than the hostility that has characterized other trade sectors.

As a replacement, the Japanese electronics industry proposes an industry-to-industry agreement with no government involvement. This industry agreement is unacceptable.

It would take no action to ensure continued progress to increase foreign market share in Japan. Without an agreement, in a market downturn, United States producers could be cut out of segments of the Japanese market.

A strong government oversight role is fundamental to enforcing the integrity of the semiconductor market under the agreement. The government-to-government semiconductor agreement must be renewed in order to provide for the gathering and publication of market share data and provide for the regular meetings of industry leaders to review market and industry issues.

Market access in Japan is critical for the continued growth and strength of the United States semiconductor industry. The $39 billion Japanese semiconductor market is expected to grow to $57.1 billion by 1999. Each percentage point increase in United States market access in Japan represents hundreds of millions of dollars in increased sales and United States jobs.

Representatives of the United States semiconductor industry recently met in Hawaii with their Japanese counterparts to try to reach agreement on future United States-Japan cooperation on semiconductor issues. During the meetings, the Japanese company executives submitted a confidential proposal to continue cooperation in semiconductors, but refused to discuss the role of the Government in ensuring the agreement.

At the same time, the Japanese Government insisted it could not discuss the agreement with the United States Government unless and until an industry level agreement is reached. This rigid insistence appears deliberately designed to deadlock discussions until the current agreement expires in July.

The United States industry—in close consultation with USTR—has decided that it cannot and will not continue to meet with Japanese company leaders under these circumstances, but will respond to proposals put forth by the Japanese companies.

Mr. President, the purpose of the 1991 agreement, like the 1986 agreement which preceded it, is to allow foreign manufacturers equitable access to the Japanese semiconductor market. The agreement seeks to open the Japanese market to the point where sales generally occur without respect to the nationality of the supplier.

The semiconductor agreement has been a tremendous success and must be continued. Under the agreement, the foreign share of the Japanese increased from 8.5 percent in 1985 to 25.4 percent in 1995. Of this 25-percent share, the U.S. firms have an 18-percent market share.

The United States semiconductor manufacturers, many of them based in my State of California, make the best product in the world and are extremely competitive in all open markets across the full range of applications and products.

However, United States manufacturers have been less successful in the Japanese market than in the neutral world markets outside of the United States and Japan.

In neutral markets, American manufacturers represent 40 percent of all semiconductor sales last year.

In Japan, United States semiconductor makers accounted for only 18 percent of 1995 sales, a gap consistent across the full range of semiconductor products and applications.

By contrast, there is only a small difference between the 23-percent share Japanese firms have in the United States market and the 27-percent share they have in neutral markets.

The disparity between United States sales outside and inside the Japanese market suggests semiconductor sales in that country are, unfortunately, still not always made solely on the basis of market forces such as technology, price, quality, service, and delivery. Current market conditions require the continuation of the United States-Japan agreement.

Mr. President, the United States-Japan semiconductor agreement reduces trade friction and promotes private sector cooperation, rather than Government enforcement. For both countries, the extension would represent an opportunity to continue the current, mutually beneficial relationship and should not to be allowed to slip by.

The Clinton administration deserves credit for endorsing renewal and raising this issue during bilateral meetings. However, the Japanese Government should understand very clearly that the desire to extend the agreement is shared by Congress as well. I am pleased to support the amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, we favor the Craig amendment on this side, and I recommend it be accepted.

Mr. THURMOND. Mr. President, we favor the Craig amendment and recommend it be accepted.

Mr. CRAIG. Mr. President, I urge adoption of my amendment.

The PRESIDING OFFICER. The question now occurs on agreeing to the Craig amendment.

The amendment (No. 4057) was agreed to.

Mr. THURMOND. 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. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I ask unanimous consent that the time on the Bingaman amendment be limited to 40 minutes equally divided in the usual form, that no amendments be in order, and that following the use or yielding back of time, the Senate proceed to vote on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 4058

(Purpose: To strike out provisions that predetermine the outcome of an ongoing Department of Defense study on space control and to provide a framework for space control decisions to be made)

The PRESIDING OFFICER. The Senator from New Mexico.

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

The PRESIDING OFFICER. Without objection, the pending amendments will be laid aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 4058.

Mr. BINGAMAN. 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:

Beginning on page 32, strike out line 22 and all that follows through page 33, line 21, and insert in lieu thereof the following:

SEC. 212. SPACE CONTROL ARCHITECTURE STUDY.

(a) REQUIRED CONSIDERATION OF KINETIC ENERGY TACTICAL ANTISATELLITE PROGRAM.—

The Department of Defense Space Architect shall evaluate the potential cost and effectiveness of the inclusion of the kinetic energy tactical antisatellite program of the Department of Defense as a specific element of the space control architecture which the Space Architect is developing for the Secretary of Defense.

(b) CONGRESSIONAL NOTIFICATION OF ANY DETERMINATION OF INAPPROPRIATENESS OF PROGRAM FOR ARCHITECTURE.—(1) If at any point in the development of the space control architecture the Space Architect determines that the kinetic energy tactical antisatellite program is not appropriate for incorporation into the space control architecture under development, the Space Architect shall immediately notify the congressional defense committees of such determination.

(2) Within 60 days after submitting a notification of a determination under paragraph (1), the Space Architect shall submit to the congressional defense committees a detailed report setting forth the specific reasons for, and analytical findings supporting, the determination.

(c) REPORT ON APPROVED ARCHITECTURE.—Not later than March 31, 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the space control architecture approved by the Secretary. The report shall include the following:

(1) An assessment of the potential threats posed to deployed United States military forces by the proliferation of foreign military and commercial space assets.

(2) The Secretary's recommendations for development and deployment of space control capabilities to counter such threats.

(d) Funding.—(1) The Secretary of Defense shall release to the kinetic energy tactical antisatellite program manager the funds appropriated in fiscal year 1996 for the kinetic energy tactical antisatellite program. The Secretary may withdraw unobligated balances of such funds from the program manager only if—

(A) the Space Architect makes a determination described in subsection (b)(1); or

(B) a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

(2) Not later than April 1, 1997, the Secretary of Defense shall release to the kinetic energy tactical antisatellite program manager any funds appropriated for fiscal year 1997 for a kinetic energy tactical antisatellite program pursuant to section 221(a) unless—

(A) the Space Architect has by such date submitted a notification pursuant to subsection (b); or

(B) a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

Beginning on page 42, strike out line 15 and all that follows through page 43, line 9.

Mr. BINGAMAN. Mr. President, this is a very simple amendment. It proposes to delete two provisions that have been included in the bill. The effect of the provisions that are in the bill is that they would prejudge an ongoing study that the Pentagon is doing on space control and antisatellite weapons. These provisions that I am proposing to delete would impose on the Pentagon a kinetic energy antisatellite weapon which is generally referred to as KE–ASAT, which may well be one of the least attractive options available to the Pentagon for space control.

My amendment instead sets up a process whereby the Pentagon can complete its analysis of the ongoing space control architecture study and fund the KE–ASAT, the kinetic energy ASAT, only if the Secretary of Defense decides that it is a desirable option.

My amendment was defeated in the committee when I offered it by an 11-to-10 vote. I hope that we can succeed on the floor because we simply should not be imposing a technical solution to a complex problem on the Pentagon before they have told us what their space control architecture will be.

Mr. President, this is a fairly esoteric subject. There is no doubt that our military forces deployed overseas will be made more vulnerable by the proliferation of foreign military commercial satellite imaging capabilities in the coming years. I have been among several here in Washington and around the country pointing to that threat and urging the administration to develop diplomatic and military options to deal with the threat.

The Pentagon's own April 1996 report, ''Proliferation Threat and Responsibilities,'' pointed to the growing availability of satellite imaging and noted—and here is a quote from that report:

Iraq, for example, might have used such capability to discover that coalition forces had shifted their positions prior to ground operations in Operation Desert Storm. Obviously, such a discovery by Iraq could have cost many allied lives. A future General Schwarzkopf may not have absolute dominance of the space above the battle area that the real General Schwarzkopf enjoyed during Desert Storm as a result of the U.N. sanctions on Iraq.

To deal with this threat, a threat that the Pentagon does take seriously, the Pentagon has launched a space control architecture development effort under the Pentagon's space architect, Maj. Gen. Robert Dickman. The results of the study may be available as early as this fall, according to the testimony that was received in the Armed Services Committee. Unfortunately, instead of waiting for this study, section 212 of this bill, this defense authorization bill that we are considering today—section 212 of the bill takes all funding away from the space architect unless the Secretary of Defense includes the kinetic energy ASAT in the space control architecture being developed. Section 221(c) denies all funding for technical analysis, that is $35 million, denies all that funding to the Under Secretary for Acquisition and Technology unless the kinetic energy ASAT Program is pursued.

Mr. President, this is, I believe, the first example I have seen of a sort of double mandate being put into law, where we are saying not only will we deny all funds to the space architect in the Department of Defense if they do not come to the conclusion we want in this study, but we will also deny this $35 million to the Under Secretary for Acquisition and Technology unless they decide to pursue this particular option.

In my view we should not be using such a mandate to influence the outcome of an ongoing Pentagon study. The real reason for this mandatory language, I am afraid, is that many are concerned that the kinetic energy ASAT option will prove to be a very poor alternative in this ongoing study. Most previous studies of antisatellite capabilities have pointed toward directed energy options as preferable to the kinetic energy ASAT mandated by the bill. For example, the Air Force Science Board, in its ''New World Vistas'' study in air and space power for the 21st century earlier this year recommended both ground-based lasers and high-powered microwave systems over the kinetic energy ASAT systems. Here is a quote from that ''New World Vistas'' study. It says:

Kinetic energy systems . . . are expensive. The vehicles are complex, and tracking and guidance must be precise. Most of the cost, however, is the result of maintaining readiness to launch within an acceptable time.

Mr. President, I am not opposed to the Pentagon's developing antisatellite capabilities to deal with the proliferation of foreign high-resolution imaging satellites. But we have to understand that these capabilities will be in the hands of a limited number of nations for the next 10 to 15 years, nations such as France, Russia, Israel, China, possibly India, and Japan. Would we really use a kill capability—which is what the kinetic energy ASAT is? This kinetic energy ASAT capability would collide with the satellite which it is directed against at very high speed. Would we really use this ability against one of those nations which I just listed, simply because they were making imagery available to a potential foe, such as Saddam Hussein, during a regional confrontation? Would our national leadership not prefer a capability that would disable or jam such a satellite when it was over our deployed forces but which would not permanently damage it?

The Air Force Science Board study to which I referred earlier points out that high power ''microwave systems could be attractive because they have the potential to produce electronic upset without damaging the structure of a threat satellite.'' Similarly, a mobile ground-based laser system might be developed that can only damage a threat satellite if its shutters were open, not if it were in a shutdown mode. Such systems would provide our military commanders a military option to ensure the dominance of space by this country above the battle area, which General Schwarzkopf enjoyed during Desert Storm, without resulting in the escalation of a regional conflict.

The ideal space control capability is not one that destroys a foreign imaging satellite by colliding with it at high velocity and creating a diplomatic crisis that broadens a conflict as well as a cloud of space debris that will have adverse effects on peaceful space activities.

Mr. President, if there are more cost effective and more diplomatically effective approaches to space control,

should we not allow the Pentagon to pursue those? The amendment I am offering leaves the $75 million in the bill which is presently there for tactical ASAT technology, without specifying what technologies we might be using it for. It eliminates the mandate forcing the use of the kinetic energy ASAT by the Pentagon. The amendment instead directs that the kinetic energy ASAT option be explicitly evaluated by General Dickman for the space control architecture, but it leaves the choice of whether to fund that option to the Pentagon. The Pentagon must also give Congress the results of its space control study by March 31, 1997.

This is the way in which we normally proceed when the Pentagon defines a threat, as they have in this case, and launches an effort to deal with that threat. We do not impose our solution to a highly complex problem before we have heard the Pentagon's own recommended solution.

Mr. President, the only testimony which the Senate received this year on this whole issue was from Gil Decker, the Assistant Secretary of the Army for Research and Acquisition, who told the Armed Services Committee that this is not an Army priority. This funding did not appear on any service wish list. This is hardly the basis for imposing this kinetic energy ASAT system on the Pentagon.

I urge my colleagues to support the amendment. That concludes my statement in support of it and I yield the floor.

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

Mr. COATS. Mr. President, it is my understanding the Senator from New Hampshire will be seeking some time to respond to the Senator from New Mexico and will be available to speak shortly. Let me just state we appear, now, to be making some progress on the bill. Relevant amendments are being debated and discussed and time limits are being sought. To the extent Members with amendments can notify us of their amendments and we can work out a time agreement, that would be preferable to keep us working late into the night.

REMOVAL OF INJUNCTION OF SECRECY—INTERNATIONAL NATURAL RUBBER AGREEMENT OF 1995, TREATY DOCUMENT NO. 104–27

Mr. COATS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 19, 1996, by the President of the United States.

International Natural Rubber Agreement of 1995, which is Treaty Document No. 104–27.

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

Mr. COATS. Mr. President, I further ask the treaty be considered as having been read for the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the International Natural Rubber Agreement, 1995, done at Geneva on February 17, 1995. The Agreement was signed on behalf of the United States on April 23, 1996. The report of the Department of State setting forth more fully the Administration's position is also transmitted, for the information of the Senate.

As did its predecessors, the International Rubber Agreement, 1995 (INRA), seeks to stabilize natural rubber prices without distorting long-term market trends and to assure adequate rubber supplies at reasonable prices. The U.S. participation in INRA, 1995, will also respond to concerns expressed by U.S. rubber companies that a transition period is needed to allow industry time to prepare for a free market in natural rubber and to allow for the further development of alternative institutions to manage market risk. The new Agreement incorporates improvements sought by the United States to help ensure that it fully reflects market trends and is operated in an effective and financially sound manner.

The Agreement is consistent with out broad foreign policy objectives. It demonstrates our willingness to engage in a continuing dialogue with developing countries on issues of mutual concern and embodies our belief that long-run market forces are the appropriate determinants of prices and resource allocations. It will also strengthen our relations with the ASEAN countries, since three of them—Malaysia, Indonesia, and Thailand—account collectively for approximately 80 percent of world production of natural rubber.

Therefore, I urge the Senate to give this Agreement prompt consideration and its advice and consent to ratification to enable the United States to deposit its instrument of ratification as soon as possible.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 19, 1996.*

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

The Senate continued with the consideration of the bill.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana retains the floor.

AMENDMENT NO. 4058

Mr. COATS. Mr. President, I wonder if I can inquire from the Senator from New Hampshire what amount of time he requests we yield on this?

Mr. SMITH. I believe under the request I had 20 minutes. Probably very close to that amount of time.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, may I just make a unanimous-consent request before the Senator makes his statement? I ask unanimous consent that Linda Taylor, a fellow in my office, be given the privilege of the floor during the pendency of S. 1745.

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

Mr. COATS. Mr. President, I yield 20 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire has 18 minutes remaining.

Mr. COATS. I yield all time remaining to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, some things are very predictable around here. One of the most predictable is that somebody every year gets up there in the authorization debate and tries to kill the ASAT Program. This is not a harmless amendment. This is a very serious amendment that can do damage to the national security of the United States.

I might say very bluntly and honestly, I do not have any parochial interest in this. I have a national interest in this. There is not anybody working on this in my State. It is not a jobs issue in my State. This is a national security matter, and year after year I stand up and engage in debate on this, and in committee, as the opponents continue to go after this program.

This amendment is designed to kill ASAT, to kill the kinetic energy program plain and simple. That is exactly what it is designed to do. That is what they are trying to do. We have invested $245 million in this program. We have 2 years left, at approximately $75 million a year, to complete this program. This technology works. It has already been tested. It works. We are going to throw it down the tube, throw it away.

What is ironic to me is that some of the things that Senator BINGAMAN has said on this issue are reasonable. In fact, I offered to work with the Senator in committee to address his concerns over the section dealing with the space architect. But, we could not reach a compromise. There was no interest in having a compromise. He wants the whole thing. He wants to defeat it.

So here we are again, rather than simply addressing the concerns that he has over the space architect issue, the Senator from New Mexico now is going after the entire program—all or nothing.

The truth is, this amendment circumvents the authorization and appropriations process totally. It allows the space architect to singlehandedly decide if the Pentagon spends the money that has been authorized and appropriated in both 1996 and 1997 for ASAT.

That is an assault on the jurisdiction of this committee, the Armed Services Committee, and the Appropriations Committee. There is a process in place, a correct process, to seek reprogramming or rescissions, and that works pretty well around here. But to say that the space architect, whose identity I would venture to say very few of my colleagues even know, can decide whether or not he wants to comply with the law, this represents an enormous erosion of the Senate's jurisdiction and particularly that of the Armed Services and Appropriations Committees.

We voted on this issue many times, both Republicans and Democrats, under Democrat control, under Republican control. The Senate has always gone on record in support of this program, and yet the assaults continue. The Armed Forces have testified that they need this capability. The Armed Forces have said they need this capability. The taxpayers have invested millions in its development. Now, when we are so close to completing the program, why kill it? You should not kill it on the money, because you have invested so much, but more important—much more important—you should not kill it because of the technology.

Let us talk a little bit about why it makes no sense to kill it and why it is a threat to our national security to do that.

The global spread of advanced satellite technology has made it possible for countries to obtain this high-definition imagery for satellites in low orbit or to buy that information. This data is crucial because in a future conflict, the United States has to be able to neutralize a hostile satellite. How are you going to do that? This is how you do it, with kinetic energy ASAT. But at present, we do not have that capability. We simply do not have the capability.

If you think back, during the gulf war, the Iraqi Air Force was destroyed or forced out of the air in the first few days of fighting, and Iraq had no reconnaissance capability. This lack of Iraqi overhead surveillance made it possible for the allies to mass their forces and sweep across the desert to bring a swift conclusion to a war that could have cost thousands—thousands —of American casualties.

Gen. Charles Horner, Desert Storm air commander, said that the diplomacy that we used convinced France and Russia not to sell reconnaissance data to Iraq. Suppose they had it? We had no way to stop them with that kind of reconnaissance. ASAT destroys those satellites, Mr. President. Why would anyone want to stop that technology?

Satellites that can be placed up in the air, over the Earth in low orbit with a capability to spy on the United States, spy on our forces, collect data, transmit data, what does ASAT do? What does this satellite do? It disables. It disables that satellite and keeps that enemy from collecting that information.

Why would anyone want to deny the United States of America the capability to do that? It baffles me. I cannot understand it. Every year, year after year, we have to take the same position—for 6 years I have done it—defending this system, while those in this Congress and some in the administration try to kill it, try to kill the capability of the United States to take out a satellite that could destroy American forces.

Some say, ''Well, nobody out there has any capability for satellites. What do we need ASAT for?'' According to the U.S. Space Command, Argentina, Australia, Brazil, Canada, China, the Czech Republic, France, Germany, Great Britain, India, Indonesia, Iran, Israel, Italy, Japan, Korea, Luxembourg, Malaysia, Mexico, Norway, Pakistan, Portugal, Russia, Saudi Arabia, South Africa, Spain, Sweden, Thailand, Turkey, and Ukraine, to name 30. They do not have any capability? It is out there, folks.

You say some of those are friendly countries. That is right, and they sell this technology and there are a lot of people out there buying it.

''Why not just jam them?'' they say. We do not have the capability to do that.

A U.S. antisatellite capability—and this is a very important point, I cannot emphasize this strongly enough to my colleagues—is a disincentive for a potential adversary to spend their resources on military satellites. A U.S. kinetic energy ASAT could help constrain the proliferation of such systems. Why would somebody want to spend hundreds of millions of dollars to develop satellites to put in space to spy on us or to use to collect data against our forces if they know we can disable them or disarm them? The chances are they will not. Yet, here we are, here we are, saying, ''Let's kill the program.''

Russia leads the world in space launches of military satellites.

Ukraine is building a series of radar satellites.

China is launching military recon satellites and have been doing it for 20 years. They are selling space launches and satellite technology all over the world.

United Arab Emirates reportedly has ordered a military reconnaissance satellite from a consortium of Russian firms.

On and on and on, and yet we stand here on the floor today having to defend attacks on us, those who support this system. I have had enough of it, Mr. President, to be very blunt about it. I have had enough of it. I am tired of it. I think it is outrageous that people come down on this floor and put our forces at risk to try to kill the technology that works, that protects us.

Let me repeat, had Saddam Hussein had the capability, had he had these satellites, we would have lost thousands of Americans because we could not have disabled them. We have the technology. It works. Why are we not using it?

It does not make any sense, Mr. President, not to continue this technology. This technology was designed, developed, manufactured, and integrated under the Kinetic Energy ASAT Demonstration Validation Program from 1990 to 1993 and ground tested, and it works. Here we are having to defend it from these attacks.

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

The PRESIDING OFFICER. The Senator has 7 minutes 30 seconds remaining.

Mr. SMITH. The distinguished chairman, Senator THURMOND, has asked for a little of my time, so I will just conclude by saying, if we lose this vote and lose this technology and end this technology, ASAT, it, in my opinion, will be a direct threat to the thousands of American men and women all over the world who wear the uniforms of the Armed Forces of the United States.

It is an unprecedented erosion of our constitutional prerogative. When we take the oath to the Constitution, we take an oath to protect and defend America. This protects and defends America. I have been hearing a lot of this talk. I have heard some of it already, and we will hear a lot more, about how we are going to do this stuff with lasers, disable all these satellites with laser technology, that that is the thing of the future. It might be, but it is not here yet. What are we going to do here in between?

For those who might not care about the military application—or maybe you care about space junk—kinetic energy ASAT disables satellites. It does not break them up into hundreds of pieces and create space junk. It disables them. It is a very important point.

I would think the Senate would want to think long and hard before ending this technology because this amendment will do that. That is what it is designed to do.

There will be another amendment coming to cut the funding off just in case this one does not work. We face that every year.

I want to conclude on this point, Mr. President. I have been on the Armed Services Committee here in the U.S. Senate under Democrat and Republican leadership. We have fought this fight every year. And Democrats, when they were in the majority, were some of the strongest supporters on that committee of this program.

This is not a Republican-Democrat issue here. This is a national security issue. It deserves to be supported. Why some in the administration have taken the position that it ought not to be, and some in the Senate, I do not know. But I know this is dangerous. This is a dangerous amendment. I do not say that about very many amendments on this floor. This is a dangerous amendment. This could cost American lives,

and not too far in the distant future either. This could be very close in the immediate future. This could cost American lives.

We have the technology to disable satellites. We ought to use it. It is proven. We have expended roughly two-thirds of the money. It is in place. The military supports it. And those policymakers who do not are ill-advised. They are wrong. They are absolutely wrong. We have an obligation to stand up and be heard on this, when these kinds of things happen.

So I am proud to say, Mr. President, that I support this program, not for any parochial reasons, but for national security reasons. I am standing here on the floor today because this system works. It is necessary for the security of the United States of America. It protects American lives. It ought to be funded fully. It ought not to be in any way diminished.

So I ask my colleagues, please, do not fall for this faulty line, this false information, and to support kinetic energy ASAT.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator from South Carolina has 3 minutes, 20 seconds.

Mr. THURMOND. Mr. President, first, I want to commend the able Senator from New Hampshire for the excellent remarks he has made on this subject. He has made a very emphatic case for our side. I am very proud that he has done that today.

Mr. President. I rise in opposition to the amendment offered by the Senator from New Mexico. A similar variation of the amendment was offered in the committee during markup and it was not accepted.

The Congress has authorized and/or appropriated funds for the kinetic energy antisatellite technology program since 1985. For the past 3 years the administration has not complied with the law and obligated the funds for the program. Every year, as a result, we have to take actions to force the Department to comply with legislation to compel them to obligate the funds for this particular program.

Mr. President, the Under Secretary of Defense for Space, Bob Davis, has stated on many occasions that there is a need to develop systems to counter the space threat. The Congress has supported the kinetic energy antisatellite technologies for that purposes, as well as other technologies which are not ready for production or are years away from deployment. The KE–ASAT program is the only near-term program to meet a potential enemy satellite threat.

The U.S military relies on space for surveillance, communications, navigation, and attack warning. It is important for the United States to ensure its freedom to use space. If our adversaries achieve the ability to control space and the United States does not have the capability to turn this around, we will lose our military advantage.

Mr. President, I, again, oppose the amendment offered by the Senator from New Mexico and I urge my colleagues to vote against it.

Mr. President, I ask unanimous consent that a memorandum for Robert T. Howard, Deputy Assistant Secretary of the Army for Budget by Jay M. Garner, Lieutenant General, USA, commanding, be printed in the RECORD.

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

DEPARTMENT OF THE ARMY,
SPACE AND STRATEGIC DEFENSE COMMAND,
Arlington, VA, January 3, 1996.

Memorandum for MG Robert T. Howard, Deputy Assistant Secretary of the Army for Budget.

Subject: Kinetic Energy Anti-Satellite (ASAT) Technology Funding Reduction.

1. USASSDC nonconcurs with action proposed by Program Budget Decision 719, which rescinds $30M from the ASAT program in support of the Bosnia Supplemental. USASSDC believes kinetic energy technology will prove to be a vital capability for the future. In addition, the kill vehicle currently being tested may have applicability to other programs.

2. The total KE ASAT technology program encompasses four years (FY96–99) at a cost of $180M, which includes the $30M currently being considered for rescission. The program is structured to develop incremental technology improvements (and possible insertion into other programs), necessary kill vehicle and booster procurements, and testing. For example, in FY96, weapon control system integration, software upgrades, and kill vehicle refurbishment will be accomplished in support of a planned hover test. This hover test, along with kill vehicle qualification testing and hardware in the loop simulation planned for FY97 will facilitate full up flight tests during FY98. As in the past, we expect continued Congressional funding and support of this program to not affect Army's research and development account, or overall total obligation authority (TOA). Based on this level of funding a contingency deployment capability will be achieved by FY99.

3. The current contract with Rockwell will terminate on January 31, 1996. If allowed to do so, ASAT contingency capability will be delayed by a minimum of one year depending on when funding is made available.

4. Point of contact for this action is LTC Robert M. Shell at (703) 607–1934.

JAY M. GARNER,
Lieutenant General,
USA, Commanding.

Mr. LEVIN. Mr. President, I rise in support of the Bingaman amendment on ASAT programs. His amendment would simply remove two very onerous provisions from the bill and permit the Department of Defense ''Space Architect'' to complete a study we have required, and determine which anti-satellite technologies are most appropriate for the U.S. military.

His amendment would not kill the ASAT Program, as its opponents have charged. In fact, his amendment would leave in place $75 million for U.S. ASAT programs, which was added by the committee majority, for the ASAT Program. This is funding the administration did not request, but which was added by the majority.

I believe it would be appropriate to eliminate the funding as well as the two provisions in the bill, because I do not believe there is a need to fund this ASAT Program. But this amendment by Senator BINGAMAN is a compromise that would leave in place all the funding added by the Committee majority, but strip out the two provisions that were in the bill. It would leave the Department of Defense the option of pursuing the kinetic energy ASAT Program if it is considered appropriate technology. But the bill mandates that the Pentagon choose the KE ASAT, without even knowing the results of the current study being conducted by the ''Space Architect.''

So the amendment offered by Senator BINGAMAN is a very reasonable compromise that leaves open all ASAT options while keeping $75 million that was not even requested by the Administration. Although I do not believe that this funding is justified, I think the underlying provisions in the bill are totally unjustified and should be rejected by the Senate.

I urge my colleagues to vote in favor of the Bingaman amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. At this time, not to interrupt the debate, I would like, if the Senator from New Mexico is finished, to move the amendment, or at least ask for the yeas and nays. Let me just ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SMITH. Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. BINGAMAN. Mr. President, I did want to conclude my debate.

The PRESIDING OFFICER. The motion to table is not in order at this point.

Mr. SMITH. I will withhold.

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

The PRESIDING OFFICER. The Senator from New Mexico controls 10 minutes, 52 seconds.

AMENDMENT NO. 4058, AS MODIFIED

Mr. BINGAMAN. Mr. President, first, I am informed by the floor staff that I need to send a modification to the desk. It is a technical modification to make it clear as to which page and which line is being proposed for striking in this amendment. I send that modification to the desk and ask for its immediate consideration.

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

The amendment, as modified, is as follows:

Beginning on page 33, strike out line 3 and all that follows through page 34, line 2, and insert in lieu thereof the following:

SEC. 212. SPACE CONTROL ARCHITECTURE STUDY.

(a) REQUIRED CONSIDERATION OF KINETIC ENERGY TACTICAL ANTISATELLITE PROGRAM.—The Department of Defense Space Architect shall evaluate the potential cost and effectiveness of the inclusion of the kinetic energy tactical antisatellite program of the Department of Defense as a specific element of the space control architecture which the Space Architect is developing for the Secretary of Defense.

(b) CONGRESSIONAL NOTIFICATION OF ANY DETERMINATION OF INAPPROPRIATENESS OF PROGRAM FOR ARCHITECTURE.—(1) If at any point in the development of the space control architecture the Space Architect determines that the kinetic energy tactical antisatellite program is not appropriate for incorporation into the space control architecture under development, the Space Architect shall immediately notify the congressional defense committees of such determination.

(2) Within 60 days after submitting a notification of a determination under paragraph (1), the Space Architect shall submit to the congressional defense committees a detailed report setting forth the specific reasons for, and analytical findings supporting, the determination.

(c) REPORT ON APPROVED ARCHITECTURE.—Not later than March 31, 1997, the Secretary, of Defense shall submit to the congressional defense committees a report on the space control architecture approved by the Secretary. The report shall include the following:

(1) An assessment of the potential threats posed to deployed United States military forces by the proliferation of foreign military and commercial space assets.

(2) The Secretary's recommendations for development and deployment of space control capabilities to counter such threats.

(d) FUNDING.—(1) The Secretary of Defense shall release to the kinetic energy tactical antisatellite program manager the funds appropriated in fiscal year 1996 for the kinetic energy tactical antisatellite program. The Secretary may withdraw unobligated balances of such funds from the program manager only if—

(A) the Space Architect makes a determination described in subsection (b)(1); or

(B) a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

(2) Not later than April 1, 1997, the Secretary of Defense shall release to the kinetic energy tactical antisatellite program manager any funds appropriated for fiscal year 1997 for a kinetic energy tactical antisatellite program pursuant to section 221(a) unless—

(A) the Space Architect has by such date submitted a notification pursuant to subsection (b); or

(B) a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

Beginning on page 42, strike out line 15 and all that follows through page 43, line 9

Mr. BINGAMAN. Mr. President, let me just respond briefly. I do not think I will take the full 10 minutes. The Senator from New Hampshire says that this amendment that I have offered is an effort to kill the ASAT Program. That is clearly not true. There is nothing in the amendment that I have offered which in any way tries to delete or reduce or diminish funding for an ASAT Program. I made it very clear that I support that funding. The funding remains in the bill.

The Senator from New Hampshire is saying that the Pentagon is trying to kill its own ASAT capability. I have real trouble understanding that logic or believing that that is a credible line of argument.

The real question we are trying to pose here, Mr. President, is, should we allow the Pentagon to come forward with their own recommendation on what makes the most sense, what is the best option for an ASAT capability, or should we prejudge that?

I remember a story that I heard when I was in school about how Henry Ford used to say, ''You can have any color of Model-T Ford that you want as long as it's black.'' What we are saying here in the existing bill to the Pentagon is, ''You can pursue any option you want to obtain ASAT capability as long as you take the one we want you to take.'' That is not a smart way for us to proceed. We do not have the technical capability here in the U.S. Senate to prejudge this study that the Pentagon is engaged in.

My colleague from New Hampshire says that the military supports this kinetic energy ASAT capability; they want to go ahead and fund it. If that is true, then why do we have to mandate in the bill that they have to fund it? Why do we have to mandate in the bill that they cannot spend any money for these other purposes unless they fund it, unless they choose that option?

I think clearly what the majority in the committee is trying to do in this bill is to take away the options of the Pentagon and say the Pentagon has to fight the way we say or else we will impose sanctions upon them.

My colleague from New Hampshire says that anyone who would support this amendment, the amendment I have offered, is trying to put our forces at risk. Why is it putting our forces at risk to let the Pentagon decide what makes the most sense, what is the most effective for protecting our forces? I have real difficulty understanding that kind of logic.

Mr. President, the amendment that I have offered is not an effort to kill the ASAT Program. It is not an effort to reduce funding for the ASAT Program. There is nothing in the amendment that does either of those things. What it says is, let us give them the money, let us give them the ability to come back and recommend to us the proper use of that money to gain the greatest capability for protecting our own forces. To me that is common sense. I have great difficulty seeing why we even have to argue about it.

I am reminded, as I hear the debate raging around here, that when I was practicing law, a more senior member of the bar early on in some of the trial practice I engaged in said there is a simple rule in trying a lawsuit. When the facts are on your side, pound away at the facts; when the law is on your side, pound away at the law; when neither are on your side, pound away at the table. That is what is happening here. Neither the facts nor the law nor common sense are on the side of those who put this provision in the bill.

We clearly should delete this provision. Let the Pentagon make its own recommendations as to what option is best for our troops. That is what I favor doing. I urge my colleagues to support the amendment. I yield the floor.

Mr. THURMOND. I yield the remainder of the time to the able Senator from New Hampshire, and I ask unanimous consent that 2 additional minutes be allowed the Senator from New Hampshire.

Mr. BINGAMAN. Mr. President, I have no objection to an additional 2 minutes, but I would like 2 minutes on my side.

Mr. THURMOND. I have no objection.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered. The Senator from New Hampshire is recognized for up to 2 minutes and 58 seconds.

Mr. SMITH. I will respond to my friend from New Mexico. We worked very closely together on the Acquisition and Technology Subcommittee. I will not pound the table. I am not even going to raise my voice. The truth of the matter—and the Senator knows this full well—the administration did not request any funding in their budget for the ASAT Program.

Unless I am missing something in the logic here—I do not believe I am; maybe the Senator would like me to miss it and would like others to miss it—unless I misunderstand something, if the administration does not request it and the policy folks do not want it, if we send it back to the space architect, who is a policy person, to study it, you can pretty well conclude what the results will be. They will not fund it.

When I say this is a deliberate attempt to kill the Kinetic Energy ASAT Program, I mean what I say. It is true. It will kill it. The other thing that we need to understand here, the Army supports the Kinetic Energy ASAT Program. They objected to the rescission list. They objected to this being listed as a rescission item. They did not win the debate. The policy people won.

The Senator's amendment sends this back to the space architect. He will study it diligently over the next few weeks, months, whatever it takes, and then announce that we do not need it, and kill it. This is not an objective decision here. This person was not objective. This person made up his mind already. He does not want it. If he wanted it, he would have funded the remainder of it, which has already been—as we said earlier, we have already expended $245 million on this program, and we have already proven that it works, and we already have the technology in place. All we are asking for is the completion. That is the reason why this is a killer amendment.

We should not be cute about the process here. When somebody opposes something, you give it back to them to make the decision, you can pretty well

guess what the decision is going to be. That is a little bit disingenuous. They did not fund it. The administration does not want this program. The administration is getting quite a reputation around here for not expending moneys that we have appropriated and authorized. They are getting pretty good at it, and they are doing it without legislation. They are just doing it. They are just saying, ''We do not want this, so even though you authorized it and appropriated it, we are not going to spend it.''

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New Mexico has 7 minutes 45 seconds.

Mr. BINGAMAN. Mr. President, again I will not take the full 7 minutes, but let me conclude by saying that I think there is clearly a failure to communicate here on this issue.

My colleague from New Hampshire says that the Army wants this program. Looking at the facts: The administration asked for a fairly healthy defense budget; the Armed Services Committee, in the bill that is before the Senate here, added about over $12 billion to that—something in that range. In order to come up with that additional money, we went to each of the services and said, ''What is on your wish list? Are there things you would like to have funded that we were not able to fund, or that the President did not request, or that the Pentagon did not request, the Secretary of Defense did not request?'' The Army gave us over $2 billion worth of those, more like $3 billion. I am not sure of the exact amount.

Again, there was nothing in there for this ASAT capability. The argument that the Army wants this, they just never want us to give them any money for it, is a hard one for me to understand. I think, clearly, this is not a program I am trying to kill. We are not touching the money. The money has been added here, and we are saying, ''Fine, let's go ahead and spend the money for whichever option the Pentagon wants to pursue.'' But let the Pentagon make the judgment. Do not try to prejudge the right technology in order to develop this ASAT capability. That is all we are saying.

The end of the amendment that I have offered, I think, makes it very clear that not later than April 1, 1997, the Secretary of Defense shall release to the kinetic energy antisatellite program manager any funds appropriated in 1997 for the Kinetic Energy Tactical Antisatellite Program pursuant to section 221(a) unless the space architect has by such date submitted a notification; or a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

What I am trying to do in my amendment is to protect the ability of the Pentagon to use the money in the most effective way. We are not in favor of mandating a result in an ongoing study where they are trying to make a judgment as to what is the best use of this money to protect our own forces.

I have confidence that the Pentagon will make a judgment based on their honest and expert opinion as to what makes sense for the country and for our own forces. I do not think we need to prejudge that. Accordingly, I hope very much that my amendment will be agreed to.

Mr. President, I ask that Senator BUMPERS be added as a cosponsor to my amendment.

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

Mr. BINGAMAN. Mr. President, I have no additional debate.

Mr. THURMOND. Mr. President, I ask unanimous consent upon disposition of the Bingaman amendment, that Senator ASHCROFT and Senator KENNEDY be recognized to speak as in morning business for up to 10 minutes each.

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

Mr. THURMOND. Mr. President, I move to table this 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.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. BUMPERS] would vote ''no.''

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

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

[Rollcall Vote No. 162 Leg.]

YEAS—52

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Pressler
Brown	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Shelby
Chafee	Heflin	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	
Frahm	McCain	

NAYS—46

Akaka	Byrd	Ford
Baucus	Conrad	Glenn
Biden	Daschle	Graham
Bingaman	Dodd	Harkin
Boxer	Dorgan	Hatfield
Bradley	Exon	Hollings
Breaux	Feingold	Inouye
Bryan	Feinstein	Jeffords
Johnston	Lieberman	Reid
Kennedy	Mikulski	Robb
Kerrey	Moseley-Braun	Sarbanes
Kerry	Moynihan	Simon
Kohl	Murray	Wellstone
Lautenberg	Nunn	Wyden
Leahy	Pell	
Levin	Pryor	

NOT VOTING—2

Bumpers	Rockefeller

The motion to table the amendment (No. 4058), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Senator FAIRCLOTH is recognized for 10 minutes.

Mr. FAIRCLOTH. I thank the Chair.

(The remarks of Mr. FAIRCLOTH, Mr. KENNEDY, Mr. HEFLIN and Mr. NUNN pertaining to the introduction of S. 1890 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that floor privileges be granted to Randy O'Connor, a defense fellow in my office for the duration of the consideration of the fiscal year 1997 Defense authorization bill.

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

Mr. NUNN. Mr. President, I believe the Senator from Washington would like to be recognized. I think there has been a unanimous-consent request. I believe the Senator from South Carolina will be asking unanimous consent that Senator MURRAY be recognized for the time agreement specified. I believe, also, the Senator needs to ask the amendments be set aside that are now pending.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that the time on the Murray amendment related to abortions in military hospitals be limited to 2 hours equally divided in the usual form, that no amendments be in order, and that following the use or yielding back of time, the Senate proceed to vote on or in relation to the amendment.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, reserving the right to object, I would like to include in the unanimous-consent request, if I might, that I be recognized to offer an amendment immediately upon the disposition of the Murray amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. Mr. President, I suggest we begin debate on this amendment.

The PRESIDING OFFICER. There is a pending unanimous-consent request. Is there objection?

Mr. PRYOR. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, I suggest we now proceed to debate.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, can I inquire, has the Senator from Washington been recognized to offer her amendment?

The PRESIDING OFFICER. Not at this point. There was an objection to the unanimous-consent request.

Mr. COATS. But that would not prevent the Senator from going ahead and offering her amendment; there would just not be a time constraint?

The PRESIDING OFFICER. That is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. 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. NUNN. Mr. President, if the Senator from South Carolina propounds the unanimous-consent request, I believe it will be agreed to now. I know the Senator from Arkansas first would like to make his position clear, and perhaps if he is recognized at this point for that, he can make his brief statement and then the Senator from South Carolina can propound the unanimous=consent request, and I believe it will be agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished ranking member of the Armed Services Committee for allowing me to make a statement, and I will say to my distinguished chairman of the Armed Services Committee, my statement will be about just one moment, and then we will allow Senator MURRAY to go forward with her amendment.

Mr. President, the amendment that I am going to offer, and it may not be after the disposition of Senator MURRAY's amendment but it may be after the disposition of a subsequent amendment, is the so-called GATT Glaxo amendment. I have been attempting all of this year, during the entirety of 1996, to bring this amendment to the floor, to have it debated and have it voted on. I have asked for 1 hour of debate, 30 minutes on a side, and then let us vote up or down and dispose of this matter to see if we are willing or not willing to correct a massive abuse that we created by mistake in the GATT treaty.

This is allowing one drug firm to prevent other generic firms from coming in and competing fairly in the market. It is also allowing an extra $5 million each day—each day—of profits that we hesitate and fail to correct.

It should be a matter of honor that we correct this matter, and I am going on the Department of Defense bill to continue attempting to find a slot where Senator BROWN, Senator CHAFEE, and the Senator from Arkansas, Senator PRYOR, may offer this amendment and have the U.S. Senate go on record, once and for all, as to whether we are willing to correct this abusive flaw created by mistake.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Arkansas for taking the position he has. I will now proceed to make the request.

Mr. President, I ask unanimous consent that the time on the Murray amendment, relating to abortions at military hospitals, be limited to 2 hours, equally divided in the usual form, and that no amendments be in order; and that following the use or yielding back of time, the Senate proceed to vote on, or in relation to, the amendment.

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

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 4059

(Purpose: To repeal the restriction on use of Department of Defense facilities for abortions)

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

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Ms. SNOWE, Mr. KENNEDY, Mr. ROBB, Mr. LAUTENBERG, Mr. SIMON, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 4059.

Mrs. MURRAY. 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:

At the end of title VII add the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out ''(a) RESTRICTION ON USE OF FUNDS.—''.

Mrs. MURRAY. Mr. President, the amendment that I am offering to the fiscal year 1997 Department of Defense authorization bill—and I am offering it on behalf of myself, Senator SNOWE, Senator SIMON, Senator LAUTENBERG, Senator ROBB, Senator MOSELEY-BRAUN and Senator KENNEDY—is very simple. It strikes language adopted in last year's defense authorization and appropriations bills that would prohibit privately funded abortions from being performed at overseas military hospitals. This ban places women stationed overseas in an unsafe and unfair situation and blatantly restricts their constitutional right to choose.

Women in our armed services sacrifice each and every day to serve our country. They should receive our utmost respect, honor, and gratitude. They certainly do not deserve to be told they must check their constitutional rights at the door when they are stationed overseas. My amendment protects their precious rights and ensures their safe access to quality medical services.

Mr. President, let me just say a few things about my amendment to clear away any confusion that may exist.

First, this amendment simply restores previous DOD policy. From 1973 to 1988, a woman stationed overseas was allowed to obtain an abortion if she paid with private, nondefense funds. Likewise, this was DOD policy from 1993 till 1996. This is not some radical new idea. Quite the contrary, in fact. This law was in place for almost two full terms of the Reagan White House.

We have had many debates on the floor of this Senate over the past 2 years about abortion, about Federal funding, about Federal workers, about Medicaid. Let me be very clear, this issue is different. My amendment simply ensures the same rights for women in our armed services enjoyed by every other woman in this country.

This amendment is merely an effort to return us to the policy of the past which protected women stationed in a foreign country from having to seek medical care from inexperienced or inadequately trained personnel. It is dangerous and unnecessary and just plain wrong to put these women, who are serving our country overseas, at risk.

Furthermore, my amendment does not force anyone to perform an abortion at a military facility.

Currently, all departments of the military function under a conscience clause which states that medical personnel do not have to participate in an abortion procedure if they have a religious, moral, or ethical objection.

This amendment preserves that important conscience clause. Most importantly, Mr. President, it deals only with an individual's private funds. The 104th Congress has spent almost 2 years trying to return flexibility and authority to States. But under the fiscal year 1996 DOD bill, we have a fundamental inconsistency. We have a problem telling our States how to spend their money, but women in our own military are not afforded that privilege.

Mr. President, I remind my colleagues that a woman stationed overseas does not always have the luxury of access to safe and quality medical care other than at the military hospital on her base. It is dangerous to force her to seek medical care in the local area. We are sending our women in uniform to the foreign back alley. And that is wrong.

My amendment seeks to prevent our women in uniform from having to make a very difficult and potentially dangerous, life-threatening choice. My amendment seeks to restore our women in uniform, women stationed overseas, a right they have had for most of the last 23 years. My amendment seeks to protect the constitutional rights of our women in uniform. They sacrifice every day for every single one of us, and we owe them that much. I urge my colleagues to vote for this amendment. I withhold the balance of my time.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Indiana.

Mr. COATS. Mr. President, in response to the Senator from Washington and the amendment that was just offered, it is true this is not some radical new idea. This is an issue that has been debated by this body on a number of occasions over the past several years.

Since 1979, the Department of Defense has had a policy of prohibiting the use of Federal funds to perform abortions except where the life of the mother would be in danger if the fetus were carried to term. The bill before us today carries that ban, which was enacted in last year's authorization bill, and it incorporates also the exceptions for rape and incest.

What the Congress has always debated are the two separate questions, both of which are legitimate questions and both of which need to be debated. The separate questions are, one, whether or not a legislative body ought to intervene in the decisions made in Roe versus Wade by the Supreme Court and enact restrictions or a constitutional amendment on the issue of abortion. The second issue, however, is a separate issue. That is whether or not a taxpayer ought to be coerced into supporting something that goes against his or her moral conscience or moral beliefs.

So in 1979, Congressman HYDE introduced the Hyde amendment, which essentially said that taxpayers' funds would not be used in support of abortion.

The amendment offered by the Senator from Washington attempts to address the situation as it applies only to military personnel and their dependents, under the argument that many of these individuals are deployed overseas and may find themselves in situations where performance of an abortion is either banned by the laws of that country or there are situations which are not of the quality or safety that women would seek.

But it ignores the fact that the Department of Defense has had in place a policy which allows women the opportunity to seek an abortion with their own funds at essentially a hospital of their choice. The Department of Defense makes military transportation available to these women.

What we are really dealing with here is the question of whether or not Federal funds should be used in the performance of abortions. It is also important to note that during the time that the policy prohibiting the use of Federal funds to perform abortions in military facilities, during the time that that policy has been in effect, there has been no difficulty in implementing the policy, there have been no formal complaints filed concerning the policy, there have been no legal challenges instituted concerning this policy, and no members of the military or their dependents have been denied access to an abortion as a result of the policy.

So it is simply not accurate to say that the policy currently in effect places women in an unfair situation and, to quote the Senator from Washington, ''blatantly restricts their constitutional rights.'' This does not restrict the constitutional rights of women at all. Let me repeat that. This policy currently in effect does not restrict the constitutional rights of any woman in the service, or her dependents. That woman has full access to an abortion, to a legal abortion under the law. I do not condone that. I do not support that. But that is not the issue we are arguing.

The issue that we will be voting on is not whether you are pro-choice or pro-life. It is not whether you think a woman ought to have the right to choose. Military women have the right to choose. No one is denying their opportunity to have an abortion.

We are simply saying that the use of Federal facilities which are paid for, operated by the use of Federal funds, is violative of a policy that the Congress has adopted on numerous occasions, described as the Hyde amendment, which says that essentially no Federal funds will be used for the performance of abortions except in certain cases, life of the mother, and more recently life of the mother if the fetus were carried to term or in the cases of rape or incest.

There have been no recorded or official complaints, not only for women in uniform being denied access to an abortion, but their dependents being denied access to military transport for the purpose of procuring an abortion.

This, I believe, was a sound and a fair policy. It worked. If it had not worked, there would have been complaints filed, there would have been challenges issued concerning the policy, there would have been military personnel or their dependents denied access. That was not the case.

It remained in place until 1993 when President Clinton issued an Executive order reversing it. Under the Clinton policy, defense facilities were used for the first time in 14 years, not to defend life, but to take life, and to do so with taxpayer funds.

Last year the House and the Senate reversed that policy when we voted to override the President and make permanent the ban on the use of Department of Defense medical facilities to perform abortions except in the case of rape, incest or to save the life of the mother. So today we are faced again with this issue, because this amendment would strike that ban and reinstate the former Clinton policy regarding military facilities.

Supporters of the Murray amendment will argue that this policy does not involve the use of taxpayer funds since women are required to pay for these abortions. But to maintain that fiction is simply to misunderstand the nature of military medicine. Unlike other medical facilities, military clinics and hospitals receive 100 percent of their funds from Federal taxpayers. Physicians in the military are Government employees, paid entirely by tax revenues. All of the operational and administrative expenses of military medicine are paid by taxpayers. All of the equipment used to perform the abortions are purchased at taxpayer expense.

So that is the issue that is before us. Are we going to require the taxpayers of America, whose fundamental religious beliefs or whose moral beliefs or values are such that they do not approve of the use of their tax dollars for the Government providing an abortion, to fund abortions?

It is true that the payment for this abortion will be made by the person seeking the abortion and not the taxpayer. But it is not true that taxpayers' funds are, therefore, not used in the procedure, because the procedure is being performed by employees whose entire salary is paid by the taxpayer, in a facility whose entire cost of construction is paid for by the taxpayer, whose entire operating costs are paid by the taxpayer, and which equipment used in the procedure is purchased at taxpayer expense.

It is therefore impossible to imagine that taxpayer money can be preserved from entanglement of abortion in military medicine. Any attempt to do so would present an accounting nightmare, according to the Defense Department's own analysis. The only way to protect the integrity of taxpayer funds is to keep the military out of the abortion business. We must not take money from citizens and use it to vandalize their moral values.

Mr. President, I suggest the Murray amendment is a solution in search of a problem. No problem has been identified. When the prohibition was in place, no one was denied access to an abortion.

I repeat that for my colleagues to consider: When this policy was in place banning the use of military facilities to provide abortions, no one was denied access to an abortion. If safe, acceptable facilities for elective abortion

were not available to military women based on where they were stationed or living, these women were permitted to use military transport, for whatever reason they chose, to go wherever they wanted to go to have that abortion.

Supporters of the Murray amendment have argued that in the past, women in the military have been stripped of their rights, but not a single case has been filed challenging this policy. The bottom line is that the need for the legislation or the President's policy has not been proven.

Therefore, I urge my colleagues to reject this amendment, to retain the present policy as enacted last year in the House-Senate conference, and now as part of current law, to retain that policy, because that policy makes imminent sense. To repeal that would violate what this Congress has adopted as policy many, many times over. That is, the intermingling of taxpayer funds for the provision of abortion.

I reserve the balance of my time. I yield the floor.

Mrs. MURRAY. I yield 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want the Senate to support the amendment offered by Senator MURRAY to ensure that women in the armed services serving overseas can exercise their constitutional right to choose safe abortion services. It does not require the Department of Defense to pay for abortions. But it repeals the current ban on privately funded abortions at U.S. military facilities overseas. Our servicewomen should not lose their rights granted by the Constitution when they serve the country in foreign lands.

This is an issue of fairness to the women who make significant sacrifices to serve our nation. They go to military bases around the world to protect our freedoms, but when they get there, they are denied access to the kind of medical care available to all women in the United States. Military women should be able to depend on their base hospitals for all their medical services. This amendment gives them access to the same range and quality of health care services that they could obtain in the United States.

In many countries where our forces serve, that quality of care is not available. Without adequate care, an abortion can be a life-threatening or permanently disabling operation. In some countries, the blood supply may pose an unacceptable health risk for military personnel.

We have a responsibility to provide safe options for U.S. servicewomen in these situations. Those who oppose this amendment are exposing servicewomen to substantial risks of infection, illness, infertility, or even death. We can easily avoid such risks by making the health facilities at overseas bases available, and it is irresponsible not to do so.

In addition to the health risks of the current policy, there is a significant financial penalty on servicewomen and their families. Round-trip travel costs for a woman stationed at our Air Base in Turkey to travel privately back to Washington for an abortion totals over $2,500 and that figure does not include the cost of the medical procedure. For a young enlisted woman whose pretax monthly income is about $1,400, that cost is a significant financial hardship that women serving in the United States do not have to bear.

If the enlisted woman does not have the financial means to travel privately to the United States, she could face significant delays waiting for space available military transportation. The health risks increase with each week. If the delays are too long, the servicewoman may well be forced to rely on questionable facilities in the country where she is stationed. For all practical purposes, she is being denied her right to choose.

The decision on abortion is very difficult and extremely personal. It is unfair and unreasonable to make this decision so dangerous for women who serve our country overseas.

Every woman in America has a constitutional right to choose to terminate her pregnancy. It is time for Congress to stop denying this right to military women serving overseas and to stop treating them as second-class citizens. I urge the Senate to support the Murray amendment.

Mr. President, I find it very difficult to follow the logic of those individuals who oppose abortions at overseas Government-supported medical facilities because tax payers' dollars are involved, and yet somehow distinguish that from the Government-supported air transportation required to fly individuals back to the United States to obtain abortion services. Who in the world pays for the air transportation, the aircraft, and the personnel that fly the aircraft?

The issue ought to be what is the best in terms of the health care for that individual. We insist on that for our military personnel. They are entitled to it—the very, very best. We are committed to make sure they get the best.

Why should we be able to say we are going to provide quality health care services with this one exception, with this one area, where a woman is going to have to roll the dice and take her chances, based upon availability of flights, based upon the particular location where the woman is stationed? Are we going to effectively wash our hands of any kind of responsibility? It makes no sense. It is cruel. It is inhumane. It is failing to meet the health care needs of military personnel. We should not be able to say we will provide the best in health care with the exception of this one procedure.

I think the amendment is commendable. I congratulate the Senator from Washington for offering it. I hope the amendment is carried.

Mrs. MURRAY. Mr. President, I ask the Senator from Maine how much time she desires.

Ms. SNOWE. I would like 5 minutes.

Mrs. MURRAY. I yield 5 minutes to the Senator from Maine.

Ms. SNOWE. Mr. President, I rise in support of the amendment offered by Senator MURRAY to repeal the ban on abortions in overseas military hospitals. I am very pleased to cosponsor this amendment as well.

In listening to the debate here this afternoon, I cannot help but think ''here we go again'' on this issue, on a woman's personal right to choose. We have this debate year in and year out. Congress revisits this issue of reproductive freedom by seeking to restrict, limit, and eliminate a woman's right to choose.

This ban on abortion in overseas military facilities, reinstated last year, represented just more of the same. I point out these efforts to turn back the clock on a woman's reproductive rights will never erase the fact that the highest court in the land reaffirmed a woman's basic and fundamental right to a safe and legal abortion time after time, again and again, in decision after decision.

Last year's successful effort to reinstate that ban was another frontal assault on the principle of reproductive freedom and the dignity of women's lives. We all know that this ban denies the right to choose for female military personnel and dependents. It denies those women who have voluntarily decided to serve our country in the Armed Forces safe and legal medical care, simply because they were assigned to duty in other countries.

What kind of reward is that? Why does this Congress want to punish those women who so bravely serve our country overseas by denying them the rights that are guaranteed to all Americans under the Constitution?

It did not occur to me that women's constitutional rights were territorial. It did not occur to me that when American women in our Armed Forces get visas and passports stamped when they go abroad, they are supposed to leave their fundamental constitutional rights at the proverbial door.

I think it is regrettable that in this debate we are talking about denying women their rights because they are serving in our military in overseas facilities. We are denying them their option to have a safe and legal medical procedure because they happen to be working for this country overseas. The taxpayers are not required to pay for this procedure. This procedure is paid for by the woman's personal fund. That is the way it was, under the law, between 1979 and 1988. And as we know, at that time, in 1988, the policy was reversed. It was reinstated to lift the ban in 1993.

I, frankly, cannot understand why we are suggesting that there should be a two-tiered policy for women if they happen to serve in the military overseas. We are saying, by virtue of that

fact, you will not have the same medical care in this legal procedure that is recognized under the law in this country, and has been reaffirmed time and again by the highest court in the land.

Military personnel stationed overseas still vote, they pay taxes, they are protected and, as well, are punished under U.S. law. Whether we agree about the issue of abortion, or not, we do not have the right to deny them their right to have access to a legal and safe medical procedure. What we are saying is that this ban, basically, forces women to put their health at risk. They will be forced to seek out unsafe medical care in countries where the blood supply is not safe, in many instances, where the procedures are antiquated, where their equipment may not be sterile. I do not believe it is appropriate, nor right, to force our military personnel to make additional sacrifices beyond the ones they are already making in serving their country.

Now, we are not saying that we should force any medical personnel to perform this procedure. There is a conscience clause for all three services in the Armed Forces. No one is required to perform this procedure. If they have a moral, religious, or ethical objection to abortion, they do not have to participate in this procedure. I think we all think that is reasonable. But what is unreasonable is saying to women: Sorry, we are not going to allow you to have the same medical rights if you serve in the military because you happen to be overseas. I do not see anything reasonable about that standard. It is unfair, and it is dangerous.

Last year, the New York Times, I think, expressed the bottom line on this ban when they said in an editorial: ''They can fight for their country, they can die for their country, but they cannot get access to a full range of medical services when their country stations them overseas.''

I really think that this becomes an extreme policy. It puts women in a crisis position, and we in this Chamber have to stand up and say enough is enough. Unfortunately, someday, it may be too late when we finally do.

So I hope that the Members of this Senate will support the amendment that has been offered by Senator MURRAY from Washington, because it is an appropriate, reasonable approach to a very difficult issue. I do not think that we want to be in a position of requiring women who serve in our military to be subjected to or be victim to unsafe medical procedures because we happen to differ with that procedure. This is their money, and it is their right to make this decision. It is a procedure recognized by the law of this country and by the Supreme Court. We owe it to them to have the right to make that decision and, obviously, they are going to pay for it. And now we are saying that we are sorry, we are going to deny them this option under very difficult circumstances.

There are not many options available to a woman stationed overseas, who has to make this very difficult and personal decision to terminate a pregnancy. So I hope that we will consider this in the proper context. It is her right to make that decision under the law of this land. That should apply to them when they are serving this country overseas.

I yield the floor, Mr. President.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to join Senators MURRAY and SNOWE in offering an amendment to repeal the restrictions barring American women serving overseas from accessing abortion services in military hospitals.

This amendment simply grants women who have volunteered to serve and protect their country the same rights as every other American woman. This amendment allows them to pay their own funds to access medical care at a military hospital if they choose to terminate a pregnancy. This amendment allows women serving this country to avoid increasing military expenses by having to leave the host country to travel to the United States to seek medical care that is available in a nearby military medical facility.

Women in the military are fighting to protect the constitution of the United States. We should not deny these women their constitutional rights, rights enjoyed in every State in the Union. The right to choose to have an abortion is protected by our Constitution.

It would be unconscionable to force women serving overseas to seek the services of hospitals in host countries. We have no way of ensuring that these hospitals have sufficiently trained employees, standards of sanitation comparable to those in America, or adequate facilities. Our military hospitals maintain world class facilities.

Before 1974, hundreds of women died or suffered terribly because they had abortions outside of proper medical facilities. Women serving this country should not face that prospect again.

One of the reasons we have military hospitals is to ensure that our military personnel get the best medical treatment possible. Women serving overseas have already volunteered to risk their lives in order to protect this country. We cannot place an additional and senseless risk upon them by turning them away from military medical care.

This ban also affects women who are not even in the military themselves. Wives of military personnel also utilize military hospitals overseas. These women have sacrificed in order to move overseas to keep their families intact. Denying their access to quality care if they choose to terminate a pregnancy is no way to thank them.

I would like to point out that this amendment in no way forces anyone to abrogate their religious or moral beliefs. All three branches of the military have a ''conscience clause'' which will remain intact. The clause permits medical personnel who have any objection to abortion to not participate in the procedure.

There was never any Congressional consultation when, in 1988, the Department of Defense issued an administrative order prohibiting women from obtaining abortion services in military facilities overseas. Prior to 1988, women could obtain abortions in military facilities with private funds. President Clinton lifted the ban by Executive Order on January 20, 1993. This amendment merely upholds a policy that is currently in effect and was before 1988 as well.

We are here today to improve the safety of women serving in the military overseas. We are here today to protect wives living overseas with their military husbands. We are here today to uphold what has been confirmed as a constitutional right time and time again since Roe versus Wade in 1974. I urge my colleagues to support this amendment today.

Mrs. FEINSTEIN. Mr. President, I support Senator MURRAY's amendment to repeal the provision of current law that prohibits a woman in the armed services from using her own funds to pay for an abortion in an overseas U.S. military facility. I support this amendment for several reasons.

First, the Supreme Court has clearly established a woman's right to choose. That right is not suspended simply because a woman serves in the U.S. military or is married to a U.S. servicemember.

Second, women based in the United States and using a U.S.-based military facility are not prohibited from using their own funds to pay for an abortion. Having a prohibition on the use of U.S. military facilities overseas creates a double standard, and an undue hardship on women servicemembers stationed overseas.

Third, private facilities may not be readily available in other countries. For example, abortion is illegal in the Philippines. A woman stationed in that country or the spouse of a servicemember would need to fly to the U.S. or to another country—at her own expense—to obtain an abortion. We don't pay our servicemembers enough to assume they can simply jet off to Switzerland for medical treatment.

Fourth, if women do not have access to military facilities or to private facilities in the country they are stationed, they could endanger their own health by the delay involved in getting to a facility or by being forced to seek an abortion by someone other than a licensed physician.

We know from personal experience in this country that when abortion is illegal, desperate women are often forced into unsafe and life-threatening situations in back alleys. If it were your wife, or your daughter, would you want her in the hands of an untrained abortionist on the back streets of Manila or Cordoba, Argentina? Or would you prefer that she have access to medical treatment by a trained physician in a U.S. military facility?

Not only would these women be risking their health and lives under normal

conditions, but what if these women are facing complicated or life-threatening pregnancies and are unaware of the seriousness of their condition?

We are asking these women to risk their lives in the service of their country.

Current law does not force any military physician to perform an abortion against his or her will. All branches have a ''conscience clause'' that permits medical personnel to choose not to perform the procedure. What we are talking about today is providing equal access to military medical facilities, wherever they are located, for a legal procedure paid for with one's own money.

Abortion is legal for American women. U.S. servicemembers would pay with their own funds. To deny them access to medical treatment they can trust is wrong. It's that simple. I urge my colleagues to vote for this amendment.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Murray amendment.

This amendment will repeal the bill's ban on privately funded abortions at military medical facilities overseas.

Let's be very clear what we're talking about here today. It is a very simple question. Are women who are defending our Nation women who sacrifice every day in military service to our country going to be treated as second class citizens when it comes to the health care they receive?

The bill before us answers ''yes'' to that question. Mr. President, that is simply unacceptable. Our military women are not second-class citizens and we cannot treat them as if they were.

Mr. President, safe and legal access to abortion is the law of the land. It is a matter of simple fairness that our servicewomen, as well as the spouses and dependents of servicemen, be able to exercise that right when they are stationed overseas.

When people enlist in the Armed Services, they do not choose where they are to be stationed. They go where our military decides they are needed. They are often sent to remote locations where the only access to quality, safe medical care is in a military facility.

While they are sent all over the world to defend our freedoms, isn't the very least we owe them the right to exercise the same freedoms they would enjoy if they remained here at home?

By adopting this amendment we will enable military women to exercise their right to reproductive freedom. The amendment does not involve the use of any taxpayer funding. What this amendment will ensure is the right of women to obtain a safe and legal abortion paid for with their own funds. And, of course, under this amendment the conscience clause for military personnel who do not wish to perform abortions would be retained. So no military personnel would be compelled to perform abortions.

Adoption of this amendment will ensure that women in the Armed Services have access to safe medical care. Let's do the right thing. Let's not treat our servicewomen like second-class citizens. They give so much in service to our country. They deserve no less than to be treated fairly by us.

I urge my colleagues to join me in supporting this important amendment.

Mr. BINGAMAN. Mr. President, the language in this bill is an unsupportable effort to take away a fundamental, legal right from women in uniform and female military dependents overseas—the right to use their own funds to obtain a legal abortion.

The amendment we are considering today is simply a return to previous DOD policy that stood for many, many years.

It is, quite simply, about treating these women fairly and equitably, and giving them the same rights that women in this country have.

These women are in service to their country—our country—overseas, protecting our fundamental freedoms.

But this ban would deny them the same freedom that women in this country are granted—the right to safe, legal, and comprehensive reproductive services.

I urge my colleagues to support the Murray-Snowe amendment, and strike this offensive language from the bill. We have no right to ask these women to sacrifice more than they already have in service to their country.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, will the Senator yield 3 or 4 minutes?

Mrs. MURRAY. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would just like to inquire of the Senator from Washington. If I understand the situation correctly, if a woman were coming back to the United States, by and large she has to ask for leave, does she not, to be able to come back to the United States?

Mrs. MURRAY. Mr. President, it is my understanding that she would have to ask for leave to come back to the United States in order to have the medical procedure take place.

Mr. KENNEDY. It is my understanding that there may have to be reasons stated for the leave, in some circumstances, depending on the particular situation. I would call that sort of a violation of privacy. But in some areas, in some situations, as I understand it, they may very well have to reveal the reasons for that leave. Or if they were to return to the United States and have the procedure and develop complications and needed more time, they would have to request additional leave time and, more often than not, they would have to indicate their reasons for it.

Now, of course, if a woman made the decision here in the United States and then ran into complications, they would have to justify why they were not meeting military requirements, in any event. But it seems to me that while imposing the requirements for leave, you are also stating, more often than not, as I understand it, that they have to give reasons or a justification, which is a privacy issue. If they run into any complications, there are additional issues both in terms of leave and additional privacy issues. It seems to me that this is another factor that might not make the greatest difference to some individuals. But I would think that adding this kind of emotional trauma that is being experienced through this whole kind of a procedure is particularly unfortunate, and I think probably unfair, certainly, to the women as well. I was just interested in the Senator's understanding about the situation.

Mrs. MURRAY. Mr. President, the Senator from Massachusetts is absolutely correct. With the language as it is currently written in the DOD bill, without my amendment, this will force women in the military overseas—in Bosnia, in Turkey, or in many other places—to go to their supervisor and request a leave. Most likely, they would be asked to tell them why, which would be a very difficult situation for many. They would be subject to their supervisor's decision about whether or not they would be granted leave. That would put women in a very awkward and unfair position.

I should add that, if the abortion is delayed, the woman's life becomes more in danger. In many circumstances, that would be delayed if she requested leave. It could be delayed if she traveled to this country. If she is granted leave and traveled to this country, as the Senator has stated, if the complications arise, as they can, she would then be subject to having to go back to that supervisor again and ask for additional leave.

This is an extremely unfair situation. It can be rectified very easily by this amendment that would allow a woman to use her own private money. We are not asking for taxpayer dollars. We are saying that a woman can use her own money to go into the military facility where we have excellent personnel overseas to perform a safe medical procedure.

Mr. KENNEDY. Finally, the point was made here on the floor that the facility will have been built with American taxpayers' money and the doctors are going to be paid their salary with taxpayers' money. Does the Senator not find the distinction between that and having space available on a plane which is paid for by the taxpayers, piloted by the taxpayers—does the Senator find that the logic is failing in those who are opposed to the amendment to say that on the one hand it looks like it is being tax supported and on the other hand it is not? I have been singularly unconvinced about that part of the argument which we have heard time and time again this afternoon. I do not see how that logic holds up to the light of day.

I do not know whether the Senator had some additional insight that might be able to clarify that.

Mrs. MURRAY. I am really glad that the Senator asked about the taxpayers' funds being used to build a military facility. Frankly, I find those arguments very offensive because, as taxpayers in this country, we provide dollars for many facilities across this country. But we have singled out women who are overseas serving us in countries overseas, and have told them that they cannot use their own private dollars to pay for a medical service in those facilities. We pay for many other services in those facilities, but we will not provide an abortion for those women. Yet, the Senator is absolutely correct; she will have to fly back to this country in a military plane paid for by taxpayer dollars. She will eat meals on that plane paid for by taxpayer dollars. All of us use taxpayer dollars when we travel on the roads, when we use our public schools, when we go to our colleges, when we have the police come to our house, or when we have a firetruck come to the House.

Why are we singling out women who need a medical procedure and expanding the use of taxpayers' funds in that terminology? I find that very offensive.

Mr. KENNEDY. Does the Senator find offensive as well the fact that a woman who is in the service is paying taxpayer dollars and others who might want to use those facilities for this purpose are contributors and paying taxes? The last time I checked on it, they were. So here they are paying their fair share of the taxes into it. But in this particular time of medical need there is this arbitrary policy which would deny the best in terms of health care. It is being denied to them.

I thank the Senator. I think she has made a very powerful case, and others have added to it. I hope her position will be sustained.

Mrs. MURRAY. I thank the Senator from Massachusetts. I will add that not only is that woman paying her taxes but she is serving our country overseas. She is serving every single one of us; making us safe here at home. She deserves to have us take care of her when she has a medical need.

Mr. President, I ask unanimous consent to add Senator BINGAMAN and Senator INOUYE as cosponsors to this amendment.

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

Mrs. BOXER. Will the Senator yield?

Ms. SNOWE. Will the Senator yield for a question?

Mrs. MURRAY. I yield for a question to the Senator from Maine.

Ms. SNOWE. I thank the Senator for yielding.

Would the present description of the law place an undue burden on women serving in the military overseas? In 1992, the Supreme Court decision about Planned Parenthood said that Government regulations may not constitute an undue burden on the right to an abortion, and this ban would be an undue burden by placing an obstacle in the path of the woman seeking an abortion.

So would the Senator agree that this certainly would represent an obstacle in the path of a woman making this decision and having access to a safe medical procedure? Because certainly a combination of military regulations and the practical world would mean that someone who needs it, who made this decision, would face lengthy travel, serious delays, expenses, substandard medical options, restricted information, would have to fly home, and certainly in my opinion—I ask the Senator if she would agree—this ban appears to be unconstitutionally burdening the right of a woman to make this decision because it places a number of obstacles in the way of her making that decision and having access to the procedures that are available here in the United States which are legal under the law of the land.

Mrs. MURRAY. I would agree with the Senator. This places many undue obstacles in front of the woman who is serving in the military overseas such as asking through her supervisor for permission to leave. This is not something anyone here has to ask for who is serving here or who is not serving here. It means that a woman would have to fly home—sometimes hours of travel, sometimes weeks of delay in getting a flight out of some of the countries which we are asking our young women to serve in. It means a delay in the medical procedure, and it puts an undue burden on these women which is not faced by any other woman in this country.

Ms. SNOWE. I thank the Senator for answering that question. The bottom line is we are treating these people as second-class citizens if they do not have access to the procedures guaranteed constitutionally under the law of the United States simply because of the Supreme Court ruling.

Mrs. MURRAY. They are not only making a sacrifice, but these are women who are serving our country who are every day working for every single one of us to make our lives safe here. They should not be treated as second-class citizens. They should be treated as first-class citizens and be given the same right that every woman in this country has and the access to safe medical procedures that they deserve.

I thank the Senator from Maine.

Mrs. BOXER. Will the Senator yield to me?

Mrs. MURRAY. I yield to the Senator from California.

Mrs. BOXER. I thank my friend for her leadership on this. I am so pleased she has raised this issue for the Senate. As we know, this Congress is narrowing women's right to choose. But I think nothing would be more disturbing than what we have before us. As the Senator from Maine pointed out through her questioning and our friend brought out through her answers, these are women who are risking their lives by joining the military; are they not?

Mrs. MURRAY. The Senator is correct.

Mrs. BOXER. They are risking their lives, just as the men do, to fight for their country, and indeed may die for this country. Why on Earth would this U.S. Senate put their health at risk? That is a major question.

I ask my friend. Is there any case that she knows of where a man is denied a particular medical procedure?

Mrs. MURRAY. I cannot think of any case where a man is denied a medical procedure who is serving in the military overseas.

Mrs. BOXER. I wonder what my friends of the male persuasion from both sides of aisle would be doing on this floor if suddenly it was the case that men could not get help when they were stationed abroad. They would say, ''Well, regardless of what it is, we need our men in the military to be there. That is why we are sending them there.'' Yet, they would treat women in such a way.

I say to my friend, what happens if a woman cannot get on a plane and has to go to a hospital in a country that she is stationed in? I will half answer that. When I went to visit the troops in Saudi Arabia during the Persian Gulf war, I saw the incredible health facilities that they had there for our men and women in uniform. But what if such a woman was in pain, was in a situation where she really needed help, and she went to the facility and was told by a military doctor, ''You have to go to a local hospital''? I ask my friend to talk about what that experience might be like in a place like Saudi Arabia where women cannot even drive their cars.

Mrs. MURRAY. The Senator from California brings up an excellent point. The way the current bill is drafted, without my amendment, it simply creates foreign back alleys for our women who are serving overseas—for those of us who were aware before Roe v. Wade, women got abortions in back alleys because they were not provided medical facilities. We have friends who are not able to have babies because of a procedure that was performed in a back alley. I cannot imagine this Senate and this Congress putting our women who serve in uniform overseas at risk as we did women many years ago in this country. It seems to me that is really disturbing—to create foreign back alleys as this current bill does.

Mrs. BOXER. I thank my friend. I say that of all of the issues that we face, where women's rights to choose have been narrowed dramatically—if she is a Federal employee, we know that right is narrowed. She cannot use her insurance. But at least she is in America and she is here. So she will have to make a financial sacrifice, if she exercises that right to choose, which is a legal right.

I think we need to understand what is going on here in this U.S. Senate.

There are those who want a constitutional amendment to completely outlaw a woman's right to choose. They want to make it a crime. You know they cannot do it because the people of America do not support that. So what they are doing instead is attacking us—one group at a time; Federal employee women over here one day, poor women over here the next day, and women who live in D.C. the third day. And today it is women who serve in the military overseas. They are the ones who will be subjected to, as my friend says, the foreign back alley. Let me tell you, the back alleys of America were not friendly. I lived in those days. I know those days. If there is anything I can do, and I know the Senator from Maine feels as strongly—this crosses party lines—we will make sure that we never return to the days of the back alley.

I think this is just one more attempt to harm the women of this country, the women who are sacrificing for their country. By supporting Senator MURRAY's amendment, we will go a long way in telling those women we respect they should not have to answer to another set of laws to put their health in jeopardy any more than they are put in jeopardy in the fact they are willing on a daily basis to lay their lives on the line.

I thank my friend. I yield back my time to her.

Mrs. MURRAY. I thank my colleague from California for a very eloquent statement and for her support of this extremely important amendment that sends a message to women who serve our country overseas that they will be treated equal to any other woman who is a citizen in this country today.

Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from Washington has 26½ minutes.

Mrs. MURRAY. And how much time remains on the other side?

The PRESIDING OFFICER. Forty-eight.

Mrs. MURRAY. Mr. President I ask my friend from Indiana if he intends to use any more of his time?

Mr. COATS. I would like to respond to the statements that have been made, but I would tell the Senator from Washington that depending on whether or not she has more speakers on her side, I would be prepared to yield back a substantial amount of time if we could come to agreement on both yielding back time.

I have been approached by some Members who have some conflicts this evening and are looking for a little bit of a window. One Senator on your side asked if it would be possible to yield back some time. So I guess I would inquire of the Senator from Washington what her intentions are in this regard.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

Mr. COATS. Reserving the right to object, Mr. President, I am sorry. The Senator from South Carolina was asking me a question and I did not understand or hear what was propounded.

The PRESIDING OFFICER. The request was for a quorum call, the time to be equally divided.

Mr. COATS. That is fine. And then the Senator is going to check to see what she has on her side and I will do the same, and if we can come to an agreement we will yield back our time. That is acceptable, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I yield 5 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. LAUTENBERG. I thank the Chair. I thank my colleague from Washington for giving me some portion of the time to support the Murray-Snowe amendment.

This amendment is so basic that it, frankly, kind of surprises me that we say to people who we have recruited to serve in our military that you leave your constitutional rights on the doorstep; that if you need medical services you are willing to pay for, we are not going to give them to you.

This amendment, as it is presented, will overturn the unreasonable, harsh Republican policy that prohibits servicewomen from obtaining abortion services in overseas military facilities, once again, even if they are willing out of their own pockets to pay for these health services.

Essentially, the current law that was passed by the Republican Congress forces servicewomen to leave their constitutional rights behind, at the water's edge.

I am familiar, Mr. President, with the struggle to protect constitutional rights of servicewomen. In 1991 and 1992, I led the fight to overturn this policy. I had an amendment pass the Senate twice to overturn this unfair restriction. Unfortunately, President Bush threatened to veto the entire defense appropriations bill over this provision and thus it was dropped in conference. But the 1992 election changed all of this. On the second day of the Clinton administration, President Clinton restored servicewomen's constitutional rights by executive authority.

Tragically, the Republican Congress reversed the Clinton policy. But they are not just reversing a Clinton policy. What they are saying to those individuals, who have every right under the law to make a choice about whether or not they continue a pregnancy, is that they will not be able, practically, to do it; they will not be able to have an abortion if they choose.

I am not promoting abortion. I am saying every woman has a right under our law to make that decision. What they are saying is if you happen to be stationed in a country that prohibits abortion and you want, nevertheless, to have quality service, you are restricted. You can choose to go to a back alley someplace and take the terrible chance that involves, or else you can sometimes be standby on a flight out of that country to a friendlier place. The problem is these flights are often filled and you could wait for months—months that would, perhaps, put a pregnancy into a stage of development that no one would want to see terminated.

So this is a terrible imposition, I think. We are asking people to serve. We are telling them they will be rewarded for their loyal service. We tell them they may undergo danger, they may in fact lose their lives, but they do so on behalf of their country. I salute their bravery and their courage. But I think it would be terrible at the same time to say, if you need a medical service that is available, that you are not going to be able to get it because you are in the military.

So I hope our colleagues in the Senate will look at this realistically and say we are not encouraging any choice for anyone to make that is not totally their own. But we are also saying if you enlist, if you raise your hand, take the oath, promise to serve your country faithfully under virtually any condition, that you do not lose your rights as a woman to make a decision that is available to every other woman in this country.

I yield the floor and hope the Murray-Snowe amendment, a very thoughtful piece of legislation, will be agreed to and will amend what I think is an egregious violation of a right that belongs to every woman in this country, particularly those who join the service.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise to oppose this amendment.

Last year, in both the National Defense Authorization Act and the Defense appropriations bill, the Congress spoke on this issue. Both of these bills included a prohibition on performing abortions in military hospitals and clinics overseas except in cases of rape, incest, and where the life of the mother is at risk. The President signed both of these bills.

Now, Senator MURRAY is proposing that we repeal the law enacted last year. I would suggest that more debate on abortion within the Senate is not going to change any Senator's vote. I

hope we can agree to limit the discussion and vote.

I just want to say this. There is a question here whether you are going to have abortions wide open for any purpose, any time, any place, or you are only going to have them in cases of rape, incest, and where the life of the mother is at risk. That is the issue here. I think Senators ought to understand it.

If you want to preserve life except in cases of rape, incest, and where the life of the mother is at risk, then you oppose the amendment of the Senator from Washington. But if you favor wide open abortions, as I said, at any time, any place, for any purpose, then, of course, you support her in this amendment.

Mr. President, I oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. ROBB. Mr. President, I thank the Chair and thank the distinguished Senator from Washington. I thank her for her leadership on this particular amendment.

This is a matter that we have considered a number of times. We are all familiar with the arguments. I describe my position, not as pro-abortion, but as pro-choice. I believe that abortions ought to be safe, legal, and rare. But I do not think, under any circumstances, that we ought to deprive those people who happen to be stationed overseas from having the same legal and safe medical procedures that are available to those of us here in the United States.

I respect the very significant differences of opinion for ethical, moral, and religious reasons that many hold. This is not asking that the Federal Government provide any funds. It simply is allowing those folks who are stationed overseas to use the facilities.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. I have been discussing with the Senator from Washington the timing here. I have some responses I would like to make to statements that have been made. I do not anticipate that will take more than 10 minutes at the most, probably less. I know the Senator from Washington has indicated an interest in just taking a couple of minutes to wrap up the debate in support of her amendment, at which point, I believe, we would both be ready to go to a vote.

I say that to notify Members, who may be watching the debate who are interested in when we will vote, it appears we will vote earlier than the time originally projected, in terms of the 2-hour debate, maybe as early as the next 10 or 15 minutes. I just say that to alert Members.

I would like to respond to some of the things that have been said relative to the Murray amendment. I sit here somewhat baffled by the remarks that I have heard, because it sounds to me as if a crisis situation exists that is in immediate search of solution, relative to female members of our armed services and their dependents obtaining the right to have an abortion if they so chose. But the problem described and the rhetoric used to describe the situation is totally at odds with the facts of the situation.

The picture that has been painted is a false picture. We are left with the perception, as presented by supporters of the Murray amendment, that we are placing women who serve in our military in extraordinarily dangerous situations; that the policy currently in effect is forcing them into foreign back alleys, that their health and perhaps even their life is in jeopardy if we do not immediately repeal a policy which has been in place for a very substantial period of time and has caused no problems.

There have been no complaints registered by women in the military. There have been no incidents of problems relative to women being unable to have an abortion. There has been no denial of constitutional rights. Yet we keep hearing about these terrible health risks that are being forced on women who serve in our military overseas. Terms were used: The cruel, indecent, inhumane policies; women have been victimized; it is extreme policy. I just wrote down some of the things that were said. ''Placing huge obstacles in front of women.''

That just simply is not the case, Mr. President. Those are not the facts. If those were the facts of the situation, there might be a basis for at least debating, in seriousness, the Murray amendment.

I would like to quote from a response to a letter that I sent to the Assistant Secretary of Defense to try to ascertain the facts of the case. I asked him several questions. I said:

> Has the Department of Defense had any difficulty in implementing the current policy?

That is the policy in effect that basically said military facilities will not be used to perform abortions on the basis of an elective abortion, not an abortion in terms of a need for abortion, but an abortion which is simply elective, a woman wanting an abortion.

> Has the Department had any difficulty in implementing the current policy?

Answer: No.

> Have any formal complaints been filed concerning this policy, to the best of your knowledge and information?

The answer: No; no formal complaints have been filed.

> Have any legal challenges been instituted concerning this policy?

The answer: No.

> Have any members or their dependents been denied access to an abortion as a result of this policy?

I think that is a very important point here. I am not sure our colleagues are listening. But the question I posed to the Secretary of Defense is, have any members or their dependents been denied access to an abortion as a result of the policy that the Senator from Washington is seeking to overturn? And the answer was no.

I do not understand what the problem is. There has not been a denial of constitutional rights for women. There has not been a denial of access to abortion for women. The policy has been to enforce a policy that was adopted not just by Republicans but also by Democrats, I will state to my friend from New Jersey, that taxpayers' funds in the performance of abortions should not be used. That is a policy that has been upheld by the Supreme Court, which said simply because someone has a constitutional right to something does not mean the taxpayer has to fund that right.

That case is Harris versus McCray, which basically upheld the Hyde language.

What we are seeking to do here is uphold the Hyde language which has been adopted on numerous occasions by Republicans and Democrats, in both the House and in the Senate, as it applies to use of military facilities which are constructed, operated, paid for, doctors are paid for, equipment is purchased, all with taxpayer money.

Now, if it was a valid argument that we were forcing women into foreign back alleys, I think that is a legitimate question for us to address, because these women are serving in the interest of their country and they are being deployed to places that would not necessarily be a place of their choosing.

But that is not the case, because the Department of Defense will provide transportation back to whatever place that woman wants to go to, and I do not know of anybody who has to wait weeks for that transportation, because I asked that question also of the Assistant Secretary of Defense:

> Have any members or their dependents been denied access to military transport for the purpose of procuring an abortion?

The answer is no, none. Nobody has filed a complaint saying they have been denied access. Nobody has raised a question saying they have had to wait weeks. No one has said, ''I have been forced into a back alley.'' They have had the opportunity to seek legal, safe abortions without risk to their health.

If there is a risk to their health in such a way that it endangers their life or potentially endangers their life, or the abortion is as a result of a rape or incest, then that woman can obtain an abortion from a military facility. We do not want to deny them that opportunity in that situation. That is an abortion that is needed.

But an abortion that is just simply wanted, for whatever reason, we are simply saying we do not believe the taxpayers should have to fund an abortion simply because a woman wants an abortion. Now, if that woman wants an

abortion and she has the right to get that abortion under the law, we are not denying her that right.

It is just difficult for me to understand the rhetoric that is used by people who say we are taking away the constitutional rights of women.

(Mr. GORTON assumed the chair.)

Mrs. BOXER. Will the Senator yield on that point?

Mr. COATS. I will be happy to yield for questions from the Senator from California.

Mrs. BOXER. I say to my friend, I thank you for yielding.

The issue here is equal treatment under the law, basically. You have a man who has to have a procedure performed that is a legal procedure. No one tells him he has to get on a plane. No one asks him all the details. No one puts him on a plane, takes him out of his duty station, flies him back. I tell you, if you did that to any one of these Senators here who might have been in the military, you would antagonize every man on this Senate floor.

You are not treating a woman who wants to get a medical procedure in the same fashion. You may not like it, my colleague, and I respect your view and others on the Senate floor who I see here who want to take away a woman's right to choose, who want to take women back to the old days, but the point is: How do you justify treating a woman who wants a legal medical procedure different than a man who wants a legal medical procedure?

I see my friend from Pennsylvania smiling about this. He may find it very amusing, but I might just say to my friend——

Mr. COATS. Mr. President, I ask the Senator from California what her question is.

Mrs. BOXER. Yes, I ask my friend, how does he justify treating a woman who wants to get a legal procedure in a different fashion from a man who wants to get a legal medical procedure?

Mr. COATS. Mr. President, in answer to the question of the Senator from California, I state to the Senator from California that there is a whole list of elective procedures that is not covered in military hospitals, not covered by military medicine, depending on the size of the facility, depending on the location of the facility, and, frankly, there are a series of things that are not covered, so men are denied elective procedures in a number of instances.

So it is not a question here of equal treatment under the law, that this is the only medical procedure not allowed to people who serve in the military. We are simply saying, and I think the Senator has not addressed the point, we are simply saying that in the question of the utilization—Mr. President, is the Senator interested in my answer?

Mrs. BOXER. I say to my friend, very seriously, if you look a woman in the eye who decides to exercise her legal right to choose, that she has a certain frame of time in which to make that painful, difficult, personal decision with her God, with her doctor, with her family, you do not put her on a plane. That is not an elective procedure.

My friend can view it a different way, but I seriously question the fact that this is an elective procedure when a woman finds herself in this circumstance.

Mr. COATS. Mr. President, the Senator from California and I, obviously, have a difference of opinion on this. Let me see if I can refocus the debate.

The question here is not over a woman's right to choose. The question is not over whether a woman has the right to an abortion. While the Senator from California and I disagree on the current legal status of that question, the Supreme Court has granted a woman the right to an abortion. That is not the issue that we are debating. That is not what this amendment is about.

This amendment is focused on a fairly narrow question, and that is whether or not taxpayers' dollars ought to be used to provide abortion for women who serve in the military. There would be a problem here in denying a woman's access to abortion and perhaps impeding her constitutional rights if there were not alternatives available to that particular woman.

But there are alternatives available. And the Department of Defense has made sure those alternatives are available. There is no recorded case in the Department of Defense where there was ever a complaint raised. That is why I said this seems to be a solution in search of a problem. If we had a documented series of a list of problems—

Mrs. MURRAY. Mr. President, will the Senator from Indiana yield for a question? It is only to ask about time.

Mr. COATS. I do not wish to use a whole lot of time. But I was asked a fairly provocative question, and I thought I would give the answer.

Mrs. MURRAY. We want to give our Members a time agreement. How much more time does the Senator need?

Mr. COATS. I am hoping to wrap up very shortly.

But I hope when Members come over here we can separate fact from fiction. I hope Members will look at the facts of the case and make a decision on that basis, rather than look at the fiction that has been provided to us today by proponents of the amendment, because this is not a question of a woman's right to choose. That is a separate question. We can debate that. We are not debating that today, at least I did not think we were debating that today.

The issue here is simply whether or not a woman in the military should use a military facility for an elective abortion, paid for by her funds for the cost of the procedure, but impossible to separate from the use of taxpayer funds in constructing, operating, hiring doctors, purchasing equipment, and the other associated costs with taxpayer funds provided in military hospitals.

The military has no recorded evidence of anybody being denied access, denied transportation, denied the opportunity to get the abortion that they seek. We can deal with the other issue at another time. But to characterize this policy as cruel, indecent, inhumane, the denial of women's rights, dangerous, back-alley foreign abortions simply, I think, does not characterize and should not characterize this debate because that is not what this issue is about.

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

Mr. COATS. I will be happy to yield.

Mr. LAUTENBERG. What happens if the woman wants to have the procedure done—the Senator has agreed that under present law she can request that—in a country that has a prohibition within their population? That eliminates medical service there.

The Senator further says that you cannot use the military medical facility because of the fungibility of funds. Would the Senator be willing to say to the military, that you must guarantee that a flight be made available within a 3-day period, a 5-day period, to a U.S. military medical facility that will accommodate her need and to make sure that that trip can be arranged within a 5-day period?

Would the Senator be willing to guarantee, since the Senator says he has no interest in stopping the procedure—his concern is about the fungibility of the funds—that we would guarantee that this individual would have access to an abortion, respecting the rights, by the way, of any conscientious objection by a physician who might not want to do it or medical personnel?

Mr. COATS. If that was a problem, it is something that we might want to consider. But according to the Department of Defense, it is not a problem, never been a problem. Again, it is a solution, a mandate, that is not necessary because there has never been a problem with that.

If a woman in the military is in a country that does not provide abortions by law, obviously that woman is free to travel to another country or back to the United States. In the case of—I am not even sure of what Italy allows, but if you are stationed in Italy, you usually travel to Germany to get an abortion or a neighboring country. It is just not a problem. I do not think we need to legislate something that is not a problem.

Mr. President, I am prepared to yield to anyone else that seeks time. But I think we are just replowing old ground here. If the Senator from Washington wants to wrap up, we can notify our colleagues that within a very short time we expect a vote. I am going to move to table as soon as the Senator from Washington is finished.

Mrs. MURRAY. Mr. President, if the Senator from Indiana is willing to yield back time, I will use 30 seconds.

Mr. COATS. Mr. President, I am more than willing to do that. I will yield back my time.

The PRESIDING OFFICER. The Senator from Indiana has yielded back his

time. The Senator from Washington is recognized for 30 seconds.

Mrs. MURRAY. Thank you, Mr. President.

Once again, I urge my colleagues to vote for this very simple amendment. It will allow our women who serve in our military overseas to use their own private funds to get a safe, legal abortion in our military facilities overseas.

We have talked a lot about the women in our military, but this also affects the wives and the daughters of our servicemen who serve overseas. They, too, should have the ability to have a safe, legal procedure.

I have heard that no complaints have been filed. But I tell my colleagues that this puts a woman in a very serious position, if she does complain, and she is in the military. It could have career implications. And it could have personal implications. It does not surprise me that the Senator from Indiana has not heard of any complaints. But I assure you, this does put women's lives in jeopardy. It puts obstacles in front of them that clearly violate their equal protection under the law. Mr. President, I urge my colleagues to support this amendment, and I yield back my additional time.

The PRESIDING OFFICER. All time is yielded back.

Mr. COATS. Mr. President, I move to table the pending amendment.

Mrs. MURRAY. Mr. President, 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.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment by the Senator from Washington. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Minnesota [Mr. GRAMS] are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas [Mr. BUMPERS] would vote ''no.''

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

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—45

Abraham	Exon	Inhofe
Ashcroft	Faircloth	Johnston
Bennett	Ford	Kempthorne
Bond	Frist	Kyl
Breaux	Gramm	Lott
Burns	Grassley	Lugar
Coats	Gregg	Mack
Cochran	Hatch	McCain
Coverdell	Hatfield	McConnell
Craig	Heflin	Murkowski
DeWine	Helms	Nickles
Domenici	Hutchison	Pressler
Reid	Shelby	Thompson
Roth	Smith	Thurmond
Santorum	Thomas	Warner

NAYS—51

Akaka	Feinstein	Mikulski
Baucus	Frahm	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Gorton	Murray
Boxer	Graham	Nunn
Bradley	Harkin	Pell
Brown	Hollings	Pryor
Bryan	Inouye	Robb
Byrd	Jeffords	Rockefeller
Campbell	Kassebaum	Sarbanes
Chafee	Kennedy	Simon
Cohen	Kerry	Simpson
Conrad	Kohl	Snowe
Daschle	Lautenberg	Specter
Dodd	Leahy	Stevens
Dorgan	Levin	Wellstone
Feingold	Lieberman	Wyden

NOT VOTING—4

Bumpers	Grams
D'Amato	Kerrey

The motion to lay on the table the amendment (No. 4059) was rejected.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Ms. MOSELEY-BRAUN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The amendment (No. 4059) was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Ms. MOSELEY-BRAUN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 4060

(Purpose: To reduce the amount authorized to be appropriated for military construction in order to eliminate authorizations of appropriations for certain military construction projects not included in the Administration request for such projects for fiscal year 1997)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. GLENN, proposes an amendment numbered 4060.

Mr. MCCAIN. 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:

At the end of title XXVII, add the following:

SEC. 2706. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN MILITARY CONSTRUCTION PROJECTS NOT REQUESTED BY THE ADMINISTRATION.

Notwithstanding any other provision of this division, the total amount authorized to be appropriated by this division is hereby decreased by $598,764,000.

Mr. MCCAIN. First of all, I would like to say that I am perfectly agreeable to a time agreement to be entered into immediately. I hope that the other side understands. There is an objection on the other side. But I do not believe this amendment should take too long. I would be glad to enter into a time agreement at any time during this discussion.

Mr. LEAHY. Will the Senator yield without losing his right to the floor?

Mr. MCCAIN. I ask unanimous consent to so yield to the Senator from Vermont without losing my right to the floor.

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

Mr. LEAHY. Mr. President, I do not have a particular position on this one. I would be delighted with whatever time agreement we might enter into. But I see the deputy Republican leader on the floor. I am just wondering with time agreements and all if we might have some idea. What is the schedule tonight? For those of us who have faint glimmers of family-friendly situations, I just wonder. I am perfectly willing to continue to vote for the rest of the evening, or stack votes. I am not the one to make that choice. I wonder if someone could give us an idea.

Mr. MCCAIN. I ask unanimous consent to yield to the Senator from Oklahoma for purposes of answering.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, there has been no formal agreement. I will tell my colleagues that we are trying to complete this bill. We have a lot of amendments. I understand the request of the Senator from Vermont. I think it is the intention of the majority leader to press on tonight, probably until—this time has not been announced but I will guess until about 9 o'clock and then probably continue later to stack votes for a later time. It is vitally important that we move forward.

I will consult with the majority leader and will report back very soon.

Mr. LEAHY. I thank my friend from Arizona for making it possible to make that inquiry of the Senator from Oklahoma.

Mr. MCCAIN. Mr. President, I ask unanimous consent to yield to the Senator from Illinois for 3 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, if I may suggest to the new leadership over there, as one who is not going to be around here too long, I think we ought to accommodate families as much as possible. So in the evenings when you can stack the votes I think it is desirable to do so. I just pass that along and suggest it to the new whip. I congratulate him publicly on that. I see that Senator CRAIG is here. I think to the extent that you can accommodate family life here it improves the United States Senate.

Mr. NICKLES. Mr. President, I appreciate the comments of my colleague from Illinois. I might mention the Senator from Arizona asked for a time limit on his amendment. If Senators

and opponents of amendments are willing to enter into time agreements, it makes it a lot easier to stack votes. So for us to be cooperative, I share the concerns to be more family friendly, and if it is possible for us to stack votes for this evening so there might be time for people to have dinner with their families, or something, but to do that it is really essential to have time agreements and have a couple of other amendments in order. So if we have maybe some more help in reaching those time agreements and ordering the next amendment, that would certainly be of help.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, if I might additionally comment, we are reaching the point in the process we go through where it is about time we got hold of all of the amendments and start trying to negotiate time agreements on them. Obviously, the gestation period is a couple of days. We need to move forward with that part of this process of getting this bill through the body.

Mr. President, I would like to say again to my friends on the other side of the aisle that I would be glad to enter into a time agreement on this amendment at any time during the discussion of this amendment. As far as I know, the Senator from Ohio is the only other speaker I have on this amendment; at least who is in favor of it. We would be glad to enter into a reasonable time agreement at any time.

Mr. President, I would like to describe the amendment and make a few comments on it.

The amendment would cut nearly $600 million which was included in the bill for unrequested military construction and family housing projects. I am somewhat gratified to learn that the close scrutiny focused on military construction pork has at least forced a degree of control on the process. Most of the projects in this additional add-on of $600 million meets four of our five criteria stated in the sense-of-the-Senate language.

These criteria are that the mission is essential for, in 11 instances, quality of life not inconsistent with the BRAC process in the future years defense plans except when only designed money is authorized and executed in fiscal year 1997. Twenty-five of the added projects do not meet some other criteria. However, 10 of these are quality of life improvements, and the balance received only planning and design funding. But, Mr. President, none of the projects that were added in this bill meet the fifth criteria; that is, there is an offset by a reduction in some other defense account.

These are simply $600 million add-ons. I appreciate the fact that every effort was made to adhere to some credible criteria in selecting the projects for these add-ons. But my objection in principle to adding funds for unrequested military construction projects remains the same. During the markup of this legislation in the Armed Services Committee the Readiness Subcommittee recommended a plus of $100 million for high priority housing projects that the Secretary of Defense had come over and sought additional funding for. But the subcommittee allowed the Department of Defense to determine the allocation of these projects by military priority, not by location in any particular Senator's State.

Senator GLENN and I both voted against the addition of this $600 million in unrequested military construction when the amendment was offered in our markup. Not surprisingly we lost that vote.

Mr. President, this is a very disturbing, unpleasant, and in some ways alarming situation that has been going on for some time. Since 1990, the Congress has added more than $6 billion to the military construction accounts. I want to repeat—$6 billion to military construction accounts. This bill adds another $600 million for unrequested projects. At the same time the overall defense budget has declined by more than 40 percent despite our recent efforts to increase funding.

Mr. President, let me explain that again. While we have increased over the request of the Defense Department some $6 billion in unrequested military construction projects—some of them the most outrageous, including, for example, a foundry at a base that is being closed; construction of a health care facility at a base where down the street is another health care facility where they could have put lifetime memberships for every member of that military base; to the addition of a runway at a base where not far away is a very large, one of the largest airfields in the world. The list goes on and on. We have added $6 billion to the military construction accounts while the defense budget overall has decreased by some 40 percent.

Mr. President, we cannot do that for a whole variety of reasons, including maintaining credibility with the American people as to the need for their tax dollars which are earmarked for defense, to be spent on defense.

Let us look at the priority of these added projects in the overall budget of the military construction. Of the total of 115 added projects 72 of them were planned for the year 2000, or later. In fact, 14 of these projects were not anywhere in the future year defense plan; nowhere. Nowhere could 14 of these projects be found. Of the $600 million added for the unrequested projects, almost $350 million for these 72 projects was planned for the next century—were planned for the next century, not this century. Surely projects planned for the year 2000, 2001, 2002, or later are not as vital to the services as those that are planned to be included in next year's defense budget. Why did we not focus on fiscal year 1998 projects, if we are going to add these military construction projects? I will tell you, Mr. President, the answer is simple. Because some of these 1998 projects were not in the State or district of powerful members. It is that simple. There can be no other reason. Instead, we are reaching 4 years out in the future years' defense plan, into the next century, to find 29 projects that are planned in the States of members of the Armed Services Committee.

Let me repeat. I will be very frank. We are reaching 4 years ahead in the future years' defense plan, into the next century, to fund 29 projects that are planned in States of members of the Armed Services Committee.

Let us be realistic. This bill is $1.7 billion above the defense budget target set in the fiscal year 1997 budget resolution. That means we will have to cut out some of the programs added in this bill when we get to conference with the House.

Will military construction be part of those cuts when we reach our negotiations with the other body? I do not think so. Instead, we will probably end up cutting some of the high-priority adds for much needed modernization equipment that will enable our troops to fight and win in future conflicts.

With the authorizers and appropriators adding $900 million to the military construction request, I predict the outcome of our conference will be an agreement to fund most of what is in either bill, or more than $1 billion in unrequested projects. After all, that is the only way to keep everybody happy.

Mr. President, I am tired of seeing us acquiesce to a practice which only feeds on itself. Until we instill some discipline in our own markup process by resisting the temptation to add money simply because it serves our constituents, we cannot expect the Department of Defense to exercise discipline in resisting efforts to spend defense dollars on unnecessary nondefense projects.

Mr. President, we have made progress in reducing the total amount of pork-barreling in the defense budget. Last year, about $4 billion of the total $7 billion that was added to the defense budget was wasted on pork-barrel projects like new attack submarines, research project earmarks, medical education programs, and, of course, military construction add-ons. This year, we are only wasting $2 billion. But $2 billion is a lot of taxpayers' dollars to waste.

How do we explain to the American people why we need to spend $11 billion more for defense this year when we are spending $2 billion for projects that do little or nothing to contribute to our Nation's security?

For the sake of ensuring public support for adequate defense spending now and in the future, let us stop this practice now. I urge my colleagues to vote to cut out the $600 million in unnecessary military construction spending.

Thanks to organizations such as the Citizens Against Government Waste,

Citizens for a Sound Economy, the National Taxpayers Union, and talk show hosts all over America, the American people are becoming increasingly aware of what kind of a process we are in. We might have had some rationale back in the 1980's when we continually increased the defense budget, when money for defense was quite readily available, but what we have experienced in the last 7 or 8 years is a dramatic cut in defense spending, and yet the spending on unnecessary and unwanted projects goes up. At some point, this is going to have to stop. I hope it is now. It probably will not be.

There are enough projects in here that there will be more than enough votes to defeat this amendment. But it is not fair. It is not appropriate.

Let me point out that we still have problems with our equipment. We do not have sufficient airlift and sealift and amphibious capability. According to the Chairman of the Joint Chiefs of Staff, we are underfunded as far as force modernization is concerned by some $21 billion this year, and yet we are going to spend billions of dollars on these unwanted projects.

I do not expect to win on this amendment, but I want to inform my colleagues that I will not quit on this issue. I have an obligation to the men and women in the military and the taxpayers of America to continue to ventilate this issue.

I am also pleased that we passed the line-item veto this year, which will go into next year, and next year, in partnership with my colleague from Ohio, we are going to at least send a list over to the President of the United States for his consideration so we can cut out this practice which clearly the Congress of the United States does not have the courage to do.

With that, Mr. President, at this point I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, Senator MCCAIN and I usually are on the same side, but in this particular case we are on opposite sides.

I rise to oppose Senator MCCAIN's amendment to strike the funding for $598 million for military construction projects added to the defense authorization bill during the Armed Services Committee markup. Senator MCCAIN has been persistent trying to eliminate defense spending that he believes is unnecessary and I applaud him for his persistence.

Mr. President, we have screened the projects that Senator MCCAIN is attempting to strike with the Department of Defense. They all meet the criteria that both Senator MCCAIN and Senator GLENN worked so diligently to set up. For the benefit of all Members that criteria are as follows: Is the project in the future year defense plan? Can construction on the project begin in fiscal year 1997? Is the project mission essential or a quality of life issue? And, is the project consistent with base closure action?

The committee received requests from 62 members for construction projects totaling more than $1.6 billion. Of the projects requested, $730 million met the committee's criteria. However, because of the funding priorities, the committee agreed to fund only the highest priorities and those that would contribute to readiness and to the quality of life of our soldiers, sailors, airmen, and marines.

Mr. President, I want to point out that more than $200 million of the $700 million is dedicated to quality of life improvement projects such as barracks and family housing. Another $170 million is dedicated to training and readiness facilities. These are projects that the administration could not fund because it chose to reduce the military construction budget by almost $1.5 billion below the amount requested in fiscal year 1996.

Finally, I want to address the comment in the statement of administration policy regarding this bill. The administration states that projects for $95 million are not in the services long-range plans. It included such facilities as the troop barracks in Germany and the family housing construction in England. These projects that amount to more than $25 million were among the highest priorities on the list of unfunded projects submitted by services. The remaining projects were equally justified.

Mr. President, the $700 million added by the committee are justified and are in the best interest of our national security. I urge the Senate to support the committee and vote against the McCain amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Ohio.

Mr. GLENN. Madam President, there is not a single Senator here who does not go back home and talk all the time about how we want a balanced budget. We want a balanced budget very badly. We have the President's plan we put forward in 1993, we have the Democratic plan, Republican plan, and we all take great pride in how we want to balance the budget. Yet, when it comes down to actually doing something practical, if it impinges just a little bit in our area, or if we are not able to bring home some of the pork we would like to bring home, pump up the way people look at us back home, then our talk about budget balancing gets pretty thin around here. That is what we are talking about and that is what Senator MCCAIN has been addressing.

This amendment would cut nearly $600 million which was included in the bill for unrequested military construction. These are things the Pentagon did not say they needed. These were things the administration did not say we needed. We did not have to have this money in there. These are add-ons, strictly add-ons.

Granted, many of these are going to family housing projects and things like that. But these were not the priorities that the administration established or the Defense Department established or the Army, Navy and Marine Corps established as what they would rather have if the $600 million was available to be spent for whatever. These are things that Members of Congress just decided in their own wisdom to put in. As the Senator from Arizona has indicated, too many times it appears that these efforts to put good things in just happen to be in the home district or just happen to be in the home State. They just happen to be add-ons that all total up to $600 million. So when we talk about balancing the budget down here, are we going to walk the walk as well as talk the talk? That is basically what we are talking about.

Some years ago here, I think it was 3 or maybe 4 years ago, this idea of the pork creeping into every defense authorization bill had become so rampant, had become so out of control, that the Senator from Arizona and I started a policy. We got this through as sort of sense-of-the-Senate language that any add-ons would have to meet some criteria. We would use these as a benchmark. That does not mean they should go in if they met these five criteria; it just means we had to make a compromise and stop some of the runaway pork that was put into this legislation every year.

So what did we do? We put in several criteria. It had to be mission-essential for the long term, the future; No. 2, it could not be inconsistent with BRAC, the base closure procedure; it had to be in the 5-year defense plan; it had to be executed in the next fiscal year or at least start the contract then; and, No. 5, it had to be offset by a reduction in some other defense account if you are going to make an add-on.

That does not mean if it met these five criteria automatically you should try to put it in and goody-grab in the budget or authorization bill if it meets those five criteria. We set these criteria because that stopped some of the even more rampant requests, things that were put in the budget back then that were even worse than the things we see right now.

What happened when we take this sense-of-the-Senate criteria and apply it this year? Madam President, 25 added projects do not meet some of the criteria. It does not mean they do not meet some of them; they do. Are any of them offset by our defense accounts? No, they are not. They do not meet that criteria at all. But the basic objection is just in principle, adding funds for unrequested military construction projects. Our objection to it remains the same.

During the Senate Armed Services Committee markup, as an example, our subcommittee, which Chairman MCCAIN chairs and which I am the ranking minority on, we recommended some additions in the subcommittee to be passed by the full committee. They were substantial increases in areas we

had discussed with the Pentagon. They thought they could use some more money in these areas so we recommended in the subcommittee some additions of about $100 million, additions for high priority housing projects—we agreed on that. But the subcommittee allowed the Department of Defense to determine the allocation of those projects. We did not look around the room and say, ''What Senator is here we can please? What Senator can we help get reelected? What Senator can we do a favor for?''

No, we put that money in because the Defense Department indicated they could use it, and they could make the choice, they could make the choice on where the greatest need was. That was our basic criteria in markup this year, and I think it was a very sound one. Let DOD decide where their greatest need is, not try to come back and do a favor for one or more of our Members.

Senator MCCAIN and I both voted against additions of the $600 million in unrequested MilCon when it was offered in our markup. But we lost that vote, obviously. What is the cumulative effect of all this? Since 1990, it has added up to real money, as some would say here. This is not just peanuts anymore. Since 1990, we have added more than $6 billion—$6 billion—to MilCon accounts. Now we are going to add another $600 million in unrequested projects with what we are doing here.

Our overall defense budget has gone down meanwhile, so, when we make add-ons like this, they assume a more important role than they would have even normally, because they become a greater percentage of what our total military expenditures are. The defense budget has gone down about 40 percent, yet we are going ahead with these things that benefit primarily our Members.

The priority of these added projects? Do we need them now? It is my understanding that, of the 115 added projects, 72 were planned for the year 2000 or later. That does not make them very necessary right now. In the unrequested projects, almost $350 million out of the $600 million was added for these projects that are planned for after the turn of the century. No wonder the Defense Department did not request things like this. No wonder there were higher priorities in the defense budget.

So, why do we put these in? Although we objected, they are put in mainly because particular Members want to do something in their States. They want to bring home the bacon. We must be realistic. This bill is $1.7 billion above the defense budget target set in the fiscal 1997 budget resolution now. That means we have to cut out some of the programs added, and when we get to conference with the House, how are we going to do that? What is going to be cut? Will these be out of the procurement accounts? Is that what we are going to do? Will MilCon be cut when Members just succeeded in getting something in for their States or their home districts?

MilCon is probably going to be the last thing that gets cut. So we will wind up, instead of spending some of this $600 million for much-needed modernization equipment that we will really need if we get into any future conflict, we are going to spend it for these other things that were add-ons that people wanted for their particular area.

As I understand it, the House has already passed their bill. They added, in their bill, some $900 million to the MilCon request, almost $1 billion. You know what is going to come out of the conference. What usually comes out of the conference—not cutting back on those MilCon projects, because that would offend some members of the committee who were just successful in getting these projects in for their home State.

So we are looking forward to a conference committee which usually will not cut these accounts. So if we are going to cut them, it is going to have to be here, and it will have to be done with the proposal of the Senator from Arizona, his proposal that I support very, very strongly. It is not easy to be out on point, trying to do something like this. I will say that. He and I have both received a lot of flak over the past 3 or 4 years as we have tried to cut back some of these things. We have had Members come back to us and criticize us, criticize us for being unfair and all sorts of things. I do not have any problem at all standing for some of these cuts. We have been proud to make this effort.

I will say this: I think we have been somewhat successful with this in reducing the total amount, the total amount through the years that people have requested. I will not say we have scared people off, but let us say we have made some of them think twice, anyway, about some of these things. So the requests have been going down, and we can probably point to where, compared with last year, we probably have gone from about $4 billion you can point to as questionable down to only about $2 billion this year. Is that good? No, it is not very good. But it is better than we thought we might do last year, I will say that. So maybe we are having an impact. Maybe we are heading, really, in the right direction.

But what it comes down to is, are we going to talk about budgets and talk and talk about budgets and act as though we are doing something around here all the time and worry about little tiny amounts, comparatively speaking, in the budget? Or are we going to really do something about it?

Here is what we do when it comes to trying to get something for our own States, or Members of the House of Representatives trying to get something for their districts so they can point with great pride, make a headline when they are up for reelection: I brought back the park on this. I got that road intersection, or I got something in there that is part of this $600 million.

Are we doing this for campaign purposes or are we doing it because the Pentagon really needs this as a priority item to really fulfill our defense needs?

Most of these things, by that criteria, do not even deserve to be talked about as far as being necessary. Most of them are add-ons that are favors to particular Members, and we know it, and anybody who works on this legislation knows it also.

So I say, let us just keep after this. I know Senator MCCAIN is committed to keeping after it. I am, too. I believe he wants to call for a rollcall vote on this, and I certainly support that.

For all the reasons I have stated above, I support this. I urge our colleagues to put the budget ahead of their own parochial interests, perhaps. He and I have not added things in for our own State on this. I have not added a thing. There are things in here for Ohio, but not that I asked for. I think he is in the same status, as far as Arizona goes.

So we are walking the walk on this ourselves. We are not just talking about this and talking against someone else and goody grabbing ourselves. This is something we feel strongly about. We feel this $600 million was not requested, and we think when you look at it that we can do without these things and, hopefully, get the Pentagon to prioritize what they want and support their budget, not what we can add on over here.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I certainly would never question the good intentions of my friend from Ohio or the Senator from the State of Arizona, but I think it is important to know that the chairman of this subcommittee, the junior Senator from the State of Montana, is not known for being a big spender. He came to the U.S. Senate with experience in the State of Montana working at the county level. There he was known for his frugality. He has acted the same way as chairman of this subcommittee.

Everyone should recognize that the amount that we are going to have marked up in our bill tomorrow is $200 million less than what the House has, and I do not think the House is known for spending lots of money. Our subcommittee is coming with less money than has been requested and authorized and appropriated by the House.

All of our colleagues should understand that the money that is the so-called add-ons meet the so-called McCain criteria. The distinguished Senator from Arizona said that if there are going to be add-ons, they should meet certain criteria. If there is going to be money appropriated, they should meet certain criteria.

We have met every one of the criteria in every one of the matters being questioned.

What are those criteria? That there be a 5-year plan. Everything in our bill meets that plan. Every element in these so-called add-ons are within the 5-year plan.

Second is that they be the top priority of the base commander. We have met that criteria.

That the add-ons be mission essential. We met that criteria.

That the site has been selected for the construction. That criteria has been met.

Finally, it can be executed in this fiscal year. That criteria has been met.

We have met the McCain criteria, not in some instances but in every instance.

The examples cited by the distinguished Senator from Arizona, about the health club and all that, I respectfully say I do not know what he is talking about, but they would not meet the 5-year plan or the criteria generally. Everything we are talking about meets the McCain criteria.

We should also recognize that the bill we are talking about this year is 10 percent below last year's level; $1.3 billion below last year's level. We are, of course, going to be within our 602(b) allocation.

If you look at what has happened, the moneys that we have been given by the administration suggested the grand sum for the Army National Guard of $7 million for military construction all over the country. The Army National Guard would go out of business.

I stand in strong opposition to the amendment offered by the Senator from Arizona and the Senator from Ohio. I suggest that the Senator from Nevada and the Senator from Montana are proud of what we are doing for the military. We are proud of what we are doing for the Guard and Reserve.

The amendment would not allow for authorization of construction projects that are of immediate need to those who continue to serve us so well. I urge my colleagues not to support this amendment for these and other reasons.

The Senate Armed Services Committee used stringent criteria to ensure that all projects authorized were determined to have met these criteria. These criteria are known, as I indicated, to the members of the committee as the McCain criteria.

We, as members of the Military Construction Appropriations Subcommittee, chaired by the Senator from Montana, funded all the projects that had previously met these criteria and were recommended by the authorizing committee, of which the Chair serves as a member of that committee. The projects that have been authorized are necessary to maintain the stability of our National Guard and Reserve and to continue to enhance the quality of life for our soldiers, sailors, and our airmen and women.

Of the $600 million talked about in construction projects that this amendment would eliminate, $368 million, about 60 percent of this amount, is designated for construction of National Guard and Reserve projects. Remember, the administration requested the sum of $7 million for the Army National Guard and military construction.

In addition to the $368 million, about 60 percent, as I have indicated, for National Guard and Reserve, we have requested an additional $189 million which is directly designated to build military family housing. Why? To improve the quality of life of our service members.

Nearly all of this $600 million reduction directly attacks the projects that the administration always neglects. They do not put anything in there, knowing that we have an obligation to the Guard and Reserve.

We have a National Guard and Reserve Caucus in this Senate. We have 62 Members. Why? Because administrations in years gone by have neglected the Guard and Reserve. We need to become more dependent on the Guard and Reserve rather than less dependent, as a result of the builddown of our military forces.

It is our specific task to look independently at all the military construction needs of this country. Should we be a rubberstamp of the administration and say we are not going to ask for anything other than what they request for the Guard and Reserve and from the States of Ohio, Arizona, Montana, Texas, Nevada, California, Virginia? The answer is no, we have to look beyond what the administration suggests and recommends.

It is our specific task to do just that: to look independently at all the military construction needs of this country, not just what the President sends us.

We are not appropriating moneys for programs that have not been authorized. We are not appropriating moneys for programs that have not met the criteria of the McCain criteria. The list that we receive annually from the administration continues to overlook projects we are known to support and compelled to include in our bill in order to maintain the strength of our fighting force. The administration does not have the exclusive wisdom to determine the finality of this list. A rubber stamp by our committee would take away the legitimacy of its obligation, its oversight responsibility and obligation.

Without the $600 million included in this bill, the Guard and Reserve will again be shortchanged. All over this country quality of life for our service members will be greatly deterred and the committee's need would be repudiated. We could just eliminate the subcommittee. We could just eliminate the armed services work that they have done.

I encourage my colleagues to strongly oppose this amendment. I repeat, the chairman of this subcommittee has worked very hard, along with the members of the subcommittee, to come up with something that is fair. There is talk about if these add-ons were added on—people used the term ''pork.'' Maybe, Madam President, what we need to do is talk about some of these so-called pork projects, projects that allow our Guard and Reserve to survive and allow the quality of life for our armed service members to be enhanced. If that is pork, then we have $600 million of pork, because the $600 million will allow our Guard and Reserve to survive and will enhance and improve the quality of life of the men and women who serve us in the military.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Madam President, I rise in opposition to this amendment. I guess whenever we start talking about appropriating and budgeting for certain needs of our military, we always hear the argument that there are things unrequested by the Pentagon or unrequested by the President. I am wondering if we as individuals in this body and the House do not have the same responsibility of taking a look and making up our own minds on the needs of our men and women in uniform.

In this bill that has been authorized, the greatest share goes to quality of life. Quality of life leads to retention, the retention of the good people who are now serving in our respective services.

The Senator from Nevada and I have worked—and I do not know of anybody who is easier or better to work with when we start going down through the priority list on military construction than Senator REID from Nevada. He understands what has to be done, understands that, no, the administration never sends any request down for projects or any support for the National Guard or sometimes even our Reserve units. In fact, if we would look at the backlog of construction for our Reserve units, it is in the billions of dollars, because it has been put away.

I want to remind my colleagues that this bill, this authorizing bill, and the appropriations that we are going to mark up tomorrow is cut $1.3 billion from a year ago. So if the Senator from Ohio and my friend from Arizona say they are having an effect, they are having an effect. We are spending less money than we did a year ago in military construction.

But quality of life and readiness, because we have changed that since the cold war is over—in other words, money goes to the base closing and realignment, environmental cleanup of those bases; but for the retention of the people that we need, the biggest share of our thrust has been in the quality of life.

I will tell you that I have been in some barracks that were not very good. I would not ask my employees to live

there. Those projects have to be done if we are going to retain the people in our military. And as to the morale, it adds to everything.

But keep in mind that, yes, we are $1.3 billion under a year ago. Then you have to sit down, like Senator REID and I did and our staffs, and set some priorities. But the Pentagon should not be the only one that has any kind of judgment on the needs of some of our military people, nor the administration. We have an obligation to our military people, too, just like anybody else.

So I think this is a pretty frugal bill when it comes to military construction. There is not very much in here that is not needed and requested by the military. With that, I say to my colleagues that this amendment should be defeated, and I ask for its defeat. I yield the floor.

Mr. BOND. Madam President, as cochair for the National Guard Caucus I rise to object to this amendment.

The Senate, in the past years, has voted to appropriate necessary military construction funds to offset the neglect of administrations in order to make sure that the defense infrastructure would be adequately funded.

As we have discussed on the floor before, the National Guard has traditionally been the neglected stepchild of the executive branch and the Department of Defense. They neglect the Guard because they know we will take care of it. We must. Who do we look to for every disaster? Who receives the call in every domestic emergency? And who continues to serve and implement military and foreign policy the world over? The National Guard. The military construction bill funds these mission essential and housing projects which were designated as critical by each State's adjutant general. I ask Senators to support the men and women of the Guard and support the Guard's ability to carry out its missions and vote against this amendment.

Active Forces infrastructure has traditionally been adequately funded with the Guard forces traditionally underfunded. Why has it been this way, many have asked. And the answer which is whispered through the Halls of this building is that the Congressmen and Senators will take care of it. And we have and we do and we will because we care about the welfare and readiness of the National Guard and Air National Guard.

The administration this year funded the Army Guard to the tune of $7 million; $7 million for the entire Army Guard infrastructure. For all 50 States and Puerto Rico; $7 million for the entire Army Guard force. If the Senators here respect our citizen soldiers, then they must rectify this shoddy treatment of those who protect us. My colleagues on the committee have done just that and they have done it with strict adherence to a rigorous set of standards for these necessary quality of life and readiness projects.

The committee considered each of the programs added to this year's military construction bill for its executability in fiscal year 1997, its being of the highest priority for the base commanders and National Guard tags, its inclusion in the FYDP, and its overall criticality to quality of life and readiness.

To vote for this amendment is to turn your back on your National Guard personnel. Currently, this is the only venue we have to maintain infrastructure readiness and quality of life. We are trying to get the administration to acknowledge the Guard's requirements, but let us not hamstring our Guard for the administration's shortsightedness. Do not let this amendment pass.

Mr. FORD. Madam President, I stand in strong opposition to the Amendment offered by the Senator from Arizona [Mr. MCCAIN]. This amendment would not allow for the authorization of construction projects that are of immediate need to those who continue to serve us so well. I urge my colleagues not to support this amendment for these reasons.

The Senate Armed Services Committee used stringent criteria to ensure that all projects authorized were determined to have met these criteria. These criteria are known to the members of the committee as the McCain Criteria. We, the members of the Military Construction Appropriations Subcommittee funded all of the projects that had previously met these criteria and were recommended by the Authorization Committee.

The projects that have been authorized are necessary to maintain the stability of our National Guard and Reserve and to continue to enhance the quality of life for our soldiers, sailors, and airmen. Of the $600 million in construction projects that this amendment would eliminate, $368 million or over 60 percent of this amount is designated for the construction of National Guard and Reserve projects; and additional $189 million is directly designated to build military family housing, to improve the quality of life of our service members. Nearly all of this $600 million reduction directly attacks the projects that the administration annually neglects.

It is our specific task to look independently at all the Military Construction needs of the country. The list that we receive annually from the administration continues to overlook projects that we are known to support, and compelled to include in our bill, in order to maintain the strength of our fighting force. The administration does not have exclusive wisdom to determine the finality of this list. A rubber stamp by our committees would take away the legitimacy of its oversight.

Without the $600 million included in this bill, the Guard and Reserve will again be shortchanged, quality of life for our service members would be greatly deterred, and the committee's need would be repudiated. I encourage my colleagues to strongly oppose this amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I do not want to cut off debate. I will move to table when everyone has completed talking.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, subject to the concurrence of my distinguished colleague from Georgia, it is the intention of Chairman THURMOND to have this matter voted on, but allowing sufficient notification to Senators of the time that that vote would commence.

I understand that the distinguished Senator from Georgia will address this issue for a period. If the distinguished Senator from Nevada wishes to move to table, of course, that is his prerogative. Then if it is agreeable to the Senator from Arizona, we would lay aside the amendment and delay the voting for a stipulated period of time and allow maybe other business to come in the intervening period. That would be the desire of this manager. I presume the distinguished Senator from Georgia concurs in that.

Mr. NUNN. That is fine.

Mr. WARNER. He has indicated his assent.

Is the Senator from Arizona agreeable?

Mr. MCCAIN. I say to my friend from Virginia, I am agreeable, but I think it should be made clear. Will we have further votes tonight? This issue will be voted on at some time tonight?

Mr. WARNER. Oh, yes. Let us say, hypothetically, if the Senator from Georgia would use 10 minutes, we would have the vote commence at 8:15. In the interim period, the Senator from Georgia and I would endeavor to get more business done.

Mr. MCCAIN. Reserving the right to object, I request 3 additional minutes for comments before we close out.

Mr. WARNER. Yes.

Mr. NUNN. Mr. President, may I inquire of the Senator from Virginia whether he anticipates other rollcall votes tonight beyond this one?

Mr. WARNER. Mr. President, I am advised by Chairman THURMOND that is the desire of the majority leader.

Mr. REID. Reserving the right to object——

Mr. WARNER. I am not sure anything is pending, but that is the best I know at this time.

Mr. NUNN. The only suggestion I would make, unless we can get an amendment up that is one that is going to be debated as a rollcall vote, I would suggest—I could take no more than 30 seconds for my comments, and we could perhaps move that timeframe up a bit. That gives us a better chance of either one of two things: If we are not going to have other rollcalls, it would allow Members to be able to go back to their families earlier; if there are, we can get started on that debate. I do not know what other amendments are

going to come up requiring rollcalls tonight.

Mr. WARNER. Mr. President, if the Senator would yield, I am informed that the majority leader is agreeable to having this vote on the McCain amendment at the hour of 8 o'clock tonight.

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

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I will take just about 1 minute. It is my understanding from all the information that I have been provided that every project here that is the subject of this amendment and the critique that has been laid down by our colleagues from Ohio and Arizona, each one of these projects is in the 5-year defense plan of the Department of Defense. Each project also can begin construction in fiscal year 1997. Each project is mission essential or quality-of-life related. And each project is consistent with BRAC actions.

I would like to see if there are any of these projects that are on closed military bases or ones being closed. I am informed that none of them is. That has been carefully screened. If they are, I certainly would like to have someone show me which one is on a closing military base, because that is contrary to all the information that we have.

A breakdown of the requested projects that have been added to the budget:

There has been $206 million added for quality of life improvements—barracks, family housing, fitness centers, child care centers, dining facilities, family support centers, education centers, et cetera: $169 million for training and readiness-related projects; $81 million for maintenance shops and facilities; $51 million for general infrastructure improvement projects; $50 million for new mission-related projects; and $41 million for health/safety/environment-related projects.

Mr. President, it is true that these projects were not requested by the Department of Defense. It is also true that there is $12 billion in the bill that was not requested by the Department of Defense.

I have a very hard time understanding the distinction between the other $11.5 billion that has been added and this $500 million that has been added. The Department of Defense and the administration's official position is not in favor of any of the add-ons. The question is whether we are going to provide family housing, whether we are going to provide day care centers, whether we are going to provide fitness centers and other quality-of-life improvements, and training for our troops, or whether we are going to basically neglect them and simply add on weapon systems.

The argument about these projects not being requested, made by my good friends from Arizona and Ohio, is absolutely right. You can say that about the other $11.5 billion in this bill that has been added on. That is the reason the President says he may veto the bill. The question is, What are we going to add in terms of our judgment, because there is no request for this $11 to $12 billion that has been added on.

It has been added on because the Senate and the budget committees in the Senate and the House decided that defense was a priority and that defense was underfunded. That was a decision we made on the budget resolution. When we made that decision, by its very nature, it meant that the Congress was going to decide to add on the money, because the administration has not indicated that they favor that add-on.

I urge my colleagues to vote against this amendment or to vote to table it if the tabling motion is made.

Mr. McCAIN. Mr. President, with the greatest respect to my colleague from the State of Georgia, I just state the add-ons were not asked for.

Let me point out, in the future years' defense plan, specifically, Pohakuloa training area for $1.5 million, is not in the future years' defense plan; the Lansing CSMS, not in the future years' defense plan; the Camp Ashland training site flood control, not in the future years' defense plan; the Nellis Air Force Base FHP–111, 100 units, not in the future years' defense plan; the Air National Guard in Ontario, OR, not in the future years' defense plan; the Dallas Armory, not in the future years' defense plan; the Eastover-Leesburg Multipurpose Simulator Center, not in the future years' defense plan, and so forth; the Wyoming Air National Guard, Camp Guernsey, not in the future years' defense plan.

I do not know where the Senator from Georgia gets his information, but I hope he corrects the CONGRESSIONAL RECORD, because they are not in the future years' defense plan.

I am glad to hear a response from the Senator.

Mr. NUNN. Mr. President, I am informed that what we have tried to apply here is the McCain-Glenn criteria, which is for construction projects. All the projects that were listed by the Senator from Arizona were planning and design money, which is not part of the McCain-Glenn criteria. We have followed those criteria, but there is no 5-year defense plan for planning and design money. That is lump-sum money.

Mr. McCAIN. I am glad to point out again, first of all, the criteria is they had to be in the future years' defense plan for any funding; but, second of all, there are also projects that are more than just planning and design.

We also asked the Department of Defense which of these projects were nondefense essential. They gave us a list of over 20 of these which were deemed by the Department of Defense as nondefense essential. That is their judgment. It is hard for me to understand how that judgment could be overruled, but I also understand what we are talking about here.

Mr. President, I ask unanimous consent to have this list printed in the RECORD.

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

PROJECTS THAT DO NOT MEET SENATE CRITERIA

FOURTEEN PROJECTS THAT ARE NOT IN FYDP

1. Hawaii, Pohakuloa Training Area, Road Improvement, $1.5 million.
2. Michigan, Lansing Army Natl Guard, combined support maintenance shop, $1.3 million.
3. Montana, Billings Army Natl Guard, Armed Forces Resource Center, $1.1 million.
4. Nebraska, Camp Ashland Army Guard, training site flood control project, $665,000.
5. New York, Stewart IAP landfill cover, $2.2 million.
6. Oregon, Ontario Army Guard, armory, $226,000.
7. Oregon, Army Natl Guard, armory, $210,000.
8. Pennsylvania, Ohldale Army Reserve, USAR Center, $2.3 million.
9. Pennsylvania, Johnstown, Marine Corps Reserve, training center, $590,000.
10. Pennsylvania, Johnstown, Marine Corps Reserve, maintenance hanger, $690,000.
11. South Carolina, Eastover, Army Guard Multipurpose Simulation Center, $224,000.
12. South Carolina, Eastover, Army Guard, Leesburg, infrastructure upgrade, $280,000.
13. Virginia, Charlottesville DIA Facility, $4.4 million.
14. Wyoming, Camp Guernsey, Army Guard, combined maintenance facility, $935,000.

ELEVEN PROJECTS NOT ''MISSION ESSENTIAL''

1. California, Travis AFB, two dormitories, $7 million.
2. Delaware Dover AFB, visiting officers quarters, $13.1 million.
3. Kansas, McConner AFB, dormitory, $7.7 million.
4. Maryland, Andrews AFB, family support center, $2.3 million.
5. Massachusetts, Hansuom AFB, family housing, $5.1 million.
6. Nevada, Fauon Naval Air Station, Gymnasium, $500,000.
7. Nevada, News AFB, dormitory, $10.1 million.
8. Nevada, Faron Naval Air Station, bachelor enlisted quarters, $16.1 million.
9. Nevada, Mevis AFB, family housing, $150,000.
10. Ohio, Wright-Paterson AFB, family housing improvements, $6.3 million.
11. South Dakota, Ellsworth AFB, CDC addition, $4.5 million.

Mr. McCAIN. I believe that the States in which these military construction projects are located, when correlated with membership on the Senate Armed Services Committee and the Appropriations Committee, will give a better explanation of the point Senator GLENN and I are trying to make here.

I do not believe Senator GLENN or I are unappreciative of the need for quality of life and the absolute importance that we maintain qualified men and women in the military. My question is, do we have to maintain the quality of life in the States of members of the committee, or do we have to maintain

the quality of life in all 50 States in America?

Clearly, the RECORD indicates—and I will be submitting for the RECORD in the future—that there has been a dramatic, dramatic imbalance in the funding for military construction projects, which, very frankly, do not serve the men and women well who are stationed in States where there is not that membership. I do not think the men and women in the military deserve that kind of preferential treatment.

I have no illusions as to whether this amendment will succeed or not. I tell you what it does do. It makes me feel a lot better about the 10 years that I spent trying to get the line-item veto passed. It gives me enormous, enormous gratification to know that next year the President of the United States, no matter who he is, is going to take a list like this, and he is going to line-item veto it, and we will spend money on projects we need.

I want to point out again, we are short of sealift capability, Mr. President. We are short of airlift capability. We are short of amphibious capability. We do not have sufficient tactical aircraft to man our carrier decks and bases all over this Nation, including Nevada. We do not have the kind of modernization of our force that is necessary for us to fight and win battles in the next century, and our modernization force has dropped to practically zero.

There are other reasons besides military construction why that has been the case. We have had to spend such an enormous amount of money on operations, maintenance, and training in order to keep our present forces ready.

When we waste billions of dollars, as the Senator from Ohio points out—$6 billion since 1990—on military construction projects, I do not think it is fair for us to ask young men and women to fight and die in equipment that is not the very best.

I will never forget the former Commandant of the Marine Corps who testified before the Readiness Committee, General Mundy. He said, ''It is very, very, very important that our Marines have decent housing, but I don't want a Marine widow to be living in a wonderful house when she is notified by the CO of the base and the base chaplain that her husband was killed in combat because he didn't have the proper equipment with which to defend himself.''

Mr. President, those are not my words. Those are not my words. Those are the words of the former Commandant of the Marine Corps, General Mundy.

If we were funding modernization of our forces and keeping up with the technological requirements that gave us the kind of technological edge that won the Persian Gulf war, I would not be nearly as vociferous in my opposition to the add-ons. The reality is—and you can talk to any objective military expert —that we simply do not have the money. This is not the highest priority, although it is certainly very nice to have things for the men and women who happen to reside in the right States.

I will not inflame this debate any longer, except to say I realize it will lose. I do believe this is the last year for it because I believe the next President of the United States will exercise the line-item veto, and I will be one of the first, along with my friend and partner from Ohio, who will urge him to do so.

I yield the floor.

Mr. WARNER. Solely for the purposes of trying to clarify the parliamentary situation and to inform Senators, it is still the desire of the manager to have a vote occur on the McCain amendment, on or related to the pending order relating to the McCain amendment, at 8 o'clock.

The PRESIDING OFFICER. The Chair advises the Senator that the order was to have a vote at 8 p.m. If you want to change that, it takes a unanimous consent.

Mr. NUNN. I ask unanimous consent that we vote on the McCain amendment or on a motion related to the McCain amendment at 8 o'clock.

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

Mr. WARNER. Mr. President, further—I add this to the unanimous-consent request—that at the conclusion of this debate, I ask that the Kyl amendment and McCain amendment be laid aside so that the managers can proceed with other business. Could the Senator from Ohio tell me how much longer he wishes to debate?

Mr. GLENN. Not long.

Mr. WARNER. Let us say that at the hour of 7:50, debate on the pending McCain amendment will conclude, at which time the Senator from Virginia asks that the McCain amendment be laid aside for voting, as stipulated in the prior order, at 8 o'clock. If it is required to lay aside the Kyl amendment, I ask unanimous consent that the Kyl amendment be laid aside, and at the hour of 7:50, the Senator from Virginia be recognized for the purposes of sending to the desk an amendment, which would require immediate consideration, and that the Senator from Texas be recognized for such secondary amendments that she wishes to offer, and that there be no time agreement on the Warner-Hutchison amendment.

Mr. NUNN. Reserving the right to object, and I hope we will not have to object. We have not seen any of those amendments. I am not sure what the unanimous-consent request is.

Mr. WARNER. Merely a chance to get them in and get them up.

Mr. NUNN. Maybe we need to talk a moment.

Mr. REID. Reserving the right to object, I have a few words I would like to say after the Senator from Arizona has spoken and the Senator from Ohio.

Mr. NUNN. It sounds to me like the time between now and 8 o'clock will be used thoroughly.

Mr. WARNER. Mr. President, I would like to be recognized for 2 minutes prior to the hour of 8 o'clock. Let us say at the hour of 7:56, we could have recognition, once again, of the managers.

Mr. NUNN. I do not have any objection.

Mr. President, I add one other thing to the unanimous-consent request—that is, with the understanding that there be no second-degree amendments to the McCain amendment.

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

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I have some short remarks—not a rebuttal but a discussion regarding some of the comments that have been made.

Much has been made of this five-point criteria. Let me comment on that. Back some years ago, before we established the five-point criteria, the pork barreling that went on in the defense authorization bill was far worse than it is even now. The five-point criteria was never intended—and I think Senator MCCAIN would back this up—to be the final goal, and that anything that fit those five criteria could somehow automatically be approved and be OK, whether the Pentagon or the President's budget asked for them or not. It was not supposed to be an end-all and be-all itself. It was supposed to be a way station to get toward having a budget put together by the Pentagon and sent here, which really meant what it said and it did not need us to add on everything else under the Sun. Nobody questions for a moment the fact that some of these housing projects are needed. But are they as important as some other things that are needed if the Pentagon had the choice to make that decision.

So these five criteria, whether in the 5-year plan or future year plan, or whether mission-essential, or whether inconsistent with BRAC, when the contracts can be started or whether they are offset in some other defense account, all of these are things that were meant to tighten this up toward a way station toward getting control and budgeting the way we ought to. Whether the criteria apply or not does not mean to me they are automatically OK and that we should automatically approve them if they come in with a 5-year plan, which means we are stepping out of what the Pentagon might want to use the money for and projecting the money out to a 5-year future. So making so much out of this criteria was not meant to be the end-all or the final goal of this at all.

Now, another thing was mentioned in debate—that the Guard and Reserve are only getting $7 million. We go through an annual ritual every spring on the Guard and Reserve. It does not make any difference what administration is in the White House. We have an annual ritual where they underfund,

through the Pentagon, the Guard and Reserve. I think it is done intentionally. It is done by Republican administrations and Democratic administrations. Why? Because they know good and well that we will put it in over here so the Members can take this coup back to benefit their local areas in the local armory, money to run the local armory, money to milk on it, money to rebuild the local armory, and these are things people were bringing back home, waving the flag that we did this for you in Washington.

Every administration knows that the Guard and Reserve have a big enough constituency out there that that will happen. It happens every single year. I think it is time we put a stop to it. That is the reason I think we should have honesty in budgeting. This should not be an annual budget that lets people just bring home the bacon to the local armories as a way of funding this year in and year out. It should be done on a basis of what the Guard's and Reserve's needs are. That should be established by the Guard Bureau, working closely with the Pentagon in determining what the budget will be.

So if we want to appropriate $600 million, if we went back to the Pentagon and said, we know you need some things in MilCon, in housing; you need a lot of things, but we will put this in and let the Pentagon decide, let you prioritize where the greatest needs in the services are, then this might make even a little bit more sense. But it does not to me.

Let me comment on what the Senator from Georgia said a little while ago about the add-on of $11.5 billion. I agree 100 percent with him on that. That is the reason I voted against this bill when it came out, and I will still do that if that $11.5 billion add-on stays in. I have not voted against authorization and appropriations bills for the Defense Department—except for beginning last year—in all the 21-plus years that I have been here now. I agree with him on that. I do not think that add-on was needed. I disagreed with the purpose for which it was added on. Some of those have been addressed in amendments here today. We have had a chance to vote on them.

I think that what we are trying to do is get honesty in budgeting. That is the purpose of this. The five-point criteria was never meant to be the final goal of all of this. If anything came up and qualified under that criteria, we would say, that is all right, it is approved. That was meant to be a means of trying to get some control over budgeting, which we did have some years ago, in the amount of add-ons we would make, it seemed. This was a way station toward getting to more meaningful budgeting.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, you cannot have it both ways. We have been asked to follow the McCain criteria. We do that with painstaking efforts. We meet every criteria that has been established. Every one of these add-ons meet that criteria.

Now we are being told, well, the McCain criteria really is not that important. There are other things. You cannot have it every way, both ways, or any way. I suggest that we have to stop and find out where we are. First of all, this bill is less than what the House has appropriated. Second, we are within our 602(b) allocation. Also, we are $1.3 billion less than we appropriated last year. We are 10 percent below last year's level.

Now, there is talk here about the States, where there is somebody on the Armed Services Committee or on the Appropriations Committee, and they are the only ones that get anything. That is absolutely ridiculous. I have not had an opportunity to study who got what, but I can name a few States that I looked at quickly while the debate has been going on. Delaware. There is no one in Delaware that is in Armed Services or Appropriations. Indiana, the same. Kansas, South Dakota, and North Dakota are just a few where there are add-ons. There are add-ons because they meet the criteria set by Senator MCCAIN, and every one of them meet that criteria.

Mr. President, let us stop and understand what happens when the Pentagon makes a recommendation. The active military is prejudiced against the Guard and Reserve. Everybody who has been in the military knows that. They do not favor them. They want all the money to go to them, the active military. And so in the recommendations that come to us every year they neglect the Guard and Reserve. We are the ones that save the Guard and Reserve. That is our obligation. It may not be the right way to do things, but it is the only way to protect the Guard and Reserve. We work very hard to make sure they survive. Programs funded under this budget are programs that are essential to the survival of the Guard and Reserve.

If the Guard and Reserve had to depend on the active military to give them what they wanted, they would all be out of business. The active military, frankly, mostly do not want the Guard and Reserve to be even in existence because there is competition for their dollars. That is why we are where we are.

This is not a budget breaker. We are within all the budget constraints. We are not going outside of what has been authorized. We are only going not only with what is authorized but what is authorized under the very strict criteria set by the Senator from Arizona, Senator MCCAIN. These are in the 5-year plan. They are the top priority of the base commander. They are mission essential. The site has been selected, and we can execute within fiscal year 1997, the money that is being appropriated.

What more can we do? All Senators should recognize that this is not a budget buster. I repeat, it is within all the budget constraints set by the Budget Committee. We are not going outside of the money, above what has been authorized.

I repeat, we are going one step further and following what has been set by the very strict McCain criteria. Mr. President, we believe that, if we step back and take a look at this, we find that the Armed Services Committee used very stringent criteria to ensure that all projects authorized were determined to have met the criteria that we have outlined.

The projects which have been authorized are necessary to maintain the stability of our National Guard and Reserve and to continue to enhance the quality of life of our soldiers, sailors, and airmen. Almost 60 percent of this amount that is attempted to be stripped from this bill is designated for construction of Guard and Reserve projects.

I say with all respect to the senior Senator from Arizona, these are not projects that are going to get any headlines because you strike them from the bill. These are projects that help the men and women who defend our country. The Pentagon simply did not put them in their request, knowing we would step forward and try to help them.

These projects help the Guard and Reserve from the State of Ohio. The Senator from Ohio did not ask for this money, but we felt it was important. We have two add-ons for the State of Ohio because the Ohio Guard and Reserve believe they are essential to their mission. We knew when we did this bill that the Senator from Ohio would be here with our friend from the State of Arizona complaining about these add-ons. But we felt it was important to the people of Ohio to have the Guard and Reserve strong there, as it should be all over the country.

With the downsizing of our military, we are going to have to become even more aware of the importance of the Guard and Reserve. Stories have been written and will continue to be written about how important the Guard and Reserve was in Desert Storm, how effective and important they have been in our situation in the Balkans.

So there is no apology for what we have done in the Military Construction Subcommittee. We have done what is really important, and we appreciate the direction and guidance given by the Armed Services Committee under the leadership of the senior Senator from South Carolina and the Senator from the State of Kentucky.

I move to table the McCain amendment.

Mr. McCAIN addressed the Chair.

Mr. REID. I am happy to withhold that until the Senator from Arizona speaks.

Mr. McCAIN. Mr. President, I thank the Senator from Nevada and the Senator from Montana. I think they have done a dedicated job. We have a disagreement, but I know for a fact that

the Senator from Montana and the Senator from Nevada are dedicated to improving the quality of life for the men and women in the military. We have an honest difference of opinion. But I appreciate very much their efforts. I appreciate the cooperative spirit in which we have worked over many years, along with the Senator from Ohio. I disagree, obviously, as I have pointed out, with this add-on, but that in no way diminishes the dedication and effort on the part of the Senator from Montana and the Senator from Nevada to try to provide a decent quality of life for men and women in the military.

I also want to point out again the reason I began with. The Senator from Nevada pointed out a very legitimate aspect of this whole process. The Guard and Reserve have now become dependent on the Congress to provide the funding that they need—the Senator from Nevada is exactly right—because they know that the Pentagon knows that, if they do not request it, it will be added on in the process that we go through here.

Mr. President, it is a stated reality, but it is wrong. It is wrong, and we have to fix this. We have to force the Office of the Secretary of Defense in the Department of Defense to come over here with legitimate needs and requirements that the Guard and Reserve have.

I look forward to working with the Senator from Montana and the Senator from Nevada in trying to fix this gross inequity which has become part of the system that we have today.

Mr. President, I understand my time has expired.

The PRESIDING OFFICER. May the Chair advise the Senate that under a previous order we have 2 minutes remaining for the managers to wrap up?

Mr. REID. Mr. President, I move to table.

The PRESIDING OFFICER. There are still 2 minutes for each manager.

Mr. WARNER. Mr. President, I yield back such time as is reserved for the purpose of the Senator from Virginia.

Mr. NUNN. Mr. President, if I could ask the Chair, would the proper motion be that we proceed immediately to a rollcall vote? As I understand it, we do not have any more time on this. We basically have an order for an 8 o'clock vote.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. We have an order for 2 minutes in behalf of the Senator from Virginia, which I yielded back.

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

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

Mr. NUNN. I believe we object to moving up of the time. I think we need to delay the clock.

The PRESIDING OFFICER. Objection is heard.

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

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

Mr. REID. Mr. President, I renew my motion to table, 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to lay on the table the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Minnesota [Mr. GRAMS] are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Illinois [Ms. MOSELEY-BRAUN] are necessarily absent.

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

The result was announced—yeas 83, nays 13, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—83

Abraham	Ford	Mack
Akaka	Frahm	McConnell
Ashcroft	Frist	Mikulski
Baucus	Gorton	Moynihan
Bennett	Graham	Murkowski
Biden	Gramm	Murray
Bond	Grassley	Nickles
Boxer	Gregg	Nunn
Breaux	Hatch	Pell
Bryan	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Smith
Daschle	Kennedy	Snowe
DeWine	Kerry	Specter
Dodd	Lautenberg	Stevens
Domenici	Leahy	Thomas
Dorgan	Levin	Thompson
Exon	Lieberman	Thurmond
Faircloth	Lott	Warner
Feinstein	Lugar	

NAYS—13

Bingaman	Harkin	Simon
Bradley	Kerrey	Wellstone
Brown	Kohl	Wyden
Feingold	Kyl	
Glenn	McCain	

NOT VOTING—4

Bumpers	Grams
D'Amato	Moseley-Braun

The motion to lay on the table the amendment (No. 4060) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The majority leader is recognized.

Mr. LOTT. Mr. President, we want to continue to move forward on this legislation. We have not made a lot of good progress, but the chairman and the ranking member are working on that, trying to get a list of amendments that can be agreed to.

I hope a block of those can be done tonight. After consultation with the Democratic leader, it is our intent at this time for the committee to take up another amendment and complete all debate on that, see what other issues can be agreed to and done tonight, and the first vote then be rolled over and occur in the morning at 9:15.

Mr. INOUYE. 9:15?

Mr. LOTT. 9:15 in the morning.

Mr. DASCHLE. Will the majority leader yield?

Mr. LOTT. Yes, I yield.

Mr. DASCHLE. Mr. President, I know we have had the opportunity to discuss what will happen after the Federal Reserve debate is completed and the votes are taken at 2:15. We have been in consultation, and it is my understanding the Senator from Arkansas has been able to work out an agreement with the Senator from Utah with regard to his amendment. I think they have also agreed to a time limit within which that amendment can be taken up.

Is the majority leader at this time ready to enter into an agreement on that, or do we need to continue some consultation?

Mr. LOTT. I would like to have an opportunity to check with the Senators who have an interest in it from a committee jurisdiction standpoint and other interests.

I am under the impression that probably can be worked out, but if the Senator will allow me to check on it, because I would like to get things lined up to go forward. If it is going to be offered, let us get an arrangement to get it done and move forward. I would like to talk with two of the Senators I know who have a special interest in it.

Mr. DASCHLE. We will work with the majority leader to see if that can be accommodated, and we can lock that in perhaps tomorrow morning.

Mr. PRYOR. If the distinguished leader will yield for a comment.

Mr. LOTT. I will yield.

Mr. PRYOR. I have consulted two times in an hour and a half with Senator HATCH, the chairman of the Judiciary Committee. He has an intense interest in the issue. He has agreed to a time limit and hopes, like I do, that perhaps tomorrow after the Federal Reserve issues are decided, that we could then possibly go to this amendment.

Mr. LOTT. That sounds like what we all would like to do. Give me a chance to check with the Senator from Utah and one other, and I believe we can work that out.

Mr. PRYOR. I thank the Senator.

Mr. LOTT. I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

PRIVILEGE OF THE FLOOR

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that Marc Thomas, through the Congressional Fellowship Program, who has been assigned to my office for sometime now, be granted privilege of the floor during the discussion of the defense authorization bill.

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

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 4061

(Purpose: To authorize $4,100,000 for the construction, phase I, of a combined support maintenance shop at Camp Guernsey, Wyoming)

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

The PRESIDING OFFICER. Is there objection to laying aside the pending Kyl amendment? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for himself and Mr. Thomas, proposes an amendment numbered 4061.

Mr. SIMPSON. 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:

In section 2601(1)(A), strike out ''$79,628,000'' and insert in lieu thereof ''$83,728,000''.

Mr. SIMPSON. Mr. President, I rise to offer an amendment——

Mr. FORD. Mr. President, does the Senator have a copy of his amendment at the desk? We need a copy.

Mr. SIMPSON. The amendment can be read. That will save you trouble. It is one line.

The PRESIDING OFFICER. The clerk will read.

The legislative clerk read as follows:

In section 2601(1)(A), strike out ''$79,628,000'' and insert in lieu thereof ''$83,728,000''.

ORDER OF PROCEDURE

Mr. NICKLES. Will the Senator yield just for a moment? I just would like to clarify with the majority leader that there will be no more votes tonight; is that correct?

Mr. LOTT. Mr. President, if the Senator from Wyoming will yield for 1 second more, I would like to clarify there will be no more rollcall votes tonight. I felt that was clear when we said we would roll over to 9:15. I want to make it official.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that on Thursday, June 20, following the votes on the confirmation of the nominees to the Federal Reserve, when the Senate resumes consideration of the DOD authorization bill, the committee amendments be laid aside and Senator PRYOR be recognized to offer an amendment.

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

Mr. LOTT. I yield the floor. Thank you very much.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 4061

Mr. SIMPSON. Mr. President, I rise to offer an amendment to the Defense Authorization Act for myself and my friend, Senator THOMAS. This is a minor amendment in the greater scheme of legislative matters which we wrestle with in this body, but nevertheless, it is quite a very important matter for the Wyoming Army Guard and all Guard soldiers who train in Wyoming, and we train a good many soldiers in Wyoming from around the United States.

The amendment would authorize $4.1 million in funding for the first phase of construction of a combined support maintenance shop at Camp Guernsey, WY. The existing critical facility is a 47-year-old, 26,000-square-foot multipurpose repair building where all of the Wyoming Army National Guard wheeled and tracked vehicles and equipment, light trucks, the self-propelled howitzers are repaired and overhauled.

The primary problem with the existing facility is inherent electrical and ventilation deficiencies that have not been able to be adequately corrected, despite some $270,000 in retrofits and repairs over the last 11 years.

Additionally, the National Guard Bureau and industrial hygiene team conducted an evaluation of this facility in March of 1995 and concluded that numerous hazards exist. Of seven discrepancies and hazards that exist, four have been assigned a Risk Assessment Code, or RAC, of 1, and the other three have been rated RAC 2.

These ratings reflect the severity of the conditions of the facility. RAC 1 indicates always a critical problem and has the possibility of causing permanent, severe, disabling, irreversible illness or even death. RAC 2 reflects a serious condition also.

Mr. President, the National Guard Association of the United States strongly supports this project. In a letter dated June 6, the executive director of the National Guard Association wrote:

Since 13 March 1990, the soldiers working in this shop have seen every day a warning on the front door that reads in part—

And here is what the warning says:

Unsafe or unhealthy working condition. Carbon monoxide level exceeds the OSHA ceiling limit.

The only solution to protect the health and life of National Guard soldiers in Wyoming is to replace this building. I ask unanimous consent that the letter be printed in the RECORD.

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

NATIONAL GUARD ASSOCIATION OF THE UNITED STATES,
Washington, DC, June 6, 1996.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: The National Guard Association of the United States (NGAUS) is respectfully submitting this endorsement of a MILCON authorization request from the Wyoming Army National Guard.

During the accelerated budget process this year, a critical military construction request was initially left off the MILCON project list. The request is for a Combined Support Maintenance Shop (CSMS) at Camp Guernsey, Wyoming.

According to information provided by the state, this 47-year old facility contains serious, inherent health and safety hazards. An industrial hygiene team from the National Guard Bureau has determined that the building has seven serious Risk Assessment Code (RAC) discrepancies. Four of the discrepancies are coded RAC 1: ''a critical problem exists that has the possibility of causing permanent, severe, disabling, irreversible illness or death.'' The CSMS facility has inherent ventilation and electrical deficiencies that the Wyoming National Guard has not been able to adequately correct despite $268,000 in retrofits and repairs over the last 11 years. Since 13 March 1990, the soldiers working in this shop have seen every day a warning on the front door that reads in part: ''UNSAFE or UNHEALTHY WORKING CONDITION (DO NOT REMOVE NOTICE UNTIL CONDITION IS ABATED). Carbon monoxide level exceeds both the OSHA 8 hour PEL . . . and OSHA ceiling limit . . .''

The only solution, to protect the health and lives of National Guard soldiers in Wyoming, is to replace the building.

The Wyoming Army National Guard, through its Adjutant General, Maj. Gen. Ed Boenisch, is requesting phased funding to alleviate this health and safety discrepancy. The phase 1 request for the current appropriations year (FY 97) is $4.1 million. Phase 2 (FY 98) would be for $4.0 million.

NGAUS respectfully urges favorable support of your Committee for a floor amendment to the National Defense Authorization Act for Fiscal Year 1997 (S. 1745) to include this MILCON authorization request from the Wyoming Army National Guard.

Sincerely,

EDWARD J. PHILBIN,
Major General, ANGUS (Ret.),
Executive Director.

Mr. SIMPSON. Mr. President, the secondary problem with the existing facility is the wholly inadequate amount of space, as I said. They need 70,000 square feet instead of the current 26,000. Clearly, this is a quality equipment repair facility and is critical to the function of the combined support maintenance shop that directly impacts the Wyoming Guard's top goal of military readiness and those who train there, and there are thousands from across the United States.

Finally, the number of specialized jobs in the combined maintenance shop, such as welding and fabrication operations, painting operations, brake shop, brake shoe rebuilding, small arms repair, and electrical and mechanical repairs, cannot be performed. -

These other operational attitudes cannot be performed at smaller outlying maintenance facilities.

But, more importantly, you have health and safety as more of a concern. Since repeated efforts to repair the facility and correct the inefficiencies have been unsuccessful, closing the facility may be the only alternative. It is used, as I say, by thousands of people in the Guard units from all the surrounding States.

The Wyoming Guard have compromised and curtailed their request for military construction funding to include only this critical program. It is an urging I make to support this amendment for $4.1 million in funding for phase 1 of the project, and $4 million in funding for the next fiscal year.

I also cite to my colleagues, on May 6, 1996, in a letter from William A. Navas, Major General, U.S. Army, Director, the Army National Guard, in a letter to the chairman, it stated, ''Thirty-three urgently required projects were inadvertently omitted from that list,'' which was received before the committee on March 21, 1996. ''A listing of those projects is enclosed.'' One of those is the project for which we seek the funds this evening.

I yield to my friend from Wyoming.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. Did the Senator from Wyoming yield to the Senator from Wyoming?

Mr. SIMPSON. Yes, I did.

Mr. THOMAS. Mr. President, I will take a moment. I appreciate very much this opportunity. My senior Senator has described the issue. I just simply want to tell you that this Camp Guernsey is a very important part of the National Guard, not only for Wyoming, but it is also the training facility for a good many of the units surrounding Wyoming. It is an artillery unit with a range there.

So, as the Senator said, this was inadvertently left out of the accelerated budget process. It combines the support and maintenance shop. This is a very compelling need here.

Three tenants have occupied the same building since 1948. The building is environmentally in noncompliance, with problems of ventilation and electrical systems.

The National Guard Bureau has identified seven serious risk assessment discrepancies, as the Senator has pointed out. We have, as was mentioned, the letter from the National Guard Association, the letter from the Director of the Army National Guard, written in support of this funding.

The original funding actually was $12 million. Now it is less than that.

Mr. President, as we downsize, of course, we call on the Guard and the Reserve to carry more of the load. Someone mentioned earlier in the debate that the Congress pretty much is responsible—the Senate—for supporting the Guard funds. This, I think, is part of that.

So, Mr. President, I will not take any more time. But I certainly ask for support from our colleagues for this important National Guard addition. I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

Mr. McCAIN. Second of all, Mr. President, it is a minor item, but when the Senator from Wyoming yielded the floor, he yielded the floor. He could not yield to the other Senator from Wyoming for him to receive next recognition. But it is not important.

The PRESIDING OFFICER. The Senator is correct. The Chair notes the mistake.

Mr. McCAIN. Mr. President, let me just say that right now, and for those few who may be listening or watching, if this amendment passes, then I encourage all of my colleagues who have a military construction project in their district or State, that they may want to come over and have an amendment, and we will have a vote—because this meets none of the criteria.

This has nothing to do with any priority. This is a violation, clear violation of the sense-of-the-Senate resolution, which I will read into the RECORD again. So if this passes, I want all of my colleagues to come over, and whatever military construction project you want in your State, put it up, and we will have a vote on it, because you should win. You should win because there is no reason why you should not, because if we pass this project, then everything meets the criteria, including the fact that there will be no requirement for any offsets.

So I hope my colleagues, after the vote tomorrow, if this amendment passes, will have lots of projects ready to vote for, because, as far as I am concerned, it is open season on the military construction situation.

This project does not meet the criteria established for the Senate's authorization of unrequested military construction projects. Mr. President, this project is not included in the services' future years defense program. In other words, the Guard does not plan to build this project until after the year 2000.

If the safety hazards at that location are as serious as stated today, then the National Guard Bureau should request emergency construction authority.

The Senate Armed Services Committee was asked to review this project during our markup of the bill. The committee did not include the project because it did not meet the established criteria.

The fact remains that the scarcity of defense resources requires that the Guard Bureau, the services, and the Department of Defense all make tough choices among priority projects. This project did not meet the test of urgency when considered against all other priorities for the Guard, and it was not included in the initial priority list submitted by the Guard.

I think it is improper and counterproductive for the Congress to approve this. I hope my colleagues will not vote for the addition of several million dollars for another unrequested, low-priority project. However, let me emphasize, if this $4.1 million project is approved, then I would strongly urge my colleagues to come over here with every project that they have, because they deserve equal consideration. I have no idea how many more hundreds of millions or even billions of dollars we could add on in military construction projects if this one is agreed to.

So, Mr. President, I guess we will find out tomorrow. But I hope all my colleagues will be ready with their own projects. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Let me reflect again, so the RECORD is clear, that I will have entered into the RECORD a letter from General William A. Navas, Jr., that this project was inadvertently omitted from the list. I restate that and ask unanimous consent that that letter be printed in the RECORD.

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

DEPARTMENTS OF THE ARMY AND THE AIR FORCE NATIONAL GUARD BUREAU, ARMY PENTAGON,
Washington, DC.

Re Installation, Logistics, and Environment Directorate.

Hon. JOHN MCCAIN,
Chairman, Subcommittee on Readiness, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: During a hearing before the Senate Appropriations Military Construction Subcommittee on March 21, 1996, I was asked to provide a $250 Million priority list of Army National Guard Military Construction projects. This list was sent to Congress by the Army Secretariat.

Thirty-three urgently required projects were inadvertently omitted from that list. A listing of these projects is enclosed.

Sincerely,

WILLIAM A. NAVAS, Jr.,
Director, Army National Guard.

Army National Guard Military Construction

	Amount
Alaska: Bethel—AASF Taxiway Upgrade	$1.838
Alabama: Birmingham—Joint Med Tng Facility	4.600
California: Los Alamitos—JP–8 Fuel Fac, supplemental	1.092
Connecticut:	
Camp Hartell—CSMS/OMS	4.700
Camp Hartell—Armory	8,500
Groton—AVCRAD	5.647
Florida:	
Camp Blanding—Combined Support Maint Shops	8.068
Lakeland—Limited AASF	5.000
MacDill—AASF	4.248
Indiana:	
Camp Atterbury—Water System Upgrade	5.534

	Amount
Marion—OMS	1.121
Kentucky:	
Western KY Tng Site—Phase III	11.995
Fort Knox—MATES	2.691
Western KY Tng Site—Phase IV	11.000
Western KY Tng Site—Phase V	18.024
Massachusetts: Milford—USPFO Warehouse renovation	7.099
Michigan: Fort Custer—Education Support Facility	3.497
New Mexico: Taos—Armory	1.935
North Carolina:	
Charlotte—Armory	5.994
Charlottee—OMS	3.673
Fort Bragg—Mil Ed Fac Ph I	15.844
Fort Bragg—Mil Ed Fac Ph II	4.985
Oregon:	
Salem—Armed Force Reserve Center	11.000
Eugene—Armory	11.796
Eugene—OMS	2.136
South Carolina:	
Eastover—Readiness Center	5.994
Eastover—Simulation Center	2.800
Eastover—Infrastructure Upgrade	3.500
Tennessee:	
Chattanooga—AAOF	3.414
West Virginia:	
Camp Dawson—Mil Ed Fac	15.144
Camp Dawson—Armory	6.954
Wyoming: Camp Guernsey—CSMS/OMS/UTES	11.692

Mr. SIMPSON. Mr. President, I have spent little time in my 18 years in the Senate wandering in here to talk about any project. In fact, I believe that this would be perhaps the first time because these things have usually been very well considered.

This is something that did not get considered properly. That is why we are here, to seek an authorization to place it before the Senate on a priority. I believe that I am told that there are not more than four or five amendments that are out here that have to do with adding money or add-ons.

So if the invitation is to come to the floor to bring in your favorite dog or cat, there have not been many people doing that. There are about five. That will not cause some breach in the diet that will create an onslaught on this measure. So I want that clear, if we can. And we have inserted the letter in the RECORD. I suggest to our colleagues that this is very necessary for one of the few Guard units in the United States that trains the rest of them from the rest of the United States.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. The Senator from Wyoming, Senator SIMPSON, is exactly correct on this matter. We have the letter in from William A. Navas, Jr., Major General, U.S. Army, Director, Army National Guard. The Senator from Wyoming has already read the letter. He basically says that 33 urgently required projects were inadvertently omitted from the list that was submitted.

The reason this project was not included to begin with was because it did not meet the criteria because it was not in the 5-year defense plan. This letter says that was an error. So I just want to make it clear that what the Senator has said, from my perspective and the perspective from this side of the aisle, is exactly right. This would have been part of the list had it been listed as is now listed by General Navas, Major General, U.S. Army, Director, Army National Guard.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I just want to reiterate again, so others will understand thoroughly. When the Senator from Arizona said, come over, bring anything you have in mind, this is not in that category. The letter is here. It is entered. It was sent to the committee. And it was inadvertently left off the list. I think it is unfair to make that kind of a characterization.

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

Mr. MCCAIN. Reserving the right to object, I think we have completed debate on this amendment. The vote is set for 9:15 tomorrow. I think we can move off of it and on to whatever business the Senator from Nevada wishes.

The PRESIDING OFFICER. There has been no unanimous consent for a time set for the vote.

Mr. MCCAIN. Mr. President, I suggest there is no further debate on this amendment.

Mr. SIMPSON. Mr. President, in line with the Senator from Arizona, perhaps just a unanimous-consent request could be made that debate be concluded and the majority and minority leader set the time for the vote on the amendment tomorrow at a time certain.

The PRESIDING OFFICER. That is in order.

Mr. SIMPSON. I move that.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Reserving the right to object, I think the leader said 9:15; does the Senator from Wyoming say 9:30?

Mr. SIMPSON. I leave it to the discretion of the leader.

Mr. NUNN. Perhaps a unanimous-consent request would reflect that.

Mr. SIMPSON. I incorporate that within it.

The PRESIDING OFFICER. Without objection, the request is agreed to.

Mr. NUNN. I add to that unanimous-consent request that no second-degree amendments be in order.

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

Mr. MCCAIN. I object to no second-degree amendments being in order.

The PRESIDING OFFICER. The Chair hears the objection.

Mr. NUNN. Mr. President, I object to the unanimous-consent request.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4062

(Purpose: To strike the authorization for the military construction project of the National Security Agency at Fort Meade, Maryland; to authorize $1,400,000 for the construction of a ramp addition for C–130 aircraft at Reno International Airport, Nevada; and to authorize $5,800,000 for the construction of a jet engine test facility/aircraft test enclosure at Fallon Naval Air Station, Nevada)

Mr. REID. Mr. President, I have an amendment I hope we can resolve in just a few minutes this evening, and I send that amendment to the desk.

The PRESIDING OFFICER. The pending amendments are laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BRYAN, proposes an amendment numbered 4062.

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

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

The amendment is as follows:

In the table in section 2201(a), in the amount column for the item relating to Fallon Naval Air Station, Nevada, strike out ''$14,800,000'' and insert in lieu thereof ''$20,600,000''.

Strike out the amount set forth as the total amount at the end of the table in section 2201(a) and insert in lieu thereof ''$512,852,000''.

In section 2205(a), in the matter preceding paragraph (1), strike out ''$2,040,093,000'' and insert in lieu thereof ''$2,045,893,000''.

In section 2205(a)(1), strike out ''$507,052,000'' and insert in lieu thereof ''$512,852,000''.

In the table in section 2401(a), strike out the item relating to the National Security Agency, Fort Meade, Maryland.

Strike out the amount set forth as the total amount at the end of the table in section 2401(a) and insert in lieu thereof ''$502,390,000''.

In section 2406(a), in the matter preceding paragraph (1), strike out ''$3,421,366,000'' and insert in lieu thereof ''$3,396,166,000''.

In section 2406(a)(1), strike out ''$364,487,000'' and insert in lieu thereof ''$339,287,000''.

In section 2601(3)(A), strike out ''$208,484,000'' and insert in lieu thereof ''$209,884,000''.

Mr. REID. Mr. President, this amendment encompasses two projects and is offered on my behalf and Senator BRYAN. These two projects are for the State of Nevada. The reason they were not included in the matter we voted on last is the fact that Top Gun just moved to Nevada. It is a very important project for the Navy. Fallon Naval Air Station is the premier naval air fighting station in the whole world. Top Gun has moved there.

This amendment meets all the McCain criteria of the Senate Armed Services Committee. This project we are talking about is for testing of Navy jet engine acoustics at Fallon Naval Air Station. This authorizes appropriation of $5.8 million to move and complete a badly needed jet engine test facility at the Naval Air Station Alameda, which is due to close this fiscal year, to Fallon Naval Air Station, saving millions of dollars. If we wait to do

this, we will have to spend millions of additional moneys. This is an effort to save money.

We would still be within our 302(b) allocation. It is not a budget buster. If we cannot do this, we would be required to construct a new and a smaller test facility. This is extremely important for Top Gun and other projects.

Now, the other project, Mr. President. Fallon Naval Air Station, I have indicated, is rapidly becoming the Navy's premier pilot training site, including Top Gun, Top Dome, and training of the navy's elite pilots. If you want to have a Ph.D. as a naval fighter in airplanes, you have to go to Fallon and train. This project meets all the criteria I have mentioned.

Mr. President, the other is a $1.4 million project that will add badly needed space to the aircraft parking are at the Reno Air National Guard for C–130's. This is a new mission they have. One thing I did not mention, Mr. President, for both of these projects, the money is offset. Both projects in the amendment are fully offset in moneys and for a project that is simply not usable anymore. It meets all the criteria. I do not need to dwell on it. I ask this amendment be approved.

Mr. NUNN. Mr. President, I urge support of the Reid amendment when we do get to a vote on it. This meets the committee's criteria that corrects potential problems currently in the Air National Guard.

Mr. REID. If I could say, the distinguished Senator from Arizona is going to object to this, but I think he would accept it on a voice vote. That is my understanding.

Mr. McCAIN. Mr. President, I understand the argument of the Senator from Nevada. There is not an offset in it. I understand it meets with all the other criteria. I oppose the amendment. I will not request a recorded vote.

Let me also say I will try and have the second-degree amendment to the amendment from the Senator from Wyoming very soon. As I understand the majority leader would have liked to have had a time certain.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 4062) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

STARSTREAK EVALUATION

Mr. INHOFE. Mr. President, I would like to engage Senators WARNER, SMITH, and KENNEDY, who are my colleagues on the Armed Services Committee, in a colloquy for the purposes of clarifying and correcting provisions in the committee's report with respect to the committee's funding of the air-to-air Starstreak missile evaluation, to be conducted by the Army.

Senator KENNEDY and I, along with other members of the committee, have supported continued evaluation of the Starstreak missile in an air-to-air role, to provide self-protection capability for the Apache helicopter. I understand that it has been the committee's intent to provide $15 million in fiscal year 1997 for the completion of the air-to-air Starstreak live fire phase test, to be carried out by the Army's applied aviation technology directorate. This test phase is to be completed prior to conducting a side-by-side evaluation with the air-to-air Stinger missile. It is also my understanding that to achieve the committee's intent, these funds should be placed in program element 63003A, an account used in prior years for this program.

However, the committee report placed it in a different line item—PE No. 23801A—and contains language that suggests an alternate use of these funds. I would like to correct the record in this matter.

Mr. WARNER. Senator, you are correct on both accounts. As the chairman of the Air-Land Forces Subcommittee, I can attest that the committee's intent is to authorize $15 million in program element 63003A explicitly for the continuation air-to-air Starstreak evaluation. The committee's report inadvertently implies that Starstreak would be evaluated alongside Stinger and placed the funds in the incorrect funding line. This was not the committee's intent and will be corrected during conference with the House.

Mr. KENNEDY. I share the concerns of the distinguished Senator from Oklahoma, and thank the Air-Land Subcommittee chairman for his support. These actions would be inconsistent with the authorization conference report for fiscal year 1996 and with actions taken last year by the Army to move Starstreak funds into this line for the continuation of the air-to-air Starstreak evaluation. The Army has indicated a clear need for helicopter self-defense, and is completing necessary documentation of that requirement. To best meet this requirement, there must be a fair shoot-off competition between Starstreak and Stinger. Providing this funding is necessary to fully evaluate the Starstreak missile prior to any shootoff, to ensure a level playing field.

Mr. SMITH. I concur with Senator WARNER's earlier statement, that the $15 million for the Starstreak evaluation should be placed in PE 63003A and be provided for the purpose of continuing the Starstreak evaluation. As chairman of the Acquisition and Technology Subcommittee, I am pleased to join my colleagues in working to bring this development program to a successful conclusion. The position and legislative intent of the committee as articulated in this colloquy will supersede that expressed in the committee report. Appropriate corrections will be made during conference on this bill with the House of Representatives, and the Army will be notified of our position on this issue.

Mr. INHOFE. I thank my colleagues for their assistance in clarifying this important matter.

AMENDMENT NO. 4049

Mr. PELL. Mr. President, I oppose strongly the amendment on nuclear testing offered by the Senators from Arizona and Nevada, Mr. KYL and Mr. REID. The United States is currently in the forefront of nations seeking a comprehensive ban on nuclear explosions. Members of the administration have worked assiduously to remove obstacles to such a ban both in the United States and among the other nuclear powers. Currently, we are in the final stages of an effort that could culminate an agreement on the text by June 28, with the opening of the text for signatures occurring this coming September.

Getting us to this point, at which a comprehensive treaty ban is almost in hand, has been both slow and tortuous. I recall well that President John F. Kennedy hoped to bring about a complete ban on nuclear testing. By building upon the positive aspects on both sides, he was able to bring about the breakthrough that produced the Limited Test Ban Treaty of 1963, which limited nuclear testing to the underground environment and spared the world further exposure to radiation and fallout from the tests by the three signatories, the United States, Great Britain, and the Soviet Union.

In 1974, President Nixon achieved the Threshold Test Ban Treaty, and President Ford accomplished the Peaceful Nuclear Explosives Treaty in 1976. In 1990, while I was chairman of the Committee on Foreign Relations, the committee and the Senate approved ratification of those two treaties. The complete ban has been an oft-stated goal of the United States for more than three decades and it has been pursued with varying degrees of enthusiasm. In recent years, as some questions of safety and reliability of nuclear weapons have been resolved and as our scientific community has, with methods of ensuring the safety and reliability of the stockpile without resort to nuclear testing, it has become increasing clear that nuclear testing is no longer an imperative and that national interests of the United States would be served by an end to nuclear testing.

When the administration succeeded last year in securing the unconditioned and permanent extension of the nonproliferation treaty, we were successful largely because many nations who have foresworn nuclear weapons trusted us and the other nuclear powers to move expeditiously to a complete end of nuclear testing. That goal appears now to be within both reach and grasp.

As a result of legislation sponsored by Senators HATFIELD, EXON, and Mitchell in 1992, the United States has been operating under a moratorium on nuclear testing that will extend through this September. According to

that legislation, the United States can only resume nuclear testing if another nation does so. Russia has not tested since 1992 and indicates it does not intend to resume nuclear testing. Earlier this year, France finished its latest and controversial series of nuclear tests in the Pacific and declared its commitment to achievement of a comprehensive ban. That leaves only China, which has indicated that it will conduct only one more test before September and then will join the other nuclear powers in stopping testing.

The Kyl-Reid amendment would revoke the Hatfield-Exon-Mitchell language, under which the United States has been engaged in the moratorium and moving toward a complete ban. It is correct that the amendment does not require testing, but it does open the way to renewed testing and send a completely wrong signal at this final stage of the negotiation on a complete ban. It would serve to undermine U.S. commitment to success in the negotiation. It could serve to disrupt the negotiation completely, and it could precipitate an end to prospects for a complete ban for years to come.

Mr. President, in January, John Holum, the director of the U.S. Arms Control and Disarmament Agency, delivered a message from the President to the delegates negotiating the test ban at the conference on disarmament in Geneva. The President made the point: ''A Comprehensive Test Ban Treaty is vital to constrain both the spread and further development of nuclear weapons. And it will help fulfill our mutual pledges to renounce the nuclear arms race and move toward our ultimate goal of a world free of nuclear arms.''

The President concluded: ''I pledge the full and energetic support of the United States to conclude promptly a treaty so long sought and so long denied. Let us, now, take this historic step together.''

The last several weeks in Geneva have been marked by heated negotiations as delegates attempt to remove final roadblocks. The next few days will be similarly hectic as delegates try to meet the June 28 deadline for success. John Holum told us today, ''We are close to achieving our goal in Geneva. This window of opportunity is the best, and perhaps the last, chance to achieve this goal.''

Mr. President, the Senate has had the wisdom to agree to the SALT I interim agreement, the 1972 Anti-ballistic Missile Treaty, START I and the START II Treaty. These treaties first capped the arms race, and ensured the viability of strategic deterrence. Through the START I Treaty which is now in force and the START II Treaty which awaits Russian ratification, the world's two superpowers will have reduced their nuclear arsenals by approximately two-thirds. If we are wise and prudent we will move beyond that level still further to substantially lower levels of nuclear armament. A complete ban on nuclear testing will help to reinforce and invigorate that process.

I hope very much that the Senate will decide today to keep the United States on the course it so wisely chose in 1992 in deciding to initiate a moratorium on nuclear testing.

HOUSE PROVISION ON ANTIPERSONNEL LANDMINES

Mr. LEAHY. Mr. President, last year an amendment to the Fiscal Year 1996 Defense Authorization bill which I sponsored with 49 other senators, both Democrats and Republicans, to impose a 1-year moratorium on the use of antipersonnel landmines, except along international borders and in demilitarized zones, passed the Senate on August 4 of last year by a vote of 67 to 27. It was signed into law by President Clinton on February 12 of this year. Support for the moratorium has broadened in the Congress since then, due to the extraordinary media attention this issue has received and the experience of our troops in Bosnia.

Recently, it came to my attention that the House National Security Committee included a provision in its version of the fiscal year 1996 Defense authorization bill, which would effectively nullify my amendment. This provision is identical to a provision the House included last year, but which was deleted in the conference.

While I do not question the motives of the authors of that provision, I have communicated my concerns about it to Chairman THURMOND, as well as Senators WARNER and NUNN. I have made clear that not only does this provision undermine the position of two-thirds of the Senate, it is totally unnecessary and premature since the moratorium would not take effect until February 1999. It also contradicts the Pentagon's considered judgment that it can manage with the Leahy moratorium, and ignores the administration's own position that it will not seek to modify or repeal the amendment.

Mr. President, on May 16, President Clinton announced the administration's long-awaited policy on landmines. While I was disappointed that the administration did not use this opportunity to renounce the use of an indiscriminate weapon that is responsible for horrendous suffering of civilians, the President did commit to vigorously negotiate an international agreement to ban antipersonnel mines. Over the next 2 years, we will have ample opportunity to judge the seriousness of the administration's efforts. With 41 nations already on record in support of an immediate, total ban, including many of our NATO allies, it is crucial that we preserve the Leahy amendment intact in order to reinforce our support for strong U.S. leadership in this global effort.

I am very pleased and appreciative that Chairman THURMOND has, like last year, answered my concerns by reaffirming his intention to defend the Senate position in conference. He was successful in doing so last year, and nothing has changed since then to weaken the Senate position. In fact, the official opinion of the Pentagon that it can live with the Leahy moratorium, the administration's policy to vigorously negotiate an international ban as soon as possible, and the growing number of countries that support a ban, should significantly strengthen it.

I hope the House will reconsider its position on this. There is no reason for an issue that has such broad public support, from veterans organizations to the Catholic Bishops to the American Red Cross, to become an issue of contention between us. If necessary, there is more than enough time to revisit this when the effective date of the moratorium approaches.

Mr. President, I ask unanimous consent that excerpts from a May 16 Pentagon press briefing describing the Pentagon's opinion of my amendment, and my correspondence with Chairman THURMOND, be printed in the RECORD.

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

NEWS BRIEFING

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE—PUBLIC AFFAIRS

Senior Defense Official #2: The President signed it into law. I mean, we have not been happy with it with regard to its provisions compared to this broader policy. The President did accept it. And we believe we can live with it, but we don't think it's an adequate—I didn't say we didn't support it—I mean, we don't think it's an adequate answer to the problem. And so, this policy is meant to answer the problem in a broader way. If the moratorium stays in place, we can live with that one year moratorium given the exceptions that are written into it.

Q: All anti-personnel mines?

Senior Defense Official #2: Anti-personnel landmines.

U.S. SENATE,
Washington, DC, May 12, 1996.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, Washington, DC.

DEAR STROM: It has come to my attention that the House National Security Committee has included in its FY 1997 Defense Authorization bill the same certification provision concerning my anti-personnel landmine moratorium amendment that was deleted last year.

Not only is this provision unnecessary since the moratorium does not take effect until February 1999, it also would nullify the effect of the amendment which was supported by over two-thirds of the Senate in a bipartisan vote.

If necessary, I will take whatever measures are necessary to prevent this attempt by the House to undermine the Senate's position on my amendment. However, your help was instrumental in getting this same provision deleted from the bill last year. Before I make any decision on this, I would appreciate knowing whether I can count on you to prevent this provision from being included in the final version of the FY 1997 Defense Authorization bill.

I look forward to hearing from you soon.

With best regards.

PATRICK LEAHY,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 18, 1995.

Sen. PATRICK J. LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: Pursuant to our discussion on the floor this morning concerning consideration of the National Defense Authorization Act for Fiscal Year 1996, I would like to recap our agreement.

We have agreed that: You will control 20 minutes of debate on the landmine provision and I will control the same amount of time; you will not filibuster the defense authorization conference report and will not object to a unanimous consent for a time certain to vote on the defense authorization conference report; and if the current version of the FY 96 Defense Authorization bill does not become law, I will do everything in my power to ensure that section 1402(b) (concerning a certification in relation to the moratorium on landmine use) is deleted from any subsequent version of the bill. If the current version of the FY 96 Defense Authorization bill is signed into law, I will do everything in my power to ensure that section 1402(b) is reversed in the next Defense Authorization bill.

Sincerely,

STROM THURMOND,
Chairman.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, June 11, 1996.

Sen. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR PAT: Thank you for your recent correspondence regarding the anti-personnel landmine moratorium. I appreciate your bringing to my attention the provision in the House defense bill regarding a requirement for a certification prior to the imposition of a moratorium.

As the Chairman of the Senate Armed Services Committee, I will support the Senate position on any issue that comes before the conference on the defense authorization bill. However, as you know, it is impossible for me, or any other member of the Senate, to predict or guarantee the outcome of any particular provision during the conference of a bill. As always, I would support the Senate position with the House in the conference on the defense authorization bill.

As I recall our agreement last year it was that I would not offer any language to the fiscal year 1997 defense bill that would undermine your provision, and you would not offer language regarding the anti-personnel landmine moratorium to the fiscal year 1997 defense authorization bill. I have kept that agreement—there is no language in the fiscal year 1997 Senate defense authorization bill regarding the anti-personnel landmine moratorium.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND,
Chairman.

Mr. CRAIG. Mr. President, there are a few issues which I think must be considered during what I expect will be complicated and controversial deliberations on the 1997 Defense authorization bill. First and foremost, this bill defines national security—the Government's primary obligation to its citizens.

The United States military is the greatest military power in the world. In a time of rapidly evolving technology, sufficient yet judicious funding authority is absolutely essential to maintain the status quo. The committee budget is $12.9 billion higher than fiscal year 1996 levels. However, adjusting this figure for inflation, the Department of Defense will actually see spending levels reduced by $5.5 billion from last year.

The administration in 1994 and 1995 promised outyear funding would increase to recover the shortfalls driven by deep cuts in earlier budgets. Yet, for the second straight year, the Presidential budget is less than projected in previous years. I am confident that DOD will meet its assigned mission, but I am concerned at what cost.

If we are to continue sending our soldiers into harm's way, this Nation has a responsibility to provide them with the highest level of technology. I often overhear comments that since the fall of the Iron Curtain, America has no significant enemy. However, since 1989, America has deployed more forces than at any time since 1964. Yes, the Soviet Union is no more, but renegade factions continue to threaten our Nation's security and vital economic interests. While we are the only remaining super power, our armed forces shouldn't be used in the role of the world's police force.

In the past 7 years, American forces have deployed to Panama, Grenada, and Saudi Arabia to protect our National interests. Additionally, peacekeeping operations have sent our troops to Haiti, Somalia, and most recently Bosnia. This Nation has a responsibility to scrutinize each mission carefully and send American Forces only when absolutely necessary. The threat is still there, but its face has changed. America will continue to send her young soldiers and sailors to foreign shores to protect our peace, but we must be judicious in those assignments.

As we examine the 1997 authorization, we must consider that the Defense budget has decreased to the lowest spending levels in 40 years. As we debate these issues, we must strive to produce a budget which defines national security and guarantees the Department of Defense has the necessary funding to complete all assigned, carefully chosen missions, obtain all training vital to success, and secure the best technology available. When this is finished, our military forces will continue to be the most influential military in the world and this Nation's security unquestioned.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. 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. NUNN. Mr. President, it is my understanding that the pending amendments would have to be set aside by unanimous consent before considering this block of amendments that have been consented to on both sides.

I ask unanimous consent that the pending amendments be set aside for the purpose of taking up these amendments. I believe there are 19 amendments that we will be presenting, which have been agreed to.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

AMENDMENT NO. 4063

(Purpose: To specify funding and requirements for research, development, test, and evaluation of advanced submarine technologies)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator COHEN, I offer an amendment that would include a provision in the Senate bill that would provide for explicit guidance on the intended use of funds that are authorized for submarine technology. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. COHEN, proposes an amendment numbered 4063.

Mr. KEMPTHORNE. 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:

At the end of subtitle B of title II add the following:

SEC. 223: ADVANCED SUBMARINE TECHNOLOGIES.

(a) AMOUNTS AUTHORIZED FROM NAVY RDT&E ACCOUNT.—Of the amount authorized to be appropriated by section 201(2)—

(1) $489,443,000 is available for the design of the submarine previously designated by the Navy as the New Attack Submarine; and

(2) $100,000,000 is available to address the inclusion on future nuclear attack submarines of core advanced technologies, category I advanced technologies, and category II advanced technologies, as such advanced technologies are identified by the Secretary of Defense in Appendix C of the report of the Secretary entitled ''Report on Nuclear Attack Submarine Procurement and Submarine Technology'', submitted to Congress on March 26, 1996.

(b) CERTAIN TECHNOLOGIES TO BE EMPHASIZED.—In using funds made available in accordance with subsection (a)(2), the Secretary of the Navy shall emphasize research, development, test, and evaluation of the technologies identified by the Submarine Technology Assessment Panel (in the final report of the panel to the Assistant Secretary of the Navy for Research, Development, and Acquisition, dated March 15, 1996) as having the highest priority for initial investment.

(c) SHIPYARDS INVOLVED IN TECHNOLOGY DEVELOPMENT.—To further implement the recommendations of the Submarine Technology Assessment Panel, the Secretary of the Navy shall ensure that the shipyards involved in the construction of nuclear attack submarines are also principal participants in the process of developing advanced submarine technologies and including the technologies in future submarine designs. The Secretary shall ensure that those shipyards have access for such purpose (under procedures prescribed by the Secretary) to the

Navy laboratories and the Office of Naval Intelligence and (in accordance with arrangements to be made by the Secreatry) to the Defense Advanced Research Projects Agency.

(d) FUNDING FOR CONTRACTS UNDER 1996 AGREEMENT AMONG THE NAVY AND SHIPYARDS.—In addition to the purposes of which the amount authorized to be appropriated by section 201(2) are available under paragraphs (1) and (2) of subsection (a), the amounts avilable under such paragraphs are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the ''Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB), and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine'', dated April 5, 1996, for reseach and development activities under that memorandum of agreement.

Mr. COHEN. Mr. President, this amendment would add a provision to title II of the Senate bill that reflects the markup position on advanced submarine technology that is now reflected in report language and the funding tables that accompany the bill. This position was developed as a result of testimony provided at a hearing on submarine procurement and development and on the Secretary of Defense Report on Nuclear Attack Submarine Procurement and Submarine Technology that was submitted to Congress on March 26, 1996 in compliance with section 131 of last year's defense authorization bill.

The hearing and report both indicate that the approach used by the Navy to invest in submarine technology should be revised to accommodate the low rate of future production for attack submarines relative to cold war levels and the much higher rate of technology turnover that is occurring in the civilian sector. The previous focus on incorporating new technologies into new designs that occurred with much greater frequency than can be expected in the future and then reducing technology funding to subsistence funding until time for a new design will no longer suffice to maintain the technological edge that our submarine force enjoyed during the cold war. A more promising model would be the creation of a single, stable research and development program under a single product manager and funded at a steady state level that supports, matures, and incorporates new technology on a continuing basis. In other words a process of continuous rather than cyclical evolution. A far greater emphasis would be placed on involvement of civilian industry, particularly the shipyards involved in submarine construction, than has occurred in the past. The Report accompanying the Senate bill provides guidance that the Secretary of the Navy is to use these funds to carry out high priority research on advanced submarine technology that is identified in the Secretary of Defense's report.

The House also concluded that additional funding for submarine technology was needed. However, consistent with the fascination with submarine technology reflected in last year's conference negotiations, the House bill would make over $200 million available for it in fiscal year 1997 and pursue initiatives such as the development of six different design alternatives at a cost of at least $500 million before settling on a design for series production no earlier than fiscal year 2003. The House provision also makes very detailed allocations on how submarine technology funds would be spent by the Navy without providing any objective analysis or documented justification to support this allocation.

It is clear that the House and Senate have developed divergent views on how the course of future research and development for advanced submarine technology should proceed. It appears prudent, based on the magnitude of funding increases in the House bill and its micromanagement of them, to establish in the Senate bill a provision in law that articulates, with more force than can be achieved with report language, the Senate's view on how the Navy should proceed with a program to develop submarine technology. This provision will provide stronger guidance to our conferees when they negotiate a final outcome in the fiscal year 1997 defense authorization bill. I encourage my colleagues to join me in voting in favor of this amendment.

Mr. KEMPTHORNE. Mr. President, again, I point out there is no objection from the other side.

Mr. NUNN. Mr. President, I urge support of this amendment. It would clarify the Senate's intention on how the Navy should spend funds and implement recommendations of the DOD's report on nuclear attack submarine procurement and technology. This is an important effort to begin to address inefficiencies that have been identified in previous attack submarine R&D programs.

Mr. KEMPTHORNE. Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4063) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4064

(Purpose: To ensure that the annual report from the Reserve Forces Policy Board is submitted as a report that is separate from the annual report of the Secretary of Defense on the expenditures, work, and accomplishments of the Department of Defense)

Mr. NUNN. Mr. President, on behalf of Senator BYRD, I offer an amendment that would make technical corrections to the references to the annual report required to be submitted by the Reserve Forces Policy Board and establish that the annual report be a separate report submitted in conjunction with the annual report of the Secretary of Defense. This has been cleared on the other side of the aisle.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BYRD, proposes an amendment numbered 4064.

Mr. KEMPTHORNE. 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:

At the end of subtitle E of title X add the following:

SEC. 1054. ANNUAL REPORT OF RESERVE FORCES POLICY BOARD.

Section 113(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraphs (1), (2), and (4) as subparagraphs (A), (B), and (C), respectively;

(3) by inserting ''(1)'' after ''(c)'';

(4) by inserting ''and'' at the end of subparagraph (B), as redesignated by paragraph (2); and

(5) by adding at the end the following:

''(2) At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense and on any other matters that the Reserve Forces Policy Board considers appropriate to include in the report.''.

Mr. KEMPTHORNE. This amendment has been cleared.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4064) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4065

(Purpose: To provide for managed health care services to be furnished under the health care delivery system of the uniformed services by transferees of Public Health Service hospitals or other stations previously deemed to be uniformed services treatment facilities that enter into agreements with the Secretary of Defense to provide such services on an enrollment basis)

Mr. KEMPTHORNE. Mr. President, on behalf of Senators GORTON, COHEN, and GLENN, I offer an amendment which would establish the integration of the uniformed services treatment facilities in the Department of Defense TRICARE health care program.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. GORTON, for himself, Mr. COHEN, and Mr. GLENN, proposes an amendment numbered 4065.

Mr. KEMPTHORNE. 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:

After the heading for title VII insert the following:

Subtitle A—General

Strike out section 704.

Redesignate section 705 as section 704.

Redesignate section 706 as section 705.

Redesignate section 707 as section 706.

At the end of title VII add the following:

Subtitle B—Uniformed Services Treatment Facilities

SEC. 721. DEFINITIONS.

In this subtitle:

(1) The term ''administering Secretaries'' means the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services.

(2) The term ''agreement'' means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

(3) The term ''capitation payment'' means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

(4) The term ''covered beneficiary'' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(5) The term ''designated provider'' means a public or nonprofit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 603) and that, before the date of the enactment of this Act, was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

(6) The term ''enrollee'' means a covered beneficiary who enrolls with a designated provider.

(7) The term ''health care services'' means the health care services provided under the health plan known as the TRICARE PRIME option under the TRICARE program.

(8) The term ''Secretary'' means the Secretary of Defense.

(9) The term ''TRICARE program'' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

SEC. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

(a) INCLUSION IN SYSTEM.—The health care delivery system of the uniformed services shall include the designated providers.

(b) AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider, under which the designated provider will provide managed health care services to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) EFFECTIVE DATE OF AGREEMENTS.—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

(B) October 1, 1997.

(2) Notwithstanding paragraph (1), the designated provider whose service area includes Seattle, Washington, shall implement its agreement as soon as the agreement permits.

(d) TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1587) until the agreement required by this section takes effect under subsection (c).

(e) SERVICE AREA.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

(f) COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act.

SEC. 723. PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

(2) October 1, 1996.

(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.

(a) FISCAL YEAR 1997 LIMITATION.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

(b) PERMANENT LIMITATION.—For each fiscal year after fiscal year 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) RETENTION OF CURRENT ENROLLEES.—An enrollee in the managed care program of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

(d) ADDITIONAL ENROLLMENT AUTHORITY.—Other covered beneficiaries may also receive health care services from a designated provider, except that the designated provider may market such services to, and enroll, only those covered beneficiaries who—

(1) do not have other primary health insurance coverage (other than medicare coverage) covering basic primary care and inpatient and outpatient services; or

(2) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

(e) SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.—If a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

(f) INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

SEC. 725. APPLICATION OF CHAMPUS PAYMENT RULES.

(a) APPLICATION OF PAYMENT RULES.—Subject to subsection (b), the Secretary shall require a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

(b) AUTHORIZED ADJUSTMENTS.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section

after consultation with the other administering Secretaries.

(d) CONFORMING AMENDMENT.—Section 1074 of title 10, United States Code, is amended by striking out subsection (d).

SEC. 726. PAYMENTS FOR SERVICES.

(a) FORM OF PAYMENT.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for services provided by a designated provider shall be full risk capitation. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

(b) LIMITATION ON TOTAL PAYMENTS.—Total capitation payments to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received their care through a military treatment facility, the TRICARE program, or the medicare program, as the case may be.

(c) ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program.

(d) ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

SEC. 727. REPEAL OF SUPERSEDED AUTHORITIES.

(a) REPEALS.—The following provisions of law are repealed:

(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c).

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d).

(3) Section 718(c) of the National Defense Authorization Act for Fiscal year 1991 (Public Law 101–510; 42 U.S.C. 248c note).

(4) Section 726 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 42 U.S.C. 248c note).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Mr. GORTON. Mr. President, today I am offering an amendment which defines the future for Uniformed Services Treatment Facilities [USTFs] in order to ensure that these hospitals and clinics can continue to provide high-quality care to thousands of military beneficiaries throughout the country. Senators SARBANES, MOYNIHAN, and MURRAY have joined me as cosponsors of this amendment. I appreciate the accommodation of the Committee leadership for clearing my amendment for inclusion in the Senate version of the National Defense Authorization Act for fiscal year 1997.

USTFs are former Public Health Service hospitals that were transferred to private, not-for-profit ownership during the Reagan administration. The late Senator from Washington State, Scoop Jackson, sponsored legislation in 1981 that completed this transition by deeming these hospitals and clinics facilities of the Uniformed Services and authorizing them to provide health care to military beneficiaries, including retirees and family members of active-duty personnel and retirees. I was proud to join as a cosponsor of that amendment during my first year in the Senate.

USTFs have performed well over the past 15 years as providers of cost-effective and quality military health care. There are currently 9 USTFs operated by 7 organizations serving about 120,000 military beneficiaries in nine States: Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Texas, and Washington. These facilities have a loyal base of beneficiaries who have come to rely on them as their primary care providers.

USTFs have also pioneered new innovations in military health care, including full at-risk managed care. I sponsored an amendment in 1992 that required the Department of Defense [DOD] to enter into agreements with USTFs to carry out a managed care delivery program. The USTFs managed care program, called the Uniformed Services Family Health Plan, I am told, has further reduced costs and has consistently received a favorable beneficiary rating in excess of 90 percent.

The USTFs are now at a crossroads. With their current participation agreements expiring next year, USTFs and DOD entered into negotiations late last year aimed at integrating the USTFs program into the overall military health care system. The negotiations resulted in a set of ''guiding principles'' which both DOD and USTFs accepted. My amendment implements these ''guiding principles'' by clarifying how the USTF program will be integrated into the TRICARE program. With one exception concerning the date for the application of TRICARE enrollment fees and increased co-payments, my amendment is identical to the provisions of the House-passed National Defense Authorization Act for fiscal year 1997.

My amendment reflects a careful compromise reached between the USTFs and DOD to protect the interests of the military beneficiary and the taxpayer. In addition to integrating the USTFs into TRICARE, my amendment limits the growth of the USTF program and implements a recommendation of a new GAO report by disenrolling USTF beneficiaries who receive benefits under Medicare. A more detailed section-by-section summary of my amendment will follow this statement.

Mr. President, this amendment is a true compromise which serves the interest of American servicemen and women. It not only has the support of the Health Affairs Office at the Defense Department, but except for the one difference already mentioned, the entirety of my amendment has been included in the House-passed bill. I thank the Committee leadership for agreeing to include this amendment in the Senate bill as well.

I ask unanimous consent that the summary I mentioned be printed in the RECORD.

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

SECTION-BY-SECTION SUMMARY OF THE GORTON AMENDMENT

The amendment adds a new subtitle B to title VII dealing with the Uniformed Services Treatment Facilities.

Section 721 defines nine terms in subtitle B.

Section 722 reauthorized the USTFs as ''designated providers'' of health care to military beneficiaries. DOD is directed to negotiate and enter into new agreements with each USTF on a sole source basis. Although the competitive requirements of the Federal Acquisition Regulations (FAR) would not apply, the FAR would apply to USTF agreements as ''acquisitions of commercial items.'' The new USTF agreements would be required by the later of October 1, 1997 (when the current agreements expire) or when TRICARE is implemented in the region served by the USTF. The Seattle USTF, however, could begin their agreement sooner than October 1, 1997. USTFs which will not have TRICARE in their regions until after 1997 will automatically have their current participation agreement extended. The USTFs shall comply with ''necessary and appropriate'' administrative requirements established by DOD for other health care providers. USTFs would be exempt from state health maintenance organization licensure requirements. A USTF could not contract out more than 5% of its primary care enrollment without DOD's approval, except for contracts in effect on the date of enactment.

Section 723 established the process for applying the uniform benefit to the USTFs. The USTFs would be required to apply the TRICARE Prime enrollment fees and increased co-payments the later of October 1, 1996 or when TRICARE is implemented in their region. DOD has the discretion to prescribe a later date or reduce the cost shares.

Section 724 establishes two enrollee caps to limit the growth of the USTFs. For FY-1997, the enrollee cap consists of the total number of those enrolled in the program (even those for which no funding was provided) as of October 1, 1995 plus new active-duty dependents that DOD could waive into the program. For FY-1998 and beyond, the program enrollee cap is 10% higher than the previous year. This section also requires that all existing enrollees continue to receive care under the new agreements unless the beneficiary disenrolls. The USTF can also enroll additional beneficiaries, but can only market to those who do not have other non-governmental primary health insurance coverage or are participating in the TRICARE program. This section also authorized DOD to automatically disenroll any beneficiary over 65 who unlawfully receives benefits under Medicare. This provision reflects the recommendations of a new GAO report and should prevent double payments.

Section 725 applies the CHAMPUS payment rules to the USTFs. DOD could modify the payment rules as appropriate and could authorize a lower rate than the maximum rate if agreed to by the USTF and the primary health care provider facility.

Section 726 states that the form of payments for the USTFs will be full-risk capitation negotiated and agreed upon by DOD and the USTFs. The capitation payments must be based on utilization experience of enrollees and ''competitive market rates'' for equivalent health care services for a comparable population in the area served by the

USTF. The total capitation cannot exceed the amount incurred had the beneficiary received care from a military hospital or under TRICARE. The capitation payments will be established on an annual basis and subject to periodic review to reflect actuarial soundness and adverse selection. The USTFs and DOD may mutually agree upon a new basis for calculating capitation payments after September 30, 1999.

Section 727 repeals much of the existing, now superseded USTF provisions, including the statutory status, the authority for managed care agreements, and the application of the FAR and the TRICARE cost shares. The repeals take effect on October 1, 1997.

Mr. KEMPTHORNE. Mr. President, I believe this amendment has been cleared.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4065) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4066

(Purpose: To authorize the Secretaries of the military departments and the Secretary of Transportation to carry out a food donation pilot program at the service academies)

Mr. NUNN. Mr. President, on behalf of Senator SARBANES, I offer an amendment which would authorize the Secretaries of the military departments and the Secretary of Transportation to carry out a food donation program at the service academies, under their respective jurisdiction. I believe this amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The Senator from Georgia [Mr. NUNN], for Mr. SARBANES, for himself and Ms. MIKULSKI, proposes an amendment numbered 4066.

Mr. NUNN. 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:

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

SEC. 1072. FOOD DONATION PILOT PROGRAM AT THE SERVICE ACADEMIES.

(a) PROGRAM AUTHORIZED.—The Secretaries of the military departments and the Secretary of Transportation may each carry out a food donation pilot program at the service academy under the jurisdiction of the Secretary.

(b) DONATIONS AND COLLECTIONS OF FOOD AND GROCERY PRODUCTS.—Under the pilot program, the Secretary concerned may donate to, and permit others to collect for, a nonprofit organization any food or grocery product that—

(1) is—

(A) an apparently wholesome food;

(B) an apparently fit grocery product; or

(C) a food or grocery product that is donated in accordance with section 402(e) of the National and Community Service Act of 1990 (42 U.S.C.A 12672(e));

(2) is owned by the United States;

(3) is located at a service academy under the jurisdiction of the Secretary; and

(4) is excess to the requirements of the academy.

(c) PROGRAM COMMENCEMENT.—The Secretary concerned shall commence carrying out the pilot program, if at all, during fiscal year 1997.

(d) APPLICABILITY OF GOOD SAMARITAN FOOD DONATION ACT.—Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) shall apply to donations and collections of food and grocery products under the pilot program without regard to section 403 of such Act (42 U.S.C. 12673).

(e) REPORTS.—(1) Each Secretary that carries out a pilot program at a service academy under this section shall submit to Congress an interim report and a final report on the pilot program.

(2) The Secretary concerned shall submit the interim report not later than one year after the date on which the Secretary commences the pilot program at a service academy.

(3) The Secretary concerned shall submit the final report not later than 90 days after the Secretary completes the pilot program at a service academy.

(4) Each report shall include the following:

(A) A description of the conduct of the pilot program.

(B) A discussion of the experience under the pilot program.

(C) An evaluation of the extent to which section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) has been effective in protecting the United States and others from liabilities associated with actions taken under the pilot program.

(D) Any recommendations for legislation to facilitate donations or collections of excess food and grocery products of the United States or others for nonprofit organizations.

(f) DEFINITIONS.—In this section:

(1) The term ''service academy'' means each of the following:

(A) The United States Military Academy.

(B) the United States Naval Academy.

(C) The United States Air Force Academy.

(D) The United States Coast Guard Academy.

(2) The term ''Secretary concerned'' means the following

(A) The Secretary of the Army, with respect to the United States Military Academy.

(B) The Secretary of the Navy, with respect to the United States Naval Academy.

(C) The Secretary of the Air Force, with respect to the United States Air Force Academy.

(D) The Secretary of Transportation, with respect to the United States Coast Guard Academy.

(3) The terms ''apparently fit grocery product'', ''apparently wholesome food'', ''donate'', ''food'', and ''grocery product'' have the meanings given those terms in section 402(b) of the National and Community Service Act of 1990 (42 U.S.C. 12672(b)).

Mr. SARBANES. Mr. President, I am pleased to offer this amendment which would establish a voluntary food donation pilot program at the service academies. The amendment would provide the academies with the necessary authority to donate surplus foods to nonprofit organizations for hunger relief efforts in their local communities.

With the need for food assistance escalating, especially among our working poor, this additional source of food which might otherwise go to waste, could help to alleviate hunger in these surrounding communities. I look forward to the academies' voluntary participation in and the overall success of this program.

Mr. KEMPTHORNE. This amendment has been cleared on our side.

Mr. NUNN. Mr. President, I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4066) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4067

(Purpose: To provide for the designation of a memorial as the National D-Day Memorial)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator WARNER, I offer an amendment that would designate a memorial to be constructed in Bedford, VA, to be known as the ''National D-Day Memorial.''

The PRESIDING OFFICER. The clerk will report.

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. WARNER, proposes an amendment numbered 4067.

At the appropriate place in title X, insert the following:

SEC. . DESIGNATION OF MEMORIAL AS NATIONAL D–DAY MEMORIAL.

(a) DESIGNATION.—The memorial to be constructed by the National D–Day Memorial Foundation in Bedford, Virginia, is hereby designated as a national memorial to be known as the ''National D–Day Memorial''. The memorial shall serve to honor the members of the Armed Forces of the United States who served in the invasion of Normandy, France, in June 1944.

(b) PUBLIC PROCLAMATION.—The President is requested and urged to issue a public proclamation acknowledging the designation of the memorial to be constructed by the National D–Day Memorial Foundation in Bedford, Virginia, as the National D–Day Memorial.

(c) MAINTENANCE OF MEMORIAL.—All expenses for maintenance and care of the memorial shall be paid for with non-Federal funds, including funds provided by the National D–Day Memorial Foundation. The United States shall not be liable for any expense incurred for the maintenance and care of the memorial.

Mr. WARNER. Mr. President, I rise today to urge my colleagues to support the designation of the memorial to be constructed in Bedford, Virginia as the National D–Day Memorial.

The Normandy Invasion of June 6, 1944—more commonly known as D–Day—was the largest air, land, and sea invasion ever undertaken. The sheer magnitude of the invasion, which included 4,870 ships, 7,200 planes and 250,000 soldiers was unprecedented. By the battle's end, causalities for the Allied forces numbered 9,758, including 6,603 Americans. As the turning point in World War II, D–Day will forever be remembered as the decisive battle that spelled the beginning of the end for Hitler's dream of Nazi domination of the world.

Remarkably, there is no memorial in the United States commemorating this

important battle. My amendment would rectify this oversight by designating the memorial to be constructed in Bedford, Virginia as the National D–Day Memorial.

Bedford is the ideal location for a National D–Day Memorial for several reasons. Most important, Bedford, VA—home base for Company A of the 116th Infantry Regiment—sustained the highest per-capita loss of any single community as a result of the D–Day invasion. In addition, the 88-acre scenic site is easily accessible via the interstate highway system and overlooks the beautiful Blue Ridge Mountains.

It is important to realize that this designation is not exclusively granted to the memorial in Bedford, and obligates no federal funds for construction or operation of the memorial now or in the future.

When completed, this memorial will serve as a lasting tribute to all who took part in D–Day, as a reminder of the price paid for freedom and peace, and as a resource to educate future generations about the significance and sacrifice of D–Day.

Mr. KEMPTHORNE. Mr. President, this has been cleared by the other side.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4067) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4068

(Purpose: To increase authorizations of appropriations for the Air National Guard by $8,700,000 for support of 10 primary authorized C–130 aircraft for each airlift squadron in the Air National Guard of Kentucky, West Virginia, North Carolina, Tennessee, and California; and to increase various personnel end strength authorizations by 385 for support of such aircraft)

Mr. NUNN. Mr. President, on behalf of Senator BYRD, for himself, Senators FORD and FEINSTEIN, I offer an amendment which would authorize the Air National Guard to retain 10 C–130 aircraft in each of the five National Guard C–130 squadrons. I believe this amendment has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BYRD, for himself, Mr. FORD, and Mrs. FEINSTEIN, proposes an amendment numbered 4068.

Mr. NUNN. 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:

In section 301(11), strike out ''$2,692,473,000'' and insert in lieu thereof ''$2,699,173,000''.

In section 411(a)(5), strike out ''108,594'' and insert in lieu thereof ''108,904''.

In section 412(5), strike out ''10,378'' and insert in lieu thereof ''10,403''.

In section 421, strike out ''$69,878,430,000'' in the first sentence and insert in lieu thereof ''$69,880,430,000''.

In section 201(3), strike out ''$14,788,356,000'' and insert in lieu thereof ''$14,783,356,000''.

In section 301(4), strike out ''$17,953,039,000'' and insert in lieu thereof ''$17,949,339,000''.

At the end of subtitle B of title V add the following:

SEC. 518. MODIFIED END STRENGTH AUTHORIZATION FOR MILITARY TECHNICIANS FOR THE AIR NATIONAL GUARD FOR FISCAL YEAR 1997.

Section 513(b)(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 305; 10 U.S.C. 115 note) is amended to read as follows:

''(3) Air National Guard:

''(A) For fiscal year 1996, 22,906.

''(B) For fiscal year 1997, 22,956.''.

Mr. BYRD. Mr. President, this amendment which I am offering on behalf of myself and Senators FORD and FEINSTEIN enables Air National Guard units in North Carolina, Tennessee, West Virginia, Kentucky, and California to maintain their full complement of 12 C–130's. Without $6.7 million in operations and maintenance funds and $2.0 million in personnel funds, these units would be forced, prematurely and perhaps unnecessarily, to reduce their airlift capacity to 10 aircraft per unit.

The President's budget for Fiscal Year 1997 reduces the Air National Guard inventory of C–130's in these five states from 12 aircraft per unit to 10 in accordance with earlier Air Force program decisions. However, subsequent to the FY 1997 budget submission, the Air Force initiated an airlift analysis which, together with congressionally-directed C–130 Master Stationing Plan, would provide the Air Force with a comprehensive look at long-term airlift requirements. Therefore, it is premature to reduce the number of aircraft in these units until the total force requirements analysis is completed. If these aircraft and personnel are eliminated from the force, it would be difficult to replace them, should the ongoing study demonstrate an ongoing requirement for them.

Mr. President, airlift has long been the ugly duckling of aircraft programs, drab and utilitarian next to the swans that are fighter and bomber aircraft. But airlift is essential to every military operation, delivering the supplies that keep our military going. Air National Guard units are critical to maintaining the supply pipeline, and I am confident that the Air Force study will recognize the value of retaining the maximum number of C–130's in the inventory.

Mr. FORD. This amendment is very simple, and as I understand, is acceptable to both sides. During the 1997 Fiscal Year budget deliberations at the Pentagon, a decision was made to reduce the Air National Guard C–130 fleet by ten aircraft. Two aircraft would be taken from each of the five units in the States of Kentucky, West Virginia, California, North Carolina and Tennessee. However, the Air Force has initiated an Inter-theater Lift Analysis to determine the impact of the C–17 on the C–130 requirements. Furthermore, the Air Force has not yet completed its C–130 Master Stationing Plan.

My colleagues and I believe it is premature to reduce the Air National Guard C–130 fleet below current levels until both of the studies have been completed and the comprehensive Total Force airlift requirements have been approved by Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Adjutant General of Kentucky, Gen. John R. Groves, Jr. General of the Kentucky National Guard immediately following my remarks.

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

COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MILITARY AFFAIRS,
Frankfort, KY, April 18, 1996.

The Adjutant General
100 Minuteman Parkway
Frankfort, KY.

Hon. WENDELL H. FORD,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR FORD: The upcoming congressional action concerning Defense Authorization Bills is one of great importance to the Commonwealth of Kentucky and the Nation. We in Kentucky ask for you and your colleagues' support of the following facts as they relate to the Air National Guard's role in National Defense.

The Kentucky Air National Guard has proven to be one of the most cost-effective means of maintaining the Nation's Total Air Force capability within the constraints of a shrinking defense budget. This has never been more evident than with our Air National Guard C–130H aircraft and unit personnel constantly being involved in worldwide contingencies.

Our Kentucky Air National Guard units as well as those of other C–130 states like; West Virginia, North Carolina, Tennessee and California are more involved today than ever before. Recently, I watched Kentucky C–130's fly out of Louisville International Airport for destination like Honduras and Germany in support of Operation Joint Endeavor. The men and women of the Kentucky Air National Guard perform these and many other missions in support of national policy with a high degree of experience and an even higher degree of professionalism.

For years the Congress has provided funding to maintain several Air National Guard C–130 units at 12 primary authorized aircraft (PAA). Secretary Perry has indicated the Air National Guard's participation in airlift will continue to increase, as I am sure is based on the great record of Total Force support by Air National Guard C–130 units like Kentucky. If the Air National Guard's support of national defense initiatives continues, then so should the funding of twelve primary authorized aircraft and its associated personnel package. Reduced funds in the FY 97 Defense budget and further reductions in the out years of defense budgets will impact the Air National Guard's ability to step up to increased operations tempo.

We in Kentucky feel strongly that the Air National Guard force structure should remain constant until a new National Security Review is completed and that the C–130 airlift units in the five states mentioned above

should retain their current primary authorized aircraft of twelve. This would most assuredly be more cost effective than any reduction of authorized aircraft necessary to meet near term total Air Force requirements.

The stabilization of these five states C–130 units at 12 (PAA) would require Congressional restoration of $8.7 million in Air National Guard accounts for operations, maintenance and military personnel. Additionally, authorized manpower increases of 25 AGR's 310 drill, and 50 military technician positions are necessary to support maintaining these units.

If my office can be of any assistance to you in this concern of great importance to the Commonwealth, please call me at (502) 564–8558. Thank you.

JOHN R. GROVES, JR. BG, KYNG,
The Adjutant General.

Mr. KEMPTHORNE. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4068) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4069

(Purpose: To modify the specification of the source authorization of appropriations for certain submarine program contracts)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator COHEN, I offer an amendment that would properly identify the appropriation that will be used to fund the transfer of design information for the next nuclear attack submarine from the lead design shipyard to the second building shipyard, under the terms of an agreement that has been negotiated between the Navy and the two building yards.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. COHEN, proposes an amendment numbered 4069.

Mr. KEMPTHORNE. 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:

In section 123(a), strike out paragraph (2), and insert in lieu thereof the following:

(2) In addition to the purposes for which the amount authorized to be appropriated by section 102(a)(3) is available under subparagraphs (B) and (C) of paragraph (1), the amounts available under such subparagraphs are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the ''Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB) and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine'', dated April 5, 1996, relating to design data transfer, design improvements, integrated process teams, and updated design base.

Mr. COHEN. Mr. President, this amendment is intended to properly identify the resources that will be used to carry of the transfer of design information for the fiscal year 1998 nuclear attack submarine from the lead design shipyard, Electric Boat, to Newport News Shipbuilding and Drydock, the shipyard that will build the fiscal year 1999 submarine. In its present form section 123 would direct that design transfer be funded from the Navy's Research and Development account. Subsequent to markup and referral of the bill, I have been informed by the Navy that the correct account to fund this activity should be the Shipbuilding and Conversion, Navy appropriation.

This amendment will require no change in funding levels in the bill that is under consideration. Sufficient resources have been proposed in the bill to carry out design transfer activities for the fiscal year 1999 submarine. The amendment is simply a bookkeeping change that will properly align funding sources with intended activity.

I encourage the other members to join me in voting in favor of this amendment.

Mr. KEMPTHORNE. This amendment has been cleared.

Mr. NUNN. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4069) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4070

(Purpose: To improve the National Security Education Program)

Mr. NUNN. Mr. President, on behalf of Senator SIMON, I offer an amendment which would revise the National Security Education Program by revising the service requirement for award recipients and making other improvements in the program. I believe this amendment has also been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. SIMON, proposes an amendment numbered 4070.

Mr. NUNN. 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:

On page 311, between lines 9 and 10, insert the following:

SEC. 1072. IMPROVEMENTS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) REPEAL OF TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 650), is amended under the heading ''NATIONAL SECURITY EDUCATION TRUST FUND'' by striking out the proviso.

(b) GENERAL PROGRAM REQUIREMENTS.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph (A):

''(A) awarding scholarships to undergraduate students who—

''(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A) of this title) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d) of this title); and

''(ii) pursuant to subsection (b)(2)(A) of this section, enter into an agreement to work for, and make their language skills available to, an agency or office of the Federal Government or work in the field of higher education in the area of study for which the scholarship was awarded;''; and

(2) in subparagraph (B)—

(A) in clause (i), by inserting ''relating to the national security interests of the United States'' after ''international fields''; and

(B) in clause (ii)—

(i) by striking out ''subsection (b)(2)'' and inserting in lieu thereof ''subsection (b)(2)(B)''; and

(ii) by striking out ''work for an agency or office of the Federal Government or in'' and inserting in lieu thereof ''work for, and make their language skills available to, an agency or office of the Federal Government or work in''.

(c) SERVICE AGREEMENT.—Subsection (b) of that section is amended—

(1) in the matter preceding paragraph (1), by striking out '', or of scholarships'' and all that follows through ''12 months or more,'' and inserting in lieu thereof ''or any scholarship''.

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph (2):

''(2) will—

''(A) not later than eight years after such recipient's completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

''(i) work in an agency or office of the Federal Government having national security responsibilities (as determined by the Secretary in consultation with the National Security Education Board) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

''(B) upon completion of such recipient's education under the program, and in accordance with such regulations—

''(i) work in an agency or office of the Federal Government having national security responsibilities (as so determined) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period

shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and''.

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section 802 is further amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of the tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.''.

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting '', including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in an agency or office of the Federal Government having national security responsibilities'' before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out ''Make recommendations'' and inserting in lieu thereof ''After taking into account the annual analyses of trends in language, international, and area studies under section 806(b)(1), make recommendations'';

(B) in subparagraph (A), by inserting ''and countries which are of importance to the national security interests of the United States'' after ''are studying''; and

(C) in subparagraph (B), by inserting ''relating to the national security interests of the United States'' after ''of this title'';

(3) by redesignating paragraph (5) as paragraph (7); and

(4) by inserting after paragraph (4) the following new paragraphs:

''(5) Encourage applications for fellowships under this title from graduate students having an educational background in disciplines relating to science or technology.

''(6) Provide the Secretary on an on-going basis with a list of scholarship recipients and fellowship recipients who are available to work for, or make their language skills available to, an agency or office of the Federal Government having national security responsibilities.''.

(f) REPORT ON PROGRAM.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing the improvements to the program established under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) that result from the amendments made by this section.

(2) The report shall also include an assessment of the contribution of the program, as so improved, in meeting the national security objectives of the United States.

Mr. SIMON. Mr. President, the National Security Education Program has been temporarily suspended. The consequence is that an estimated 324 U.S. graduate and undergraduate student finalists are anxiously waiting to hear whether they will be able to study and conduct research in critical national security areas of the world. These students are waiting because a change in the service obligation was attached to the FY 1996 Defense Appropriations Bill to require NSEP award recipients to ''be employed by the Department of Defense or in the Intelligence Community.'' Previously, students could fulfill this requirement by working in any branch of the federal government or higher education.

The current service obligation is unworkable. However, I agree that there should be a return of investment to the Department of Defense for its support of the National Security Education Program. To this end I am offering an amendment that will improve this program by better targeting the service obligation to meet national security needs and to increase program accountability. The continuation of the National Security Education Program is vital to fill the existing gap in America for linguists and country specialists in critical areas of national security.

I would like to call the attention of my colleagues to a letter that I received from the Honorable Walter Mondale, Ambassador of the United States to Japan, about the importance of the National Security Education Program.

As Ambassador Mondale's letter points out, we have only 1,700 American students studying in Japan, compared with 45,000 Japanese students in the U.S. The National Security Education Program has made the largest number of awards to American undergraduate and graduate students to learn the language and culture of Japan. This is only one example of over 100 countries in which NSEP recipients have studied. The continuation of this program makes sense because it is in America's long-term national security and economic interests to educate our students in foreign languages and cultures.

I urge my colleagues to read Ambassador Mondale's letter and to work with me to support improvements to the NSEP and the continuation of other federal programs that support international educational and cultural exchange.

I ask unanimous consent that Ambassador Mondale's letter be printed in the RECORD.

There being no objection, the letter was order to be printed in the RECORD, as follows:

AMBASSADOR OF THE
UNITED STATES OF AMERICA,
Tokyo, May 30, 1996.

Hon. PAUL SIMON,
U.S. Senate, Washington DC.

DEAR PAUL: I wanted to write you about a matter that has come up to give you my perspective. I am worried by the present threat to the future of the National Security Education Program (NSEP). This has been a great success over here. The new service requirements that mandate future service in the Defense Department of ''the intelligence community'' will, I fear, dry up the pool of applicants, alienate the American scholarly community, and undermine the ability of awardees to operate comfortably in foreign countries.

U.S. Japanese language students have been the largest single group of NSEP grantees. Therefore, the impact here of these new provisions will be particularly severe. Is there any chance that the existing provisions could be retained?

Increasing the numbers of American students learning about Japan must be a major of our efforts here. The goal of having more Americans learning about this very different society is in our long-term national security, as well as economic, interests. Currently, we have only about 1,700 American students in Japan, compared to 45,000 Japanese students in the U.S.

Since it started a couple of years ago, the NSEP program has been a welcome contributor to the in-depth training of Americans. Thanks to NSEP scholarships, 100 undergraduates have already studied in Japan, and some 36 more are slated to come this year.

I write you personally because I believe the NSEP program has been very helpful and I hope we can keep it going as presently constituted. We would be glad to provide any further information that you may want.

I hope you will have a chance to give this matter your attention. Normally I wouldn't write, but I believe the program as presently written is very much in our interests.

Best wishes from Tokyo.

Sincerely,

WALTER F. MONDALE.

Mr. KEMPTHORNE. Mr. President, this amendment has been cleared.

Mr. NUNN. I urge its immediate adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4070) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4071

(Purpose: To require a modification of a plan for development of a program leading to production of a more capable and less expensive submarine than the New Attack Submarine in order to advance by three years the earliest fiscal year in which a design for a next submarine for serial production may be selected.)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator COHEN, I offer an amendment that deals with serial production of New Attack Submarines. It has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. COHEN, proposes an amendment numbered 4071.

Mr. KEMPTHORNE. 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:

At the end of section 123 add the following:

(e) NEXT ATTACK SUBMARINE AFTER NEW ATTACK SUBMARINE.—The Secretary of Defense shall modify the plan (relating to development of a program leading to production of a more capable and less expensive submarine than the New Attack Submarine) that was submitted to Congress pursuant to section 131(c) of Public Law 104–106 (110 Stat. 208) in order to provide in such plan for selection of a design for a next submarine for serial production not earlier than fiscal year 2000 (rather than fiscal year 2003, as provided in paragraph (3)(B) of such section 131(c)).

Mr. COHEN. Mr. President, this amendment would restore the planning date for serial production of the next class of nuclear attack submarine to the fiscal year 2000, the date reflected in last year's Senate defense authorization bill. The amendment is intended to resolve a flaw in congressional direction regarding serial production of the next class of nuclear attack submarine that, if left standing, could have a devastating impact on the Nation's submarine industrial base. This flawed direction, contained in the section 131 of the National Defense Authorization Act for Fiscal Year 1996, mandates a delay in design competition for the next class of nuclear attack submarine until fiscal year 2003. It was identified in the Secretary of Defense Report on Nuclear Attack Submarine Procurement and Submarine Technology that was submitted to Congress on March 26, 1996 in compliance with section 131 of last year's defense authorization bill.

Under the assumption that no suitable design could be available until the first decade of the next century, section 131 directed the Secretary of Defense to plan to commence serial production of the next class of nuclear attack submarine no earlier than fiscal year 2003. Let me emphasize that the Senate conferees did not share this view, but accepted this proviso in section 131, and others with which they disagreed, in order to reach conclusion of a conference that had lasted far too long.

The Secretary of Defense's report makes clear the Department of Defense's disagreement with the premise that the design being developed for the next nuclear attack submarine, now called the New Attack Submarine, that is to be first authorized in fiscal year 1998 will be inadequate for the requirements set for it by the Joint Chiefs of Staff. This view is strongly supported by an independent Submarine Technology Assessment Panel that was commissioned by the Secretary of the Navy to assist in preparation of the Secretary of Defense's report.

The approach recommended by the report and the panel is to: utilize the New Attack Submarine design as the basis for serial production; fund a continuing level of effort for submarine research and development; and incorporate new technologies that emerge from this research effort into the base design as they mature. These findings are consistent with the position of the Senate during last year's conference.

This year's House version of the defense authorization bill provides extensive direction of how it would pursue development of the next class of submarine. included is direction to the Navy to develop six independent designs that would be completed in fiscal year 2003. The winning design would then become the basis for serial production of the next class of nuclear attack submarine. Aside from the cost implications of pursuing six independent designs, the consequences of delaying a design competition until fiscal year 2003 and the ensuing delay of up to two years before actual authorization of the first submarine would be a gap of four to five years between submarine contract awards no matter which shipyard, Newport News or Electric Boat, wins the competition for serial production. Such a lengthy production break could not be tolerated by either shipyard. The Secretary of Defense's Report points out the disruptive effect of such a lengthy delay and notes the need for additional authorizations in order to maintain a viable construction base for nuclear attack submarines.

By accepting the Secretary of Defense's proposal for incorporating new technology into future nuclear attack submarine and setting fiscal year 2000 as the year in which serial production can begin, the future of the submarine industrial base can be preserved. The Senate bill, as modified by this amendment would accomplish that objective. I strongly encourage my colleagues in the Senate to join me in supporting the amendment.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

Mr. MCCAIN. Mr. President, I would like to know what the amendment is. I would like an explanation of the amendment.

Mr. NUNN. I believe the Senator from Idaho has the explanation.

Mr. KEMPTHORNE. Mr. President, this amendment would restore the planning date for serial production of the next class of nuclear submarines to fiscal year 2000, the date reflected in last year's Senate defense authorization bill.

Mr. MCCAIN. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4071) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4072 TO AMENDMENT NO. 4061

Mr. MCCAIN. Mr. President, with the indulgence of the managers, I have worked out an agreement with Senator SIMPSON. I would propose a second-degree amendment to the Simpson amendment. I believe we can dispose of it by voice vote. Mr. President, I have a second degree amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 4072 to amendment 4061.

The amendment is as follows:

At the end of the amendment add the following:

Notwithstanding any other provision of this Act, none of the funds authorized for construction, Phase I, of a combined support maintenance shop at Camp Gunnson, Wyoming may be obligated until the Secretary of Defense certifies to Congress that the project is in the Future Years Defense Plan.

Mr. MCCAIN. Mr. President, I have discussed this amendment with Senator SIMPSON. I have explained to him and to Senator THOMAS that the reason this amendment was in violation of the sense of the Senate criteria for MILCON, for military construction projects, was that it was not in the future year defense plan. Both Senator THOMAS and Senator SIMPSON pointed out that it was an inadvertent absence from the military future year defense plan. If it was inadvertent, then clearly the Secretary of Defense can come over with a letter and say this is in the future year defense plan. And I believe that Senator SIMPSON and Senator THOMAS are confident that will happen especially since they were assured that there is a safety and health problem here which they are very cognizant of, and that this is a very important project.

I believe that it is sensible to ask for the funds to be not authorized until the Secretary of Defense comes over with a letter saying that it is included in the future year defense plan which I think could happen in a matter of days.

Before I yield, I am fully aware that this is the last period of time here in the Senate for my dear friend from Wyoming, Senator SIMPSON. I am equally appreciative of his continuing commitment to the people of Wyoming, and to the Guard in his State. He has never—as he and I have discussed—come over for an additional project in the 10 years that I have here—an unauthorized project. He has never pork barreled. He has never sought special favors for his State. I do not believe he is doing so now.

I am grateful that he accepts this second-degree amendment so that we can get it done in the future year defense plan and get the much needed project for the State of Wyoming and for the men and women who serve there.

Mr. SIMPSON. Mr. President, I thank my friend from Arizona for helping us to resolve this issue. I appreciate his good faith assistance. It was important to resolving it.

I am going to say that I am going to miss my friend from Arizona because we do communicate at the most earthy levels of discussion. Both of us have

been trained in different fields. But there is no one I respect more and admire more. And I have said that. Sometimes this is but a sparrow gas in the midst of a typhoon compared to what the Senator from Arizona and I have been into in years past, especially with regard to senior citizens. But we will not go into that.

So I thank him. I very much appreciate it. I thank Senator NUNN and Senator KEMPTHORNE. This is a good resolution of an issue which was very tough for us on behalf of my colleagues. But I thank the Senator from Arizona very much.

Mr. NUNN. Mr. President, has the second-degree amendment been accepted?

The PRESIDING OFFICER. No. It has not.

The question is on agreeing to the second-degree amendment.

Mr. McCAIN. I ask unanimous consent to vitiate the request for the yeas and nays which I made earlier.

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

The amendment (No. 4072) was agreed to.

Mr. NUNN. Mr. President, I urge adoption of the amendment, as amended.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4061) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KEMPTHORNE. 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. 4073

(Purpose: To waive a limitation on use of funds in the National Defense Sealift Fund for purchasing three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator SMITH and SANTORUM I offer an amendment that would reaffirm in law the authority of the Secretary of the Navy to acquire ships that are needed to improve the capability of the Marine Corps Maritime Prepositions Force.

I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. SMITH, for himself and Mr. SANTORUM, proposes an amendment numbered 4073.

Mr. NUNN. 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:

At the end of subtitle C of title I add the following:

SEC. 125. MARITIME PREPOSITIONING SHIP PROGRAM ENHANCEMENT.

Section 2218(f) of title 10, United States Code, shall not apply in the case of the purchase of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

Mr. SMITH. Mr. President, since fiscal year 1995 the Senate has annually sponsored in its defense authorization bill a program for enhancement of the Marine Corps maritime prepositioning force by the purchase and conversion of three ships from the world market. An additional ship for each of the three Marine Corps prepositioned squadrons will allow them to carry extra materiel, including an expeditionary airfield, a fleet hospital, a Navy mobile construction battalion equipment set, Marine Corps command element equipment, and additional sustainment supplies. The lessons learned from the Marine Corps' experience in Desert Storm demonstrate that having this additional equipment afloat on a continuing basis will provide our warfighting commanders with much greater flexibility when they choose to employ Marine Corps units.

For 3 years the Senate Armed Services Committee has intensively studied various options for providing MPF enhancement for the Marine Corps. The objective has been an affordable program that will deliver an adequate capability at the lowest cost to the taxpayer. The committee has consistently concluded that a program for purchase and modest conversion of existing ships represents the best means to achieve this goal. However, the committee has avoided any temptation to foreclose possible alternatives. Consequently, section 345 of the Senate bill, which would authorize additional funds for the MPF Enhancement program, leaves open the option to satisfy its requirements by construction of new ships, if this option can compete based on cost and timeliness. The Senate approach is supported by the Marine Corps, the Navy, and the Joint Chiefs of Staff, and by the vast majority of United States shipyards.

Although the House supported the Senate program for MPF Enhancement in both the fiscal year 1995 and 1996 defense authorization bills, it has now included a provision in its version of the defense authorization bill that would exclude the purchase and conversion of existing ships for the MPF Enhancement program. This action is yet another in a series of exclusionary provisions proposed by the House that seek to limit competition, no matter what the cost to the taxpayer and the ship construction and repair industry as a whole.

My amendment would reaffirm in law an authorization for the purchase and conversion of the ships needed to provide MPF Enhancement for the Marine Corps by the most cost effective means. It will also provide a strong Senate position for use by our conferees that stands in stark contrast to the exclusionary one contained in the House bill. I strongly encourage my fellow Senators to join Senator SANTORUM and myself in supporting this amendment.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4073) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4074

(Purpose: To revise and improve the authority for research projects under transactions other than contracts and grants and for certain cooperative research and development agreements)

Mr. NUNN. Mr. President, on behalf of Senator BINGAMAN, for himself and Senator SMITH, I offer an amendment which would revise the legislation governing the use of cooperative agreements and innovative transaction authorities under section 2371 of title X, United States Code.

The revisions are supported by the Department of Defense. And I believe this amendment has also been cleared by the Republican side of the aisle.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BINGAMAN, for himself and Mr. SMITH, proposes an amendment numbered 4074.

The amendment is as follows:

At the end of title VIII add the following:

SEC. 810. RESEARCH UNDER TRANSACTIONS OTHER THAN CONTRACTS AND GRANTS.

(a) CONDITIONS FOR USE OF AUTHORITY.—Subsection (e) of section 2371 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting ''and'' after semicolon at the end of subparagraph (A), as so redesignated;

(3) by striking out ''; and'' at the end of subparagraph (B), as so redesignated, and inserting in lieu thereof a period;

(4) by inserting ''(1)'' after ''(e) CONDITIONS.—''; and

(5) by striking out paragraph (3) and inserting in lieu thereof the following:

''(2) A cooperative agreement containing a clause under subsection (d) or a transaction authorized under subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.''.

''(b) REVISED REQUIREMENT FOR ANNUAL REPORT.—Section 2371 of such title is amended by striking out subsection (h) and inserting in lieu thereof the following:

''(h) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on Department of Defense use during such fiscal year of—

''(A) cooperative agreements authorized under section 2358 of this title that contain a clause under subsection (d); and

''(B) transactions authorized under subsection (a).

''(2) The report shall include, with respect to the cooperative agreements and other transactions covered by the report, the following:

''(A) The technology areas in which research projects were conducted under such agreements or other transactions.

''(B) The extent of the cost-sharing among Federal Government and non-Federal sources.

''(C) The extent to which the use of the cooperative agreements and other transactions—

''(i) has contributed to a broadening of the technology and industrial base available for meeting Department of Defense needs; and

''(ii) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.

''(D) the total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause described in subsection (d) that was included in the cooperative agreements and transactions, and the amount of such payments, if any, that were credited to each account established under subsection (f).''.

(c) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—Such section, as amended by subsection (b), is further amended by inserting after subsection (h) the following:

(i) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—(1) Disclosure of information described in paragraph (2) is not required, and may not be compelled, under section 552 of title 5 for five years after the date on which the information is received by the Department of Defense.

''(2) Paragraph (1) applies to the following information in the records of the Department of Defense if the information was submitted to the department in a competitive or noncompetitive process having the potential for resulting in an award, to the submitters, of a cooperative agreement that includes a clause described in subsection (d) or other transactions authorized under subsection (a):

''(A) Proposals, proposal abstracts, and supporting documents.

''(B) Business plans submitted on a confidential basis.

''(C) Technical information submitted on a confidential basis.''.

(d) DIVISION OF SECTION INTO DISTINCT PROVISIONS BY SUBJECT MATTER.—(1) Chapter 139 of title 10, United States Code, is amended—

(A) by inserting before the last subsection of section 2371 (relating to cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980) the following:

''§ 2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980'';

(B) by striking out ''(i) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS UNDER STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—''; and

(C) in the table of sections at the beginning of such chapter, by inserting after the item relating to section 2371 the following:

''2371a.Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980.''.

(2) Section 2358(d) of such title is amended by striking out ''section 2371'' and inserting in lieu thereof ''sections 2371 and 2371a''.

Mr. BINGAMAN. Mr. President, the amendment which I have offered on behalf of myself and the Senator from New Hampshire makes a series of changes in section 2371 of title 10, United States Code, that are designed to make this authority more useful to the military services and defense agencies.

Earlier this year, the General Accounting Office submitted a report to the Armed Services Committee entitled ''DOD Research: Acquiring Research by Nontraditional Means.'' I was very encouraged by the findings of this very constructive report. The report concluded that cooperative agreements and other transactions carried out under the authority of section 2371 of title 10, United States Code, have provided DOD a tool to leverage the private sector's technological know-how and financial investment and have attracted firms that traditionally did not perform research for DOD to carrying out such research.

Mr. President, in light of the significant declines projected in defense research spending and the continued rapid growth of private-sector research investments, Senator SMITH and I believe that it is going to become even more important for DOD to leverage commercial research investments and attract commercial firms to working on service requirements. Innovative military leaders such as the Marine Corps Commandant, General Krulak, and the former Vice Chairman of the Joint Chiefs, Admiral Owens, fully recognize this and are taking steps to insure the services leverage, and don't duplicate private sector efforts.

However, the report also points out that DARPA has been the primary utilizer of this innovative transaction authority thus far and that there has been some confusion on the use of this instrument among the services. Since DOD is preparing new guidance on this matter, the Armed Services Committee in its report on the pending legislation sought to clarify several points. First, the committee intended in creating other transactions authority to maximize flexibility on intellectual property negotiations with private sector entities. In particular, the committee did not intend that such transactions be subject to the provisions of Public Law 96–517, as amended. The GAO report points out that this additional flexibility has been important in attracting commercial firms to carry out cost-shared research with the Pentagon. Second, the committee intended that the sunk cost of prior research efforts not count as cost-share on the part of the private sector firms. Only the additional resources provided by the private sector needed to carry out the specific project should be counted. Finally in the committee's hearings DOD officials testified that the reluctance of the services to use other transactions authority derived in part from the requirement that standard contract, grant or cooperative agreement first be found not feasible or appropriate for carrying out any given project. The committee did not intend that this requirement unduly restrict use of the other transactions instrument. DARPA has properly interpreted Congress' intent that if the goal of a research project is to leverage the capabilities of firms who will not accept a standard grant, contract or cooperative agreement to conduct defense research, then it is not feasible or appropriate to use such instruments and the use of other transactions authority is warranted. The committee intended that program managers in DARPA and the services be given the discretion to make these judgments within a framework provided by overall defense guidance. The committee urged that these issues be clarified by the Office of the Secretary of Defense as soon as possible so that the services can gain the benefits which the GAO report demonstrates DARPA has received from use of other transactions.

Mr. President, since the committee's markup, Dr. Kaminski, the Under Secretary for Acquisition and Technology, has provided additional information to the committee about the changes which the Pentagon would like to see in the other transactions authority in order to spur its use by the military services. I ask unanimous consent that has written response to a question posed at our March hearing be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. BINGAMAN. Our amendment makes the changes requested by Dr. Kaminski with one exception. We have preserved an annual report on the use of other transactions authority, but we have changed the entire tone of that reporting requirement. The reporting requirement in our amendment would essentially ask DOD to continue to update the GAO report on an annual basis so that we can judge how the services are doing in making use of this flexible authority to leverage the commercial sector to meet DOD's needs for dual-use technologies.

Mr. President, I believe that it is important to give the Pentagon the authorities it needs to make the best use of its limited R&D resources. One of the great achievements of the past two Congresses and Secretary Perry's Pentagon is that we have really changed the Pentagon's acquisition system for the better. We have done this on a bipartisan basis, and I am glad to continue to work with the Chairman of the Acquisition and Technology Subcommittee, Senator SMITH, to bring about needed reforms in that system. Our amendment is a modest step in helping the Pentagon to leverage the private sector's $100 billion annual R&D investment and to broaden the industrial base that supports the Pentagon to include truly commercial firms. I urge my colleagues to support it.

EXHIBIT 1

EXCERPT FROM SENATE COMMITTEE ON ARMED SERVICES, SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY HEARING ON DOD TECHNOLOGY BASE PROGRAMS, WEDNESDAY, MARCH 20, 1996

FLEXIBLE INSTRUMENTS FOR SCIENCE AND TECHNOLOGY

First, I would like to mention that we are taking actions to encourage increased use of flexible instruments, which include cooperative agreements and ''transactions other than contracts, grants, or cooperative agreements'' (commonly known as ''other transactions'' or OTs). Cooperative agreements, like OTs, can have provisions designed to involve commercial organizations that haven't traditionally received Government awards, thereby helping to increase DoD access to the portion of the U.S. technology and industrial base that serves the needs of the commercial marketplace. Both cooperative agreements and OTs therefore can be responsive to the policy intent of 10 U.S.C. 2371. To encourage increased use of flexible instruments, we are:

Preparing to advise the Military Departments that the authority to use OTs should be delegated to at least the level of the major commands that have responsibility for making awards under DoD Science and Technology programs. In conjunction with that action, I have asked the Director of Defense Research and Engineering to issue updated guidance on when it is appropriate to use flexible instruments. Feedback that we've received indicates that improved guidance will help to increase comfort levels with the use of the instruments.

Seeking to remove factors that may unnecessarily discourage potential users of the instruments from using them. For example, there is a requirement to report to Congress each OT, as well as any cooperative agreement that uses the funds-recovery authority in 10 U.S.C. 2371. It was suggested that this reporting requirement is a potential disincentive to use the instruments. Therefore, section 805 of the Administration-proposed, national defense authorization bill would repeal the requirement, and I ask that you give the proposal favorable consideration.

It should be noted that use of flexible instruments already is increasing. In Fiscal Year 1994, the first year in which they used the instruments, the Military Departments entered into 19 cooperative agreements with provisions designed to involve commercial firms that hadn't traditionally received Government awards. The number of those flexible agreements increased to 41 in Fiscal Year 1995. With that experience as a foundation, I think that we can expect a continued increase in the use of such instruments in the future, because I don't believe that we've exhausted the areas of opportunity for flexible instruments to help us meet our objectives.

Second, I want to provide an answer to the question about the provision in 10 U.S.C. 2371 that requires a judgment before using an ''other transaction,'' that standard grants, cooperative agreements, and contracts are not feasible or appropriate. 10 U.S.C. 2371 is a very powerful authority, but it should not be totally open-ended. Creative people in the DoD will continue to use the authority to invent different and improved types of agreements; we can't predict today what those innovations might be. In the context, this provision helps to provide assurance that the powerful authority will continue to be used in a disciplined manner.

However, there are some indications that the provision may be impeding use of OTs, in situations where they are appropriate. The problem appears to be that some people have the impression that the provision sets a standard so high that it is almost unattainable. I think that one could revise the provision slightly to change its tone in a way that alleviates this problem, while retaining the benefits the clause provides. The provision currently says that the Secretary of Defense shall ensure that an OT is used for a research project *only* when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate. With minor restructuring of the subsection that contains the provision, one could restate the condition without the severe term ''*only*.'' I think that would require thoughtful analysis before using an OT, but remove the impression of an unattainable standard. Paragraph (e) of 10 U.S.C. 2371 then would read as follows:

''(e) CONDITIONS.—(1) The Secretary of Defense shall ensure that—

''(A) to the maximum extent practicable, no cooperative agreement containing a clause under subsection (d) and no transaction entered into under subsection (a) provides for research that duplicates research being conducted under existing programs carried out by the Department of Defense; and

''(B) to the extent that the Secretary determines practicable, the funds provided by the Government under a cooperative agreement containing a clause under subsection (d) or a transaction entered into under subsection (a) do not exceed the total amount provided by other parties to the cooperative agreement or other transaction.

''(2) A cooperative agreement containing a clause under subsection (d) or a transaction entered into under subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.''

Third, I'd like to respond to your suggestion that Congress might amend section 2371 of title 10 of the U.S. Code, to clarify that the intent was to exempt agreements under that authority from the Bayh-Dole requirements (chapter 18 of 35 U.S.C.). There is no need to amend the law; the Bayh-Dole statutory requirements, by the terms of the statute, do not include OTs.

Finally, I would like to mention one point about the need for maintaining good stewardship. The development and use of flexible instruments to involve firms that have not traditionally performed research for the Government has tremendous potential benefits, but it is not without risk. the goal is to find the right tradeoff or balance—one must develop approaches with sufficient oversight to ensure the appropriate use of federal funds but without excessively intrusive requirements that drive commercial firms away and deny DoD access to some of the best and most affordable technology. That is both the opportunity and the challenge.

Mr. KEMPTHORNE. Mr. President, this amendment has been cleared on this side. I urge its adoption.

The PRESIDING OFFICER. Without objection, the agreement is agreed to.

The amendment (No. 4074) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4075

(Purpose: To make reimbursement of Government contractors for costs of excessive amounts of compensation for contractor personnel unallowable under Government contracts)

Mr. KEMPTHORNE. Mr. President, on behalf of Senators GRASSLEY, BOXER and HARKIN, I offer an amendment which would place a limitation of $200,000 on the amount of annual individual compensation that may be reimbursable under contracts with the Department of Defense.

I believe this amendment has been cleared with the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], FOR MR. GRASSLEY, for himself, Mrs. BOXER, and Mr. HARKIN, proposes an amendment numbered 4075.

The amendment is as follows:

On page , between lines and , insert the following:

SEC. . REIMBURSEMENT FOR EXCESSIVE COMPENSATION OF CONTRACTOR PERSONNEL PROHIBITED.

(a) ARMED SERVICES PROCUREMENTS.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following:

''(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds $200,000.''.

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 356(e)(1)) is amended by adding at the end the following:

''(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds $200,000.''.

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(e)(1)) is amended by adding at the end the following:

''(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds $200,000.''.

Mr. GRASSLEY. Mr. President, I am proud to cosponsor this amendment with my friend from California, Senator BOXER.

Over the years, she has helped me watchdog the Pentagon.

That is not an easy thing to do.

Whether Republicans or Democrats are running the place, it's always tough to tangle with the Pentagon.

It is an unpopular thing to do.

She has always been a reliable defense reform ally.

In today's political environment, dependable defense reform allies are hard to come by.

They may be an endangered species.

So I am happy to team up with her on this measure.

It is another effort to chip away at the Pentagon culture.

This is a culture that is literally blind to waste.

It tolerates waste and sometimes even encourages waste.

What we want to do is change that culture.

In trying to change that culture, we hope to strengthen our military capabilities.

When we add $12 billion for defense—like in this bill, we want to make sure we buy more capability.

We want to make sure that we are not buying more waste and more cost.

Our amendment would place a permanent cap on individual executive compensation allowable under Government contracts.

It would set the cap at $200,000 per year.

The cap would apply to salaries, bonuses, and other incentives.

It would be a permanent cap.

There is a temporary, short-term cap in effect today.

The temporary, short-term cap was imposed by the DOD Appropriations Act for fiscal year 1996.

It applies only to fiscal year 1996 contracts.

I will discuss the existing cap in greater detail later in the debate.

Mr. President, I would like to make one point crystal clear right off the bat.

This is not an attempt to tell private companies how much they should pay their top executives.

Instead, it would restrict what Government bureaucrats are allowed to pay top executives in industry.

Mr. President, executive salaries in private industry should be determined in the marketplace.

And not by a bunch of bureaucrats in the Pentagon.

But that is what is going on.

Right now, bureaucrats decide what is fair and reasonable and pay it.

Our amendment would put a lid on Government payments only.

I underscore Government payments only.

That is the driving force behind this measure.

The Grassley-Boxer amendment would not limit the amount of money a defense contractor could pay its executives.

If, for example, a defense company wants to pay one of its top executives working on military contracts $6,332,000.00 a year—as one did, then so be it.

Under Grassley-Boxer, the company could continue to do it—no questions asked.

Mr. President, Loral Corporation's top executive, Mr. Bernard L. Schwartz, received a pay and bonus package in 1995 that totaled $6,332,000.00

But that's not the whole enchilada.

Mr. Schwartz will also receive a $36 million bonus for agreeing to sell his company's defense business. The buyer is the Lockheed Martin Corp.

Mr. President, I ask unanimous consent to place a recent newspaper article about Mr. Schwartz's pay in the RECORD.

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

[From the Washington Post, Jan. 16, 1996]

LORAL CHAIRMAN TO GIVE $18 MILLION OF MERGER FEE TO 40 EMPLOYEES

(By John Mintz)

Loral Corp. Chairman Bernard L. Schwartz will receive a $36 million bonus for agreeing to sell his company's defense business to Lockheed Martin Corp., but will give $18 million of it to a group of Loral employees, according to documents filed with the Securities and Exchange Commission.

The money Schwartz is giving up will reward 40 people in Loral's Manhattan headquarters who may lose their jobs or be demoted in the merger, according to the documents. The employees, including some secretaries and mid-level executives, could receive money equivalent to as much as twice their annual salary and bonus.

Loral's New York headquarters likely will close and be folded into Lockheed Martin's Bethesda offices, industry officials said.

''Their lives could be affected by the merger, and I decided it would be appropriate to recognize their efforts,'' Schwartz said yesterday. ''There are some smiling faces here today. . . . If I'd had enough resources, I would have spread it among all 38,000 Loral employees.''

Giving such a gift to employees is extremely rare in mergers, investment bankers said. Schwartz, the only liberal Democrat among chief executives of large defense firms, has often expounded on his views of corporate empowerment, and for years has offered generous stock options to Loral employees to make them what he calls ''stakeholders'' in his company.

The $18 million bonus Schwartz will collect from Loral is in addition to approximately $27 million he has made on paper in the value of his Loral stock due to the proposed merger. He owns about 3.6 million shares, and each has increased in value by approximately $7.50 following the announcement last week.

Schwartz's regular annual compensation and bonus from the company in 1995 totaled $6,332,000.

The proposed merger with Lockheed Martin was announced last week. If Loral pulls out of the transaction, it must pay Lockheed Martin a termination fee of $175 million, according to the SEC filings.

Meanwhile, the Pentagon has largely sided with Lockheed Martin and against a group of critics in a bitter controversy involving a previous merger that created Lockheed Martin from Lockheed Corp. and Martin Marietta Corp. in March last year.

In a report, a Defense Department accounting office called the Defense Contract Audit Agency (DCAA) did not support allegations by Rep. Bernard Sanders (I–VT.), some congressional colleagues and the newspaper Newsday that Lockheed Martin was improperly seeking a Pentagon payment of $31 million in connection with the merger. The critics called it a taxpayer rip-off.

The DCAA recommendations, which still must be reviewed by the Pentagon, were first reported in the industry publication Defense Week.

The company has asserted for months that its foes are confusing two sums of money. One is a $61 million payment to 460 former Martin Marietta executives because of the merger. The military won't reimburse firms for such payments, and Locheed Martin is not asking for that.

But the firm is asking the military to reimburse it $31 million that it has already paid those 460 executives. These sums had nothing to do with the merger, the company has said.

The military pays contracts on a ''cost-plus'' basis, meaning the companies tell the Pentagon about their expenses, including overhead, cost of labor and materials, and executive compensation. The military decides which requests are ''reasonable,'' computes the profit and pays the appropriate amounts.

The company has said the $31 million was part of its long-standing executive compensation package and not, as Sanders asserted, a cozy Pentagon pay-off to high-ranking executives for arranging the merger.

Now the Pentagon's DCAA has concluded that $16 million of the firm's $31 million in reimbursement requests was proper, has deferred consideration on $9 million and raised questions about $6 million of the requested amount. The questions, however, focused on complex government accounting issues and did not directly track with Sanders' objections.

Congressional offices were closed for the holiday. Calls to Sanders' office seeking comment were not answered.

Mr. GRASSLEY. Mr. President, that is a big bundle of money going to Mr. Schwartz.

But I am not questioning whether he earned or deserved it.

Under Grassley-Boxer, he would get it.

I owe it to my colleague to point out that Mr. Schwartz is at the high end of the defense executive wage scale.

The others' salary and bonus packages are not quite so generous.

They ranged from about $1 million up to $2,500,000 in 1995.

Some are slightly lower.

Mr. President, I ask unanimous consent to place the latest data on defense executive compensation in the RECORD.

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

REASONABLENESS TEST FOR EXECUTIVE COMPENSATION

Made in accordance with FAR 31–205–6, compensation for personal services.

Considers same relevant factors, i.e., We check for conformity with firms of: same size/industry/geographic area and gov't/non-gov't business.

Includes all remuneration paid although elements also individually assessed.

In sync with fact that FAR places burden of proof on company (i.e., upon challenge, company must demonstrate reasonableness).

On balance, experience has shown process to be generally fair/not arbitrary.

BASIC AUDIT STEPS FOR REASONABLENESS TEST

1. Identify exec positions, comp amts, sales volume data, & industry.

2. Use multiple survey sources to compare cash comp amts by exec positions & gain mkt consensus of avg pay levels.

3. Calculate mkt avg of surveys with 10% range of reasonableness.

4. Similarly judge reasonableness of other comp elements (FRINGES/PERQS/LTIs).

5. Challenge amounts over 110% of ''market consensus'' survey averages.

6. Ask contractor to demonstrate reasonableness.

7. Evaluate contractor's justification/rebuttal including proposed offsets.

8. Exit with contractor. Report results.

EXEC COMP SURVEYS NOW IN USE

1. Officer compensation report (panel pubs)

2. Dietrich exec engineering survey
3. Ernst & Young exec comp surveys
4. Wyatt Data Services—ECS
5. TPF&C MGMT COMP HIGH TECH SURVEY
6. CD EXECSURV—MID/ATL's SEC-BASED TOP 5.

Mr. GRASSLEY. Mr. President, Grassley-Boxer would not restructure or reinvent the defense executive wage scale.

This is what Grassley-Boxer would do: it would change the way the money is dished out.

It would come out of a different pocket.

Instead of coming right off the top of a defense contract, most of it would have to be taken out of profits.

Instead of being taken directly out of the pockets of hard-working American taxpayers, most of the money would come from the company's earnings.

The source of the money would change.

Under Grassley-Boxer, most of Mr. Schwartz's pay, for example, would have to be taken out of profits.

In Mr. Schwartz's case, $6,132,000 would come out of profits.

The balance, $200,000, could be charged to Uncle Sam.

Mr. President, Pentagon bureaucrats should not be put in the position of having to decide how much to pay industry executives.

The Government should get out of that business entirely.

Those decisions should be made in the marketplace.

This amendment will start us down the road in the right direction.

With a cap in place, we can reexamine the issue next year and decide how to proceed.

Mr. President, I feel sure that some of my Republican colleagues will howl about this amendment.

They will complain that Grassley-Boxer will eat into corporate profits and slash corporate benefits.

We will undermine initiative and morale.

In response, I say to my colleagues: Our defense industry is health.

That is what the latest report on corporate earnings shows.

Mr. President, I ask unanimous consent to place a report on corporate profits in the RECORD.

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

THE LEADERS IN 1995 SALES AND PROFITS

THE TOP 25 IN SALES

	1995 sales in millions	Percent change from 1994	1994 rank
1 General Motors	$168,829	9	1
2 Ford Motor	137,137	7	2
3 Exxon	109,620	8	3
4 Wal-Mart Stores	90,525	15	4
5 AT&T	79,609	6	5
6 Mobil	74,879	11	6
7 IBM	71,940	12	7
8 General Electric	70,028	17	8
9 Chrysler	53,200	2	11
10 Philip Morris	53,139	−1	10
11 Dupont	42,163	7	12
12 Chevron	37,082	4	13
13 Texaco	36,792	10	15

THE TOP 25 IN SALES—Continued

	1995 sales in millions	Percent change from 1994	1994 rank
14 Sears, Roebuck	34,925	6	9
15 Procter & Gamble	34,923	11	16
16 Kmart	34,572	4	14
17 Hewlett-Packard	31,519	26	20
18 Persico	30,421	7	18
19 Citicorp	28,128	−3	17
20 Amoco	27,066	4	19
21 Motorola	27,037	22	25
22 Conagra	24,637	3	21
23 Kroger	23,938	4	23
24 Lockheed Martin	22,853	0	NR
25 United Technologies	22,802	8	28

THE TOP 25 IN EARNINGS

	1995 profits in millions	Percent change from 1994	1994 rank
1 General Motors	$6,932	23	2
2 General Electric	6,573	11	1
3 Exxon	6,470	27	4
4 Philip Morris	5,478	16	5
5 IBM	4,178	38	9
6 Ford Motor	4,139	−22	3
7 Intel	3,566	56	16
8 Citicorp	3,464	1	8
9 Merck	3,335	11	10
10 Dupont	3,293	21	11
11 Coca-Cola	2,986	17	13
12 Procter & Gamble	2,835	17	15
13 Wal-Mart Stores	2,828	12	12
14 Bankamerica	2,664	22	17
15 GTE	2,538	4	14
16 Hewlett-Packard	2,433	52	23
17 Johnson & Johnson	2,403	20	21
18 Mobil	2,376	35	26
19 Fannie Mae	2,156	1	20
20 Chrysler	2,025	−45	7
21 Ameritech	2,008	72	47
22 NationsBank	1,950	15	27
23 Allstate	1,904	293	136
24 Dow Chemical	1,891	145	59
25 SBC Communications	1,889	15	28

Source: Standard & Poor's Compustat, a division of the McGraw-Hill Companies.

Mr. GRASSLEY. This report appears in the March 4, 1996 issue of Business Week.

Profits are reported as follows: Boeing: $393 million; General Electric: $6.6 billion; General Dynamics $247 million; Lockheed Martin: $682 million; Northrop Grumman: $252 million, and United Technologies: $750 million.

They are doing OK, and that's good.

In my mind, executive pay should be tied directly to company performance and to profits.

If the company had a great year, earned big profits and enjoyed other successes, then the chief executive should enjoy the fruits of his labor.

A big year should equal a big pay check.

A bad year might mean a pay cut.

The profit figures cited above are for calendar year 1995.

During that period, only McDonnell Douglas suffered a loss.

The company took a loss of $416 million. But guess what?

That loss did not keep the company's top executive from drawing a bigger paycheck.

The top boss' base pay went from $1.6 million in 1994 to $1.9 million in 1995, including a bonus of $1,042,400.

But that is not all.

McDonnell Douglas' chief executive, Mr. Harry C. Stonecipher, received a very generous share of company stock.

Mr. Stonecipher got cash and stock valued at a staggering $34 million—in 1995 alone.

The other top executives at McDonnell Douglas also received handsome bonuses. These generous pay packages came at a time when the company was downsizing in the face of declining sales.

Mr. President. I ask unanimous consent to have printed in the RECORD a report on Mr. Stonecipher's pay package from the Journal of Commerce.

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

[From the Journal of Commerce, Mar. 24, 1995]

MCDONNELL CHIEF'S COMPENSATION TAKES ON SUPERSTAR PROPORTIONS

ST. LOUIS.—The compensation package McDonnell Douglas Corp. assembled to attract Harry C. Stonecipher, chief executive, last year was worthy of basketball's Michael Jordan.

McDonnell's nearly seven-year deal with Mr. Stonecipher, the first non-family member to run the company, could bring him more than $34 million in cash and stock.

''We paid the market rate for a person of his caliber,'' said James Reed, vice president for communications. ''We're very convinced of that, and the board of directors is very convinced of that.''

The Chicago Bulls also paid the market rate when they signed Jordan, the National Basketball Association's top player, to an eight-year, $28 million deal in April of 1988.

Although the $825,000 base salary and $575,000 annual bonus target McDonnell set for Mr. Stonecipher are unremarkable for a Fortune 500 company, the stock incentives McDonnell offered are notable.

The aerospace giant used the promise of what is now $17.7 million in stock profits to persuade Mr. Stonecipher to leave his job as chairman and chief executive of Sundstrand Corp.

McDonnell awarded Mr. Stonecipher 180,000 shares of restricted stock, with a current market value of $10.1 million. The first 42,000 of those shares vest next Friday; the rest vest in 1996, 1997 and 2002.

McDonnell also gave Mr. Stonecipher the option to buy 450,000 shares later in the decade for $36.96 each, the market price when he joined the company on Sept. 24.

Mr. GRASSLEY. Now, why would the big boss at McDonnell Douglas get a huge bonus when the company sustained a $416 million loss?

Could it be because the company has a direct tap on the DOD money pipe?

When Uncle Sugar is picking up the tab, you can afford to give big pay raises—even when you are losing money.

In private business, it is not supposed to work that way.

I would like to clarify one point as we proceed with the debate:

These defense companies are not totally dependent on the Pentagon; most do 50 to 70 percent of their business with the Government the Pentagon primarily; they are really semi-private.

Mr. President, I ask unanimous consent to have printed in the RECORD the top 10 defense contractors.

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

LIST OF TOP 10 CONTRACTORS IN 1993 WITH AT LEAST ONE-THIRD DOD BUSINESS

[Dollars in billions]

	Total sales	DOD contracts	Percent DOD
McDonnell Douglas	$14.5	$7.5	52
Lockheed	13.1	6.9	53
Martin Marietta	9.4	4.7	50
Raytheon	9.2	3.2	35
Northrop	5.1	3.0	59
General Dynamics	3.2	2.1	66
Loral	3.3	1.7	52
Grumman	3.2	1.7	53
Litton Industries	3.5	1.6	46
E–Systems	2.1	.8	38

TOTAL SALES OF TOP 10 DEFENSE CONTRACTORS, 1989–94

[Dollars in billions]

Company	1989	1990	1991	1992	1993	1994
McDonnell Douglas	$13.938	$15.497	$18.061	$17.365	$14.487	$13.176
Lockheed	9.891	9.958	9.809	10.100	13.071	13.130
Martin Marietta	5.796	6.126	6.075	5.954	9.436	9.874
Raytheon	8.796	9.268	9.274	9.058	9.201	10.166
Northrop	5.248	5.490	5.694	5.550	5.063	6.711
General Dynamics	10.043	10.173	8.751	3.472	3.187	3.058
Loral	1.187	1.274	2.127	2.882	3.335	4.009
Grumman	3.559	4.041	4.038	3.504	3.249	(1)
Litton	5.023	5.156	3.526	3.711	3.474	3.446
E–Systems	1.626	1.801	1.991	2.095	2.097	2.028

[1] Acquired by Northrop.

TOTAL EMPLOYEES OF TOP 10 DEFENSE CONTRACTORS, 1989–94

Company	1989	1990	1991	1992	1993	1994
McDonnell Douglas	127,900	121,200	109,100	87,400	70,000	65,800
Lockheed	82,500	73,000	72,300	71,700	88,000	82,500
Martin Marietta	65,500	62,500	60,500	55,700	92,800	90,300
Raytheon	77,600	76,700	71,600	63,900	63,800	60,200
Northrop	41,000	32,800	36,200	33,600	29,800	42,400
General Dynamics	102,200	98,100	80,600	56,800	30,500	24,200
Loral	12,700	26,100	24,400	26,500	24,200	32,400
Grumman	28,900	26,100	23,600	21,200	17,900	(1)
Litton	50,800	50,600	52,300	49,600	46,400	42,000
E–Systems	17,900	18,400	18,600	18,600	16,700	16,000

[1] Acquired by Northrop.

COMPENSATION OF TOP 5 EXECUTIVES AT TOP DEFENSE CONTRACTORS FOR 1995

The following information is the fiscal year 1995 reported compensation of the top 5 executives at the defense contractors previously reported in GAO report ''Defense Contractors: Pay, Benefits, and Restructuring During Defense Downsizing''.

In this paper, total compensation is denied as Salary plus Bonus. Other cash compensation and long-term valuation of stock options is not included.

The sources of information are: SEC (Edgar) online electronic filings of company Proxy Statements or, Business Week, April 22, 1996.

COMPENSATION OF TOP 5 EXECUTIVES AT TOP DEFENSE CONTRACTORS FOR 1995

Company	Executive	Salary	Bonus	Total Salary/Bonus
McDonnell Douglas	1	825,000	1,042,400	1,867,400
	2	502,308	571,000	1,073,308
	3	392,308	524,100	916,408
	4	382,116	500,000	882,116
	5	376,024	229,600	605,624
Lockheed/Martin	1	1,053,462	1,400,000	2,453,462
	2	983,846	1,300,000	2,283,846
	3	733,077	750,000	1,483,077
	4	464,615	443,500	908,115
	5	459,904	448,200	908,104
General Dynamics	1	670,000	1,750,000	2,420,000
	2	500,000	700,000	1,200,000
	3	356,000	500,000	856,000
	4	300,000	300,000	600,000
	5	220,000	175,000	395,000
Raytheon	1	999,996	870,000	1,869,996
	2	573,908	425,000	998,908
	3	419,520	290,000	709,520
	4	397,500	240,000	637,500
	5	379,500	235,000	614,500
Northrop/Grumman	1	730,000	1,000,000	1,730,000
	2	238,688	428,000	666,688
	3	336,667	320,000	656,667
	4	275,000	350,000	625,000
	5	288,333	330,000	618,333
Litton	1	445,681	500,000	945,681
	2	337,418	340,000	677,418
	3	277,414	260,000	537,414
	4	326,385	335,000	661,385
	5	252,412	205,000	457,412
Loral (Being acquired by Lockheed/Martin. Proxy statement not on file).	1			6,244,000
	2			
	3			
	4			
	5			
E–System (Fiscal year 95 info not available. Being acquired by Raytheon).	1			3,247,000
	2			
	3			
	4			
	5			

Mr. GRASSLEY. This information is drawn from a recent GAO report entitled ''Defense Contractors: Pay, Benefits, and Restructuring During Defense Downsizing.''

Mr. President, the Government should not be in the business of deciding how much to pay corporate executives in the defense industry.

Grassley-Boxer will not get the Government out of that business entirely, but it is a step in the right direction.

Mr. President, earlier in the debate, I said that we need to get Government bureaucrats out of the business of deciding how much to pay defense executives.

Grassley-Boxer wouldn't get us out of that business entirely, but it would be a step in the right direction.

Grassley-Boxer would put a governor on executive pay flowing through the DOD money pipe.

The Grassley-Boxer amendment would limit the size of executive salaries that could be charged directly to the Government under a specific contract.

Under existing rules, the sky is the limit.

For the bills coming due today, DOD pay what is fair and reasonable.

Reasonableness is defined in Federal regulation, FAR 31–205–6.

The rule is broad and general, as I suspected.

It gives the bureaucrats wide latitude for maneuver.

The guidance on how to make the determination is spelled out in defense contract audit agency [DCAA] documents.

DCAA bureaucrats make the final decision.

The main guide is a market consensus survey to see what everybody else is getting paid.

Above all, the DCAA documents say: ''Be fair—not arbitrary.''

At the Pentagon, being fair and reasonable usually means the taxpayers get shafted.

Pentagon bureaucrats like to bend over backward to keep the defense contractors happy.

And shoveling money at corporate executives is a great way to do it.

The Pentagon has proven over and over again that it is incapable of keeping lid on executive pay dished out on contracts.

The pay package coming out of the recent Martin Marietta-Lockeed merger is a prime example of what I'm talking about.

Some 460 executives and directors are slated to receive a total of $92.2 million: $8.2 million in cash and stock options is supposed to go to Mr. Norman Augustine, chairman of the Martin Marietta Corp. before the merger.

Now this very generous plan is in the process of being blessed by the Pentagon bureaucrats.

The deal isn't final, yet.

Since this pay package is based on longstanding contractual commitments, some dating back to the early 1980's, United Same has to pay.

The old rules apply.

The sky is the limit.

This is what the DCAA bureaucrats have to do to make it happen.

They take the salary of each corporate executive and break it down into many parts and spread it around on thousands of contracts.

They use a mathematical formula to determine how much to put on each contract.

Mr. President, this is what we must not forget. This is the key point:

There is no ceiling on what DOD can pay the Lockheed-Martin executives.

But from what I am hearing, industry's demand for money is being scaled back, somewhat.

But exactly how much will each executive get under the merger deal?

I don't think the Pentagon wants us to kown how much the taxpayers are paying Mr. Augustine.

They don't want us to know how much is about to be taken out of the pockets of hard-working American taxpayers to bankroll these outrageous payments.

These top industry executives are on the Government payroll, and we can't even find out how much they make.

DCAA says that's sensitive proprietary information.

If they are on the public payroll, the people have a right to know how much each one gets.

Over a year ago, Senator BOXER and I asked the DOD Inspector General, Ms. Eleanor Hill, for this information.

That was on April 28, 1995.

We received her response on May 26, 1995.

But it was unsatisfactory, and we went back to her on June 20 for more specific answers to our questions.

When no satisfactory response was given, the request was renewed again on February 16, 1996.

On June 17, 1996, she finally provided a partial answer to the question.

Mr. President, I ask unanimous consent to place our correspondence with the DOD IG in the RECORD.

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

U.S. SENATE,
Washington, DC, April 28, 1995.

MS. ELEANOR HILL,
Inspector General, Department of Defense, Army Navy Drive, Arlington, VA.

DEAR MS. HILL: We are writing to ask you to examine the merger of the Lockheed and Martin Marietta Corporations and to determine its cost to the taxpayers.

We think this merger needs scrutiny by your office.

The ''payout benefit plan'' being given to executives and managers at Martin is truly beyond comprehension for most ordinary American citizens. Martin Marietta Chairman Norman Augustine, for example, will receive $8.2 million in cash and stock options as a result of the merger. Other top executives are set to receive huge sums. A total of $92.2 million will be dished out to about 460 managers and executives under various plans. We understand that some of this money will be taken out of the pockets of hard working American taxpayers.

Since mid-1992, there have been at least nine or ten major mergers or acquisitions in the U.S. defense industry. Under current policy, the amounts charged to current or future defense contracts to cover the ''restructuring'' or merger costs could be building up to unacceptable levels. What are the government's total potential liabilities from all recent mergers? What is the rationale for giving defense companies tax money to cover the costs of their mergers? To us, mergers mean less competition, and less competition usually means higher prices.

Furthermore, we understand that there is a lack of clear guidance in regulation and law governing mergers as to what is allowable and what is not allowable. This situation could leave the door wide open for waste, abuse and excessive cash payments to industry executives.

In line with our more general concerns, we have eleven more specific questions on the Martin/Lockheed merger:

Is there any evidence—based on recent experience—to suggest that the merger will generate real savings to the taxpayers?

If so, what are the total expected savings to the taxpayers from the merger?

What is the total projected cost of the merger to the taxpayers, including potential reimbursements for closing unneeded facilities?

How exactly would tax dollars be used to compensate the two firms for the cost of the merger?

To what extent are tax dollars being used to support the executive compensation plan resulting from the merger—particularly the one contained in a joint proxy statement for the meeting held on March 15, 1995?

If tax money is used to finance the executive ''payout'' operation, please provide the name of each person receiving tax money and the total amount each person is to receive.

What is the legal basis for using tax money to make such payments?

Will projected costs and savings be subjected to adequate audit verification?

Does the merger plan comply with Section 818 of Public Law 103–337 and Section 8117 of Public Law 103–335?

Does the April 15, 1995 deadline specified in Section 8117 mean that the Martin/Lockheed merger is not covered by this provision?

Have anti-trust issues been adequately addressed?

Ms. Hill, as far as we are concerned, the salaries paid to top executives in industry should be determined in the market place—not by some obscure act of Congress. But if money is taken out of the pockets of hard working American taxpayers to pay defense industry executive outrageous and unreasonable salaries and bonuses, then we feel like we have an obligation to ask questions.

We look forward to your independent assessment of the facts.

Your continued support is always appreciated.

Sincerely,

CHARLES E. GRASSLEY.
BARBARA BOXER.

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, May 26, 1995.

HON. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: This is in reply to a letter of April 28, 1995, signed jointly by you and Senator Barbara Boxer, that requested our assessment of the facts surrounding the merger of the Lockheed and Martin Marietta Corporations. Our response to each of your concerns and questions is presented in the enclosure.

Under Section 818, Public Law 337, and implementing regulations, restructuring costs associated with a business combination of defense contractors may not be paid, absent a review of projected costs and savings resulting for the Department from that business combination. We understand that Lockheed Martin Corporation plans to submit a proposal containing such information by late June 1995. That proposal will be audited by the Defense Contract Audit Agency and the results assessed by the Defense Contract Management Command to determine the amount of restructuring costs that properly may be reimbursed by the Government. In the interim, those agencies will review the companies' requests for payments to assure that the Government is not being improperly billed.

Because the Defense Contract Audit Agency and the General Accounting Officer will be examining the costs associated with the business combination, we do not plan to initiate a review of the matter. We will, however, closely monitor the audit by the Defense Contract Audit Agency and actions by the Defense Contract Management Command. Let me assure you that I share your concern that the Lockheed and Martin Marietta business combination not result in the payment of unallowable or excessive costs by the Government.

A similar reply is being provided to Senator Boxer. If we may be of further assistance, please contact me or Mr. John R. Crane, Office of Congressional Liaison, at 604–8324.

Sincerely,

ELEANOR HILL,
Inspector General.

RESPONSE TO COMMENTS AND QUESTIONS REGARDING THE MERGER OF LOCKHEED AND MARTIN MARIETTA CORPORTIONS

General Comments: A total of $92.2 million will be dished out to about 460 managers and executives under various plans.

Of the $92.2 million, the Lockheed Martin Corporation believes that $31 million are allowable costs that can be charged to Government contracts. The Defense Contract Audit Agency is currently auditing the $31 million. The audit is scheduled to be completed by June 30, 1995.

What are the Government's total potential liabilities from all recent mergers?

The Department of Defense (DoD) may pay allowable and allocable restructuring costs resulting from a business combination provided under that audited proposals indicate that overall savings to the Government will result. As only a few contractors have presented restructuring proposals, the total potential costs and overall savings to the Government cannot be predicted at this time.

What is the rationale for giving defense companies tax money to cover the costs of their mergers? To us, merger means less competition, and less competition means higher prices.

The DoD may pay restructuring costs, i.e., the cost to streamline operations, including the elimination of unneeded or redundant facilities and reductions in the work force subsequent to a merger or acquisition, provided they are offset by related savings. We share your concern, however, that competition is being reduced and may lead to higher prices.

We understand that there is a lack of clear guidelines in regulation and law governing mergers as to what is allowable and what is not allowable.

Clearly, those costs, such as reorganization costs, that were previously unallowable are still not allowable. A July 1993 policy memorandum on restructuring costs by the Under Secretary of Defense for Acquisition and Technology specifically makes that point. What is unclear is the law and regulations addressing the allowability of restructuring costs that result in increased costs on contracts novated from the selling company to the buyer.

Under the provisions in the present Federal Acquisition Regulation (FAR), the DoD is under no obligation to pay increased costs of novated contracts even if they are offset by decreases. The July 1993 memorandum was intended to clarify that DoD contracting officers have the latitude to recognize cost increases on novated contracts due to restructuring provided they are offset with related savings.

The problem we see is that the Congress initially believed that restructuring costs actually represented merger and acquisition costs. Section 818 of Public Law 103–337, therefore, addresses restructuring costs in general rather than those situations specifically related to increased costs on novated contracts.

Restructuring costs are generally allowable since contractors must have the ability to change and improve their operations. However, the interim regulations written by the DoD in response to the broad requirements of Section 818, require contractors to demonstrate that all restructuring costs, whether related to a merger or acquisition or not, are offset by savings. It is possible that the law and new regulations will make previously allowable costs unallowable. The net effect is that few contractors have come forward with restructuring proposals. We believe, therefore, that the law and the DoD interim regulations should be clarified to address restructuring related to novated contracts only.

Specific Concerns: Is there any evidence—based on recent experience—to suggest that the merge will generate real savings to the taxpayers?

Yes. In those very few cases where companies involved in business combination have submitted restructuring proposals, cost reductions are forecast. However, we cannot predict whether anticipated savings are offset by diminished competition.

If so, what are the total expected savings to the taxpayer from the merger?

The company has not submitted a proposal of forecasted savings.

What is the total projected cost of the merger to the taxpayer, including potential reimbursements for closing unneeded facilities?

Again, that information is not yet available because the company has not submitted a proposal of forecasted savings.

How exactly would tax dollars be used to compensate the two firms for the cost of the merger?

As previously stated, the costs of the merger are not compensated. Restructuring costs are reimbursed once the contractor satisfactorily demonstrates to the Contracting Officer at the Defense Contract Management Command and auditor at the Defense Contract Audit Agency that there will be overall savings to the Government. An advance agreement will then be executed specifying the type and limits for restructuring costs that can be charged to contracts each year. That agreement is forwarded to a senior DoD official who certifies that savings will be achieved. The costs are then allocated among all the contractor's business and the Government pays its share.

To what extent are tax dollars being used to support the executive compensation plan resulting from the merger particularly the one contained in a joint proxy statement for the meeting held on March 15, 1995?

Tax money, in the form of contract payments, will be used to pay some of the executive compensation costs. The Lockheed Martin Corporation has indicated that the costs will be claimed on its Government contracts based on its past practices and would not exceed the amount DoD would have paid had the merger not occurred. Each of the elements of compensation included in the proxy statement resulting from the merger are being reviewed by the Defense Contract Audit Agency to determine the reasonableness of the compensation paid and to ensure the long-term compensation plans are in accordance with the procurement regulations. The DoD and other Federal agencies pay the allowable portion of executive compensation based on their share of the contractor's business.

If tax money is used to finance the executive ''payout'' operation, please provide the name of each person receiving tax money and the amount each person is to receive.

Although the proxy statement does identify some individuals and amounts paid, it does not identify the amount that will be claimed on Government contracts. We will not know all the names of the people receiving the money or the final amount being claimed on Government contracts until the audit by the Defense Contract Audit Agency is complete. The audit is scheduled to be completed by June 30, 1995.

What is the legal basis for using tax money to make such payments?

The FAR provides for a fair share of contractor costs, including executive compensation, to be charged to Government contracts. The regulation prohibits paying costs such as ''golden parachutes.'' The audit by the Defense Contract Audit Agency will determine if the amounts claimed by the Lockheed Martin Corporation are allowable.

Will projected costs and savings be subjected to adequate audit verification?

The Public Law and procurement regulations require audit verification by the Defense Contract Audit Agency. We plan to monitor the audit.

Does the merger plan comply with Section 818 of Public Law 103–337 and Section 8117 of Public Law 103–335?

We will not know whether the plan complies with either law until the restructuring proposal is submitted and examined by the contracting officer and auditor.

Does the April 15, 1995 deadline specified in Section 8117 mean that the Martin/Lockheed merger is not covered by this provision?

The April 15, 1995 deadline applies to payments from funds appropriated in fiscal year 1995 for contracts awarded after April 15, 1995. Section 8117 will limit, to some extent, the DoD reimbursement to the Lockheed Martin Corporation after April 15, 1995. The audit by the Defense Contract Audit Agency will evaluate the compensation costs proposed to be claimed after April 15, 1995, to determine compliance with the public law.

Have anti-trust issues been adequately addressed?

Compliance with antitrust laws is the responsibility of the Department of Justice and the Federal Trade Commission. We are not aware of any problems in that area.

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, June 14, 1996.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: This is in further response to a letter of April 28, 1995, signed jointly by you and Senator Barbara Boxer that requested information regarding long-term incentive compensation payouts to Martin Marietta executives. These payouts have been claimed for government reimbursement by Lockheed Martin Corporation as a result of the merger of Lockheed and Martin Marietta Corporations.

Enclosed are aggregate totals of the long-term incentive compensation for four categories of Lockheed Martin executives that are allocable to Government contracts through indirect expense pools, excluding commercial and foreign military sales. It should be noted the long-term incentive compensation was earned over a period of years and paid in 1995 after the merger. The categories of former Martin Marietta executives include the top five executives, other top executives, all other executives and the outside Board of Directors.

The Lockheed Martin Corporation has agreed, on an exception basis, to a release of the aggregate totals without a company proprietary stamp. Lockheed Martin Corporation considers individual names and associated financial information to be confidential proprietary and management sensitive data and has not made an exception as to that information.

We agree that such information is proprietary and is exempt from release under the Freedom of Information Act, Sections 552(b)(4) and 552(b)(6), Title 5, United States Code. It has been designated ''For Official Use Only'' (FOUO), and can be released pursuant to a request from a chairman of a committee or subcommittee with jurisdiction over the subject matter.

We hope that the above information is helpful to you. If we may be of further assistance, please contact me or Mr. John R. Crane, Office of Congressional Liaison, at (703) 604–8324.

Sincerely,

ELEANOR HILL,
Inspector General.

Martin Marietta long-term incentive compensation allocable to Government contracts through indirect expense pools

[Excluding commercial and foreign military sales]

Top Executives (5)	[1] $3,552,909
Other Top Executives (14)	[1] 2,691,248
Outside Board of Directors (19) (1993 to 1995)	[1] 2,773,263
Outside Board of Directors (Prior to 1993)	[1] 555,297
All Other Executives (450+)	[1] 6,669,283
Total	[2] 16,272,000

[1] These amounts were calculated from information provided by the Defense Contract Audit Agency.

[2] This amount is advisory to the Defense Corporate Executive who is responsible for negotiating the final settlement with the Lockheed Martin Corporation.

Mr. GRASSLEY. Martin Marietta's top executives are getting paid $16,272,000 under the deal.

This isn't salary. It's a retirement package for the senior executives.

Some call it a ''golden parachute.''

By any definition, it's a very generous deal.

DOD pays the top five executives, including Mr. Augustine, $3,552,909.

Now, this isn't Mr. Augustine's salary, for example.

These are just retirement benefits.

He gets a lot more, but it comes out of another DOD pool of money.

How many pools of money does DOD have for corporate pay.

Mr. President, this tells me we need a cap.

I am told that when the idea of a cap was first debated over in the Pentagon, a DCAA bureaucrat made this suggestion:

Why not set the cap at $1 million?

Mr. President, the Pentagon's weak-kneed attitude on executive pays tells me that a cap is mandatory.

On March 5, 1996, the DOD inspector general, Ms. Eleanor Hill, came out in favor of a $250,000 cap.

I thank her for doing that.

Mr. President, I ask unanimous consent to place her letter of recommendation in the RECORD.

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

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, March 5, 1996.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Recently, the Department provided its views on S. 1102, ''To amend title 10, United States Code, to make reimbursement of defense contractors for costs of excessive amounts of compensation for contractor personnel unallowable under the Department of Defense contracts''. In response to a request from Senator GRASSLEY's office, we offer our views on the legislation for your consideration.

We support a permanent $250,000 cap on allowable individual compensation costs under DoD contracts. This is not a limitation on total compensation but on the costs charged to the Government. Furthermore, we would also support a limitation on all Government contractors. This additional limitation would prevent DoD contractors who also have contracts with other Government agencies from charging this compensation to non-DoD contracts.

I hope this information is helpful as the Congress continues consideration of this important issue. If we can be of further assistance, please do not hesitate to contact me or Mr. John R. Crane, Office of Congressional Liaison, at (703, 604–8324.

Sincerely,

ELEANOR HILL,
Inspector General.

Mr. GRASSLEY. Unfortunately, Senator BOXER and I think $250,000 cap is too high.

That's what the President of the United States makes in a year.

Only one person on the Federal payroll should make that much money.

Mr. President, the appropriators seem to agree with our thinking.

We can thank the appropriators for their pioneering work in this area.

In 1944, they established the first ''cap'' on the defense appropriations bill.

Under Section 8117 of Public Law 103–335, they placed a $250,000 salary ''cap'' on fiscal year 1995 contract payments.

Then, just last year, they lowered the cap to $200,000 on fiscal year 1996 contract payments.

That was in Section 8068 of Public Law 104–61—the fiscal year 1996 defense appropriations bill.

As I pointed out earlier in the debate, that's not a permanent cap.

It's a 1-year cap on fiscal year 1996 defense appropriations.

Mr. President, we need a permanent cap on all Government contracts.

We shouldn't take money out of the pockets of hard working American taxpayers to bank-roll the big executives in defense industry.

We need to get the taxpayers out of the loop.

Pay and bonuses for top defense executives should be determined in the marketplace.

Executive wages should be determined by successes and failures by profits and losses.

And not by a bunch of bureaucrats in the Pentagon.

A $200,000 cap is a good first step in the right direction.

I hope my colleagues will support this amendment.

Mr. President, throughout this debate, I have repeatedly stressed one point:

We need to get government bureaucrats out of the business of deciding how much to pay industry executives.

Mr. President, there is only one place where those kinds of decisions should be made in this country.

And that's in the marketplace.

Those decisions should be governed by profits and business successes.

There is a general consensus for getting the Government out of the loop.

Government bureaucrats are incapable of deciding what an executive should earn.

Mr. President, I have here in my hand an article taken from one of the defense trade journals.

This one is from Defense News, June 3–9, 1996, page 14.

Now, Defense News is a weekly publication with close ties to defense industry.

The article has this title: ''White House Prepares New Rule on Compensation for Executives.''

The report says the White House procurement czar is about to issue a new regulation on how much executive pay can be charged to defense contracts.

''Industry officials'' are quoted.

And industry officials are saying what I am saying.

They say that this decision should be made in the marketplace.

This is what the reports says, and I quote:

''Industry officials say the free market should determine how much they [defense executives] are paid, and how much the Government reimburses them [for salary].''

Mr. President, that is exactly what I am saying.

Mr. President, I ask unanimous consent to have printed in the RECORD, the article.

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

[From the Defense News, June 3–9, 1996]

WHITE HOUSE PREPARES NEW RULE ON COMPENSATION FOR EXECUTIVES

(By Jeff Erlich)

WASHINGTON.—White House officials will make a decision this month on what portion of defense executives' salaries the government will reimburse.

The issue of how much corporate executives are paid has taken on populist overtones as salaries continue to rise while workers are laid off, a senior government official said.

''Some contractors seem to have tunnel vision,'' the official said. ''There is a larger debate in society about executive compensation. This is not just about defense contracting.''

Industry officials, however, say the free market should determine how much they are paid, and how much the government reimburses them.

''If you find the right guy, the leverage of his thought process is way beyond the value you would attribute to him as one man,'' Vance Coffman, chief operating officer of Lockheed Martin Corp., Bethesda, Md., said in a May 29 interview.

Steve Kelman, White House director of federal procurement policy, is due to issue the pay rule this month. He said May 28 that he has not yet made a decision.

Kelman will weight options that include a cap on how much the Pentagon can reimburse executives for their salaries.

Congress has a $200,000 cap this year, pending the new policy. Or Kelman could eliminate any caps and let the DoD's cost-accounting principles govern levels of reimbursement.

He also will address other forms of pay, such as bonuses, deferred salary, stock options and other compensation, often earned during corporate restructuring.

These issues came under congressional scrutiny with the merger of Lockheed and Martin Marietta corporations. Lockheed Martin will get $16.5 million from the government in extra compensation resulting from the restructuring.

''During the past eight years, 2.2 million Americans have lost their defense-related jobs. At precisely the same time, the top CEOs among defense contractors have been taking home huge salaries and stock payouts paid in no small part by U.S. taxpayers,'' Reps. Peter DeFazio, D-Ore., Bernard Sanders, I-Vt., and Carolyn Maloney, D-N.Y., wrote May 9 to Defense Secretary William Perry.

Bert Concklin, president of the Professional Services Council, a Vienna, Va.-based consultants association, said the policy should address only high levels of compensation resulting from mergers, buyouts or other corporate restructuring, while leaving alone normal bonuses and salaries.

''It should focus on what has apparently gotten the attention of the critics,'' Concklin said May 28.

Mr. GRASSLEY. Grassley-Boxer doesn't get the Government out of the loop completely.

It would leave bureaucrats with authority to manipulate just a small piece of the compensation pie.

The bulk of executive compensation would be decided by industry in the marketplace where it belongs.

In time, I hope to see a complete end to this practice.

It would cease to be an allowable expense under defense contracts.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4075) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4076

(Purpose: To amend the reporting requirement under demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies)

Mr. NUNN. Mr. President, on behalf of Senator BOXER, I offer an amendment that would extend the reporting date on the demonstration project for an additional 2 years. The demonstration involves purchase of services from municipalities.

I believe this amendment has also been cleared by the Republican side of the aisle.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mrs. BOXER, proposes an amendment numbered 4076.

The amendment is as follows:

At the end of title VIII, insert the following new section:

SEC. . REPORTING REQUIREMENT UNDER DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

Section 816(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820) is amended by striking out ''1996'' and inserting in lieu thereof ''1998''.

Mr. KEMPTHORNE. Mr. President, this has been cleared on this side.

I urge its immediate adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4076) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4077

(Purpose: To authorize agreements with Indian tribes for services under the Defense Environmental Restoration Program)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator MCCAIN, I offer an amendment that modifies section 2701 of title X, United States Code, that specifically authorizes the Secretary of Defense to enter into agreements to obtain the reimbursable services of any Indian tribe to assist the Secretary in carrying out the Department of Defense environmental restoration activities. Section 2701 currently authorizes the Secretary to enter into such agreements with any other Federal agency or State or local government agency. The amendment would make it clear that an Indian tribe may be party to such an agreement.

I believe this amendment has been cleared by the other side.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for MCCAIN, proposes an amendment numbered 4077.

The amendment is as follows:

At the end of subtitle D of title III, add the following:

SEC. . AUTHORITY FOR AGREEMENTS WITH INDIAN TRIBES FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.

Section 2701(d) of title 10, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out '', or with any State or local government agency,'' and inserting in lieu thereof '', with any State or local government agency, or with any Indian tribe,''; and

(2) by adding at the end the following:

''(3) DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).''.

Mr. MCCAIN. Mr. President, I am offering an amendment to S. 1745, the National Defense Authorization Act for fiscal year 1997, that would modify section 2701 of title 10, United States Code, to specifically authorize the Secretary of Defense to enter into agreements to obtain the reimbursable services of any Indian tribe to assist the Secretary in carrying out Department of Defense environmental restoration activities. Section 2701 currently authorizes the Secretary to enter into such agreements ''* * * with any other Federal agency, or with any State or local government agency. * * *''

Participation in agreements under section 2701 became an issue when the Department of Defense informed the Suquamish Indian tribe that the Department did not have the legal authority to enter into such agreements with Indian tribes. The amendment would expressly authorize the Department to enter into agreements with Indian tribes for reimbursable services related to environmental restoration.

Mr. President, I urge that the Senate adopt this amendment.

Mr. KEMPTHORNE. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4077) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4078

(Purpose: To revise the description of a category of expenses for which humanitarian and civic assistance funds may be used)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 4078.

The amendment is as follows:

In section 1006, strike out the last three lines and insert in lieu thereof the following:

''(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting activities described in such subsection (e)(5), including any nonlethal, individual or small-team landmine cleaning equipment or supplies that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

''(C) The cost of any equipment, services, or supplies provided pursuant to (B) may not exceed $5 million each year.''.

Mr. NUNN. Mr. President, this amendment amends existing law to enable the Department of Defense in the course of providing education, training and technical assistance to foreign nations personnel on landmine clearance to also acquire equipment, services or supplies and to transfer nonlethal individual small team landmine clearing equipment or supplies to such foreign country. A ceiling of $5 million would be set for the cost of such services, equipment and supplies.

Mr. KEMPTHORNE. Mr. President, this has been cleared on this side, and I urge its immediate adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4078) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4079

(Purpose: To revise the eligibility requirements for grants and contracts under the University Research Initiative Support Program)

Mr. KEMPTHORNE. Mr. President, I send to the desk an amendment on behalf of myself which would clarify the eligibility criteria for the University Research Initiative Support Program.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE] proposes an amendment numbered 4079.

The amendment is as follows:

At the end of subtitle D of title II add the following:

SEC. 243. AMENDMENT TO UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Section 802(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note) is amended by striking out ''fiscal years before the fiscal year in which the institution submits a proposal'' and inserting in lieu thereof ''most recent fiscal years for which complete statistics are available when proposals are requested''.

Mr. KEMPTHORNE. Mr. President, I am proposing an amendment to the Defense Authorization bill in support of the University Research Initiative Support Program [URISP]. This amendment will greatly improve and make more efficient the process for calculating the eligibility of colleges and universities around the country to receive grants and contracts for research by clarifying that such institutions may not have received more than $2 million

in funding from the Department of Defense in the two most recent fiscal years for which complete statistics are available when proposals are requested.

The University Research Initiative Support Program [URISP] was initiated by the Senate Armed Services Committee in section 802 of the National Defense Authorization Act for fiscal year 1994. The purpose of the program was to provide support for individual universities which had not been participants in Department of Defense research programs. The URISP program is only open to universities that have received less than $2 million in DOD R&D funds in the two fiscal years preceding the submission of proposals for participation by the university. The program was intended to be a complement to the similar Defense Program to Stimulate Competitive Research [DEPSCoR] program in which university eligibility is determined solely by location in a designated DEPSCoR state and not by the amount of research funding an individual institution may have received in the past. Section 802 directs that all contracts and grants be awarded under the URISP program using merit-based, competitive procedures.

On February 13, 1996, the Department of Defense announced that it will award $30 million under the URISP program over the next five years. The funding is intended to allow for the building of infrastructure to allow the universities to compete for DOD research contracts. The average grant is $2 million, and the plan is to fund the first three years at $500,000 each and to provide $300,000 and $200,000 in the fourth and fifth year, respectively.

Unfortunately, release of full funding for the first installment has been reduced by the OSD comptroller to $140,000 because the eligibility determinations required under the law are delaying program implementation. Information for the two most recent fiscal years has not been available because of the time lag in compiling such recent data.

The amendment I propose would have the effect of allowing the program to go forward by authorizing the use of data from the two most recent fiscal years for which it is available at the time the university made its proposal. This change will allow the effective implementation of a program that originated in the Senate Armed Services Committee.

The Department of Defense has requested that this change be made and the House has included this provision in their bill as section 244. In the spirit of competition, passage of this amendment would allow universities which previously lacked the ability to vie for government research dollars to compete on a more equal footing thereby ensuring that healthy competition remains the standard bearer in the research and development community.

Mr. President, I believe this amendment has been cleared by the other side.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4079) was agreed.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4080

(Purpose: To strike section 1008, relating to the prohibition on the use of funds for Office of Naval Intelligence representation or related activities)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator LOTT, I offer an amendment to strike section 1008 of the bill relating to the Office of Naval Intelligence. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. LOTT, proposes an amendment numbered 4080.

The amendment is as follows:

Strike out section 1008, relating to the prohibition on the use of funds for Office of Naval Intelligence representation or related activities.

Mr. LOTT. Mr. President, this amendment strikes section 1008 of the bill as reported out of committee. I appreciate the support of the members of the committee as well as the full Senate for this amendment.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4080) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4081

(Purpose: To authorize the Secretary of the Army to convey certain real property located at Fort Sill, Oklahoma)

Mr. KEMPTHORNE. Mr. President, on behalf of Senators INHOFE and NICKLES, I offer an amendment which would transfer 400 acres located at Fort Sill, OK, to the Department of Veterans Affairs for use as a national cemetery. I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. NICKLES, for himself and Mr. INHOFE, proposes an amendment numbered 4081.

The amendment is as follows:

Insert the following in the appropriate place:

SEC. . TRANSFER OF JURISDICTION AND LAND CONVEYANCE, FORT SILL, OKLAHOMA.

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—

(1) TRANSFER AUTHORIZED.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property (including any improvements thereon) consisting of approximately 400 acres and comprising a portion of Fort Sill, Oklahoma.

(2) USE OF LAND.—The Secretary of Veterans Affairs shall use the real property transferred under paragraph (1) as a national cemetery under chapter 24 of title 38, United States Code.

(3) RETURN OF UNUSED LAND.—If the Secretary of Veterans Affairs determines that any portion of the real property transferred under paragraph (1) is not needed for use as a national cemetery, the Secretary of Veterans Affairs shall return such portion to the administrative jurisdiction of the Secretary of the Army.

(b) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred or conveyed under this section shall be determined by surveys that are satisfactory to the Secretary of the Army. The cost of such surveys shall be borne by the recipient of the real property.

Mr. NICKLES. Mr. President, I wish to thank Senators THURMOND and NUNN for their assistance in getting this provision included in the Defense authorization bill. I also want to thank the staff of the Senate Armed Services Committee for their patience and understanding in working with my staff on this issue.

This land transfer will put Oklahoma well on its way to getting a new national veterans cemetery. This process was started nearly ten years ago, but for one reason or another has been slow in moving forward. The transfer will conclude years of searching for a location by utilizing this land now a part of Ft. Sill.

Getting property upon which to locate a veterans cemetery has been a major struggle, and, obviously, this land transfer solves that problem. I am very pleased that this provision will be in the bill for the veterans of Oklahoma who wondered if this day would ever come.

Mr. INHOFE. Mr. President, I wish to thank Senators THURMOND and NUNN for agreeing to include this provision in the Defense authorization bill. I also want to thank the staff of the Senate Armed Services Committee for their patience and understanding in working with Senator NICKLES' and my staff on this issue.

This land transfer will allow Oklahoma to move forward in its attempt to establish a new national veterans' cemetery. This process has taken almost a decade to get to this point, but I believe we now have a satisfactory solution in using available land at Fort Sill, in Lawton, OK.

Finding property for this veterans' cemetery has been a major struggle, and, obviously, this land transfer will mean a great deal to many Oklahoman veterans. I am pleased to be a part of this solution, and I thank the other Senators who have helped to make this happen.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4081) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4082

(Purpose: To revise the provision relating to the environmental restoration accounts)

Mr. KEMPTHORNE. Mr. President, on behalf of Senator MCCAIN, I offer an amendment that would remove language that refers to the treatment of appropriations and focuses on purposes for which authorized funds may be obligated under the four environmental restoration accounts for the military departments.

The amendment also eliminates all references to transfer accounts. The deletion of the term ''transfer accounts'' ensures that the four environmental restoration accounts are treated as separate line items for authorization of appropriations not susceptible to transfer funds between the military departments.

I believe this amendment has been cleared by the other side.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. MCCAIN, proposes an amendment numbered 4082.

The amendment is as follows:

On page 81, strike out line 18 and all that follows through page 86, line 2, and insert in lieu thereof the following:

SEC. 341. ESTABLISHMENT OF SEPARATE ENVIRONMENTAL RESTORATION ACCOUNTS FOR EACH MILITARY DEPARTMENT.

(a) ESTABLISHMENT.—(1) Section 2703 of title 10, United States Code, is amended to read as follows:

''§ 2703. Environmental restoration accounts

''(a) ESTABLISHMENT OF ACCOUNTS.—There are hereby established in the Department of Defense the following accounts:

''(1) An account to be known as the 'Defense Environmental Restoration Account'.

''(2) An account to be known as the 'Army Environmental Restoration Account'.

''(3) An account to be known as the 'Navy Environmental Restoration Account'.

''(4) An account to be known as the 'Air Force Environmental Restoration Account'.

''(b) OBLIGATION OF AUTHORIZED AMOUNTS.—Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only in order to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law. Funds so authorized shall remain available until expended.

''(c) BUDGET REPORTS.—In proposing the budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amounts requested for environmental restoration programs of the Department of Defense and of each of the military departments under this chapter and under any other Act.

''(d) AMOUNTS RECOVERED.—The following amounts shall be credited to the appropriate environmental restoration account:

''(1) Amounts recovered under CERCLA for response actions.

''(2) Any other amounts recovered from a contractor, insurer, surety, or other person to reimburse the Department of Defense or a military department for any expenditure for environmental response activities.

''(e) PAYMENTS OF FINES AND PENALTIES.—None of the funds appropriated to the Defense Environmental Restoration Account for fiscal years 1995 through 1999, or to any environmental restoration account of a military department for fiscal years 1997 through 1999, may be used for the payment of a fine or penalty (including any supplemental environmental project carried out as part of such penalty) imposed against the Department of Defense or a military department unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the environmental restoration account concerned and the payment of the fine or penalty has been specifically authorized by law.''.

(2) The table of sections at the beginning of chapter 160 of title 10, United States Code, is amended by striking out the item relating to section 2703 and inserting in lieu thereof the following item:

''2703. Environmental restoration accounts.''.

(b) REFERENCES.—Any reference to the Defense Environmental Restoration Account in any Federal law, Executive Order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the appropriate environmental restoration account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(c) CONFORMING AMENDMENT.—Section 2705(g)(1) of title 10, United States Code, is amended by striking out ''the Defense Environmental Restoration Account'' and inserting in lieu thereof ''the environmental restoration account concerned''.

(d) TREATMENT OF UNOBLIGATED BALANCES.—Any unobligated balances that remain in the Defense Environmental Restoration Account under section 2703(a) of title 10, United States Code, as of the effective date specified in subsection (e) shall be transferred on such date to the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) October 1, 1996; or

(2) the date of the enactment of this Act.

Mr. NUNN. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4082) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, as it was noted in Senate Report No. 104–267 produced by the Committee on Armed Services, it was not possible to include CBO cost estimates when the report was created because the cost estimates were not available. I now have CBO's figures.

I ask unanimous consent that they be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 15, 1996.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1745, the National Defense Authorization Act for Fiscal Year 1997 as ordered reported by the Senate Committee on Armed Services on May 2, 1996.

The bill would affect direct spending, and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish, we would be pleased to provide further details on the estimate.

Sincerely,

JUNE E. O'NEILL,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1745.

2. Bill title: National Defense Authorization Act for Fiscal Year 1997.

3. Bill Status: As ordered reported by the Senate Committee on Armed Services on May 2, 1996.

4. Bill purpose: This bill would authorize appropriations for 1997 for the military functions of the Department of Defense (DoD) and the Department of Energy (DoE). This bill also would prescribe personnel strengths for each active duty and selected reserve component.

5. Estimated cost to the Federal Government: Table 1 summarizes the budgetary effects of the bill. It shows the effects of the bill on direct spending and asset sales and on authorizations of appropriations for 1997. Assuming appropriation of the amounts authorized, the bill would increase funding for discretionary programs in 1997 by $3.0 billion over the 1996 appropriated level, although outlays would decline by $0.1 billion.

6. Basis of estimate: The estimate assumes that the bill will be enacted by October 1, 1996, and that the amounts authorized will be appropriated for 1997. Outlays are estimated according to historical spending patterns.

Direct spending and asset sales

The bill contains several provisions that would affect direct spending or asset sales (see Table 2). The provisions involve the sale of material in the National Defense Stockpile, the sale of various naval vessels, civilian and military retirement benefits, annuities for military surviving spouses, the use of proceeds from certain property sales, and other matters with less significant costs.

Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressional scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

Stockpile Sales. The bill would require the Administration to sell certain materials in the National Defense Stockpile to raise receipts by $338 million during the five-year period ending on September 30, 2001, and $649 million during the seven-year period ending on September 30, 2003. Table 2 shows CBO's estimates of sales through 2002.

TABLE 1.—BUDGETARY IMPACT OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997 AS ORDERED REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
DIRECT SPENDING AND ASSET SALES							
Direct spending:.							
Estimated budget authority	0	12	20	75	78	82	89
Estimated outlays	0	−1	13	72	77	82	89
Assets Sales:[1]							
Estimate budget authority	0	−142	−59	−64	−70	−75	−145
Estimated outlays	0	−142	−59	−64	−70	−75	−145
SPENDING SUBECT TO APPROPRIATIONS ACTIONS							
Spending under current law:							
Budget authority[2]	265,023	0	0	0	0	0	0
Estimated outlays	264,311	91,156	36,485	17,138	7,362	3,275	913
Proposed changes:							
Estimated authorization level	0	268,069	0	0	0	0	0
Estimated outlays	0	173,007	55,280	21,615	9,373	3,938	2,084
Spending under the bill:							
Estimated authorizaton level[2]	265,023	268,069	0	0	0	0	0
Estimated outlays	264,311	264,163	91,765	38,753	16,735	7,213	2,997

[1] Under the 1996 budget resolution, proceeds from asset sales are counted in the budget totals for purposes of Congressinal scoring. Under the Balanced Budget Act, however, proceeds from asset sales are not counted in determining compliance with the discretionary spending limits or pay-as-you-go requirement.

[2] The 1996 figure is the amount appropriated for programs authorized by this bill.

Note.—Costs of the bill would fall under budget function 050, National Defense, except for certain other items as noted.

The receipts would come from selling aluminum, cobalt, columbium ferro, germanium metal, indium, palladium, platinum, rubber, and tantalum. Current law does not permit DoD to sell any of these materials except cobalt, but CBO expects that all cobalt now authorized for sale will be sold during 1996.

To determine if the receipt targets could be achieved, CBO reviewed both past sales and historical trends in prices for the different materials. Using both historical average prices and quantities that would probably not cause any significant disruption in world markets, CBO found the receipt levels to be achievable.

Transfer of Naval Vessels. The bill would authorize the Secretary of the Navy to sell eight naval vessels to certain foreign countries and otherwise dispose of two other vessels. The Navy estimates the sale would generate $72 million in offsetting receipts in 1997.

Civilian Retirement Annuities. Section 1121 would index the average pay used to calculate deferred retirement benefits for certain DoD civilian employees. CBO estimates that this proposal would reduce spending by $40 million in fiscal year 1997, $98 million in 1998, $57 million in 1999, $57 million in 2000, $56 million in 2001, and $54 million in 2002.

Section 1121 would apply, at the discretion of DoD, to employees at military bases sold to private contractors. To qualify for benefits under this proposal, the DoD employee must continue working in the same job after the base is sold to a private company. Further, the employee must be enrolled in the Civil Service Retirement and Disability System and not be eligible for retirement benefits. Based on the Base Realignment and Closure Commission reports and data from DoD, CBO assumes that about 1,200 people in 1997 and 2,000 in 1998 would take advantage of this proposal.

Under the bill, qualified workers could count their years of service under the private contractor toward meeting the age and service requirements for regular retirement. Further, the high-3 average federal salary used to calculate benefits would be indexed to federal pay raises during the time between the end of federal service and retirement. Based on data from DoD, CBO estimates that only about 5 percent of those affected would begin receiving benefits in the six-year projection period. Direct spending outlays are estimated to be less than $500,000 in fiscal year 1997, $2 million in 1998, $3 million in 1999, $3 million in 2000, $4 million in 2001, and $6 million in 2002. The bulk of the costs would begin to be realized about 15 years from enactment.

Over the six-year projection period, the increased costs of the annuities would be more than offset by forgone refunds of employee contributions. Based on rates of withdrawal from the Office of Personnel Management, CBO assumes that under current law about 60 percent of affected employees would have withdrawn their retirement contributions, when they lost their federal jobs to a private contractor. Since this proposal would greatly increase the value of the employee's retirement benefits, most of the affected workers would not withdraw their contributions and instead would remain eligible for retirement benefits. Given an average refund of about $34,000, the reduction in outlays from fewer refunds is estimated to be $20 million in fiscal year 1997 and about $40 million in 1998.

Section 1121 would also require that DOD amortize in 10 equal payments any increase in the unfunded liability of the Civil Service Retirement and Disability Fund that is attributable to the enhanced benefits of this proposal. DOD would pay an estimated $20 million a year for 10 years beginning in fiscal year 1997 and another $40 million a year for 10 years beginning in 1998. The receipt of these payments is not included in the cost estimate because they fund additional benefits that generally lie beyond the horizon of the estimate.

Annuities for Certain Military Surviving Spouses. Section 634 would provide annuities to the surviving spouses of two groups of former servicemembers. The first group would consist of military retirees who died before March 21, 1974. The second group would consist of reservists who died between September 21, 1972 and October 1, 1978, and who were entitled to retired pay at the time of their death except that they were under the age of 60. Based on information from DOD, CBO estimates that this provision would ultimately extend benefits to about 25,000 surviving spouses. We assume, however, that only half of those eligible spouses would learn of this provision and receive benefits in 1997, when costs are estimated to total about $12 million. In 2002, we assume all 25,000 will be receiving the benefits. CBO estimates that payments will eventually total about $57 million a year.

Use of Base Closure Proceeds. Section 2812 would allow DOD to use certain proceeds from the sale of base closure property for the construction of commissaries or facilities related to morale, recreation, or welfare activities. This provision would affect proceeds from the sale of any property that was acquired or constructed with commissary funds or nonappropriated funds and that is sold due to the base closure process. Under current law, these proceeds cannot be used unless appropriated by the Congress. By 2002, CBO estimates that spending under this section would total about $15 million annually.

Retirement of Certain Officers. Section 532 would allow no more than 25 retired officers in each military department to be recalled to active duty. Under current law, the Army and Navy have recalled about 100 retired officers to active duty. This provision would force the retirement of about 150 people and would result in increased retirements costs of about $5 million annually.

TABLE 2.—DIRECT SPENDING AND ASSET SALES IN S. 1745

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
DIRECT SPENDING						
Civilian Retirement	−20	−38	3	3	4	6
Surviving Spouses	12	38	52	54	56	57
Base Closure Proceeds	2	8	12	14	15	15
Retirement of Certain Officers	5	5	5	5	5	6
Bonuses Repayments	0	0	(1)	1	2	5
Other Direct Spending	(1)	(1)	(1)	(1)	(1)	(1)
Total Direct Spending	−1	13	72	77	82	89
ASSET SALES						
Stockpile Sales	−70	−59	−64	−70	−75	−145
Sale of Naval Vessels	−72	0	0	0	0	0

TABLE 2.—DIRECT SPENDING AND ASSET SALES IN S. 1745—Continued

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Total Asset Sales	−142	−59	−64	−70	−75	−145

[1] Less than $500,000.

Repayment of Separation Bonuses. Under current law, some servicemembers who leave the military and receive certain separation bonus payments must repay those amounts if they later receive veterans' disability compensation or military retirement. For these individuals retirement and compensation payments are withheld until the full amount of the bonus payment has been recouped. This provision would change the amount that must be repaid from 100 percent of the bonus payment to the net amount of the payment following federal income tax withholding, for separations from service occurring in 1997 or later. Thus, beneficiaries would begin receiving veterans compensation or retired pay sooner than under current law.

Additional veteran's compensation payments would begin in 1999. Near term costs would be small—less than $500,000 in 1999 and $15 million in 2002. Total costs for individual separating over the next six years would eventually amount to about $70 million, but this total amount would not be reached for 10 to 15 years.

No data are kept on the number of individuals who receive separation payments and subsequently rejoin the military and qualify for retired pay. Such individual would most likely join and retire from the Selected Reserves. Reserve retirees do not receive retired pay until they reach age 62—-more than 25 years after most would have received the initial separation payment. Any costs associated with this part of the provision would be small and would not appear for many years.

Miscellaneous Military Retirement Provisions. Four other provisions would change current law governing the military retired program including survivor benefits. None of these provisions would have significant costs because relatively few people would be affected or changes in benefit levels would be relatively small:

Section 515 would authorize reservists to receive disability retirement if they are injured during overnight stays associated with inactive-duty training.

Section 516 would allow certain members of the reserves to receive retirement-related credit if they participate in select educational programs and work in a specialty that is critically needed in wartime.

Section 531 would allow service members who are retired due to physical disabilities to receive retired pay based on the grade to which they would have been promoted had it not been for the onset of the physical disability.

Section 533 would authorize disability coverage for certain officers who are injured while attending educational programs on leave without pay.

Other provisions. The bill would give the President the authority to award the Medal of Honor to seven individuals. This award is accompanied by monthly payment of $400, but the annual cost of all seven recipients would amount to less than $500,000 per year.

The bill would allow the Secretary of Transportation to stop trying to collect amounts that Coast Guard personnel owed the government before they died on active duty. The forgone receipts would be considered direct spending. Both the number of people and the amount of collections would be small, however, and the cost of this provision would be less than $500,000 annually.

The bill also contains a provision that would allow the government to recover the costs of compensation for certain military servicemembers who are unable to perform their military duties. If a third party is found liable for the circumstances under which the servicemember becomes incapacitated, the government would be able to collect and spend the money. Collections would increase but expenditures would rise by the same amount, so there would be no net budgetary impact.

Authorizations of appropriations

The bill authorizes specific appropriations of $198 billion for 1997 for operation and maintenance, procurement, research, development, test and evaluation, nuclear weapons programs, and other DoD program. These authorizations fall under National Defense, budget function 050.

In addition, the bill would authorize specific appropriations for other budget functions: $150 million for the Naval Petroleum Reserve (function 270), $57 million for the Armed Forces Retirement Home (function 700).

The bill also contains both specific and implicit authorizations of appropriations for other military programs, primarily for military personnel costs, some of which extend beyond 1997. Table 3 contains estimates for the amounts authorized and the related outlays. The following sections describe the estimated authorizations shown in Table 3 and provide information about CBO's cost estimates.

Endstrength. The bill would authorize active and reserve component endstrengths for 1997 at a cost of $68 billion. Endstrengths specifically stated in the bill for active-duty personnel would total about 1,457,500—about 500 more than in the Administration's request but about 24,200 below the level estimated for 1996. DoD reserve endstrengths would be authorized at about 901,900—about 900 more than in the Administration's request but about 28,900 less than the estimated 1996 level.

Also, the bill would authorize an endstrength of 8,000 in 1997 for the Coast Guard Reserve, which is the same as the 1996 level and the Administration's request; this authorization would cost about $66 million and would fall under budget function 400, Transportation.

Compensation and Benefits. The bill contains several provisions that would affect military compensation and benefits.

Pay Raises and Quarters Allowances. The bill would authorize a 3.0 percent increase in the rates of basic pay and the basic allowance for subsistence for military personnel, at a cost of $1.2 billion. The same section would also call for the basic allowance for quarters (BAQ) to increase by 4.0 percent. Under current law BAQ increases according to the military pay raise; consequently, the 3.0 percent pay raise authorized in this bill would raise BAQ by $109 million. The provision that raises BAQ by the additional 1.0 percent would cost another $36 million. Thus, BAQ would increase by $145 million compared to 1996 rates.

Expiring Authorities. Several sections would extend for one year certain payment authorities that are scheduled to expire at the end of 1997. In some cases, renewing authorities for one year results in costs over several years because payments are made in installments. Payment authorities for enlistment and reenlistment bonuses for active duty personnel would cost $148 million in 1998. The cost of extensions of special payments for aviators and nuclear-qualified personnel would total $49 million in 1998. Extension of various bonus programs for Selected Reserve personnel would increase costs by $33 million in 1998. Finally, authorities to make special payments to nurse officer candidates, registered nurses, and nurse anesthetists would increase authorizations by $12 million in 1998.

Housing Allowance During Duty at Sea. The bill would authorize payment of housing allowances to certain personnel in pay grade E–5 who are assigned to shipboard sea duty. This change would provide about 7,000 personnel with housing allowances averaging $6,000 annually, for a total yearly cost of about $40 million.

Grade Structure. The bill would authorize the number of active duty officers who can serve in certain pay grades in each of the military services. This change would not increase overall endstrength, but it would result in increased promotions. The provision has a cost, about $35 million annually, because personnel serving in higher grades are paid more. Because the provision does not take affect until September 1, 1997, the cost is only $3 million in 1997.

Special Pay for Dentists. In 1996, DoD will pay about $40 million in incentive payments to dentists serving as officers in the military services. This bill would increase these incentives at a cost of $8 million a year.

Moving costs. The bill would allow DoD to pay storage costs for motor vehicles when members cannot take the vehicle along on a move and to reimburse members for certain expenses when they pick up a vehicle at a port following government shipment. Together, these two provisions would cost $4 million in 1997.

Family separation allowance. Current law authorizes payment of a family separation allowance (FSA) to servicemembers whose military duties prevent them from being able to live with their families. However, no allowance is paid when both spouses are servicemembers and there are not other dependents. This provision would pay FSA to military couples who are otherwise eligible for payments at a cost of $2 million annually.

Adoption expenses. Under current law, DOD reimburses members of the military services for expenses incurred when they adopt children through state, local, or non-profit adoption agencies. The bill would extend this reimbursement to adoptions arranged privately under court supervision. Based on national adoption statistics, CBO estimates that this change would increase the number of adoptions eligible for reimbursement by about 50 percent, at an annual cost of $1 million.

Military Personnel Authorization. The bill explicitly authorizes appropriations for military personnel of $69,878 million in 1997. Because the estimated cost of other sections of the bill exceed this amount, this section has the effect of reducing costs by $36 million.

Military Health Care Programs. The bill contains two provisions that affect military health care and that have significant budgetary impacts.

Dental Insurance. The bill would require the Secretary of Defense to establish a dental insurance program for military retirees

and their dependents. DOD could bear part of the cost of the premium payments. Assuming premium sharing at the same level as in similar programs currently available to active duty dependents and members of the Selected Reserve, this provision would cost about $300 million annually.

Composite Health Care System (CHCS). The bill would direct the Secretary of Defense to make certain changes to the composite Health Care System (CHCS), an automated medical information system used by DOD. These changes would standardize CHCS so that the information systems of various military treatment facilities and private contractors could exchange data about health care beneficiaries. No information is available from DOD about the potential costs of the changes, and CBO is unable to estimate the cost of this provision.

Civilian Retirement Annuities. Section 1121, which would index the average pay used to calculate deferred retirement benefits for certain DOD civilian employees, also results in costs that would be funded by appropriations. The 10-year amortization payments made by the DOD to the civilian retirement fund would total an estimated $10 million in 1997 and $60 million a year for each of the following years in the projection period. These costs are offset by savings of about $30 million in fiscal year 1997 and $50 million in 1998 attributable to the provision that precludes severance payment to any individual taking advantage of benefits under this section.

Public Health Service. The bill would authorize payments to Public Health Service officers of certain special pay and allowances currently received by DoD military personnel. Payments would be extended to optometrists, non-physician health care providers, and foreign language specialists at a cost of $4 million annually. These costs would fall under various budget functions.

TABLE 3.—AUTHORIZATIONS OF APPROPRIATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997 AS ORDERED REPORTED BY THE SENATE COMMITTEE ON ARMED SERVICES

[By fiscal years, in millions of dollars]

Category	1997	1998	1999	2000	2001	2002
Stated authorizations	198,120	0	0	0	0	0
Estimated outlays	106,579	51,760	21,615	9,373	3,938	2,084
Endstrengths:						
Function 050:						
Estimated authorization level	68,479	0	0	0	0	0
Estimated outlays	65,036	3,443	0	0	0	0
Function 400:						
Estimated authorization level	66	0	0	0	0	0
Estimated outlays	59	7	0	0	0	0
Compensation and Benefits (DoD):						
Military Pay Raise:						
Estimated authorization level	1,378	1,824	1,798	1,780	1,779	1,776
Estimated outlays	1,309	1,802	1,799	1,781	1,779	1,776
Expiring Authorities—Active Duty:						
Estimated authorization level	0	148	51	35	33	16
Estimated outlays	0	141	56	36	33	17
Expiring Authorities—Aviation and Nuclear Officers:						
Estimated authorization level	0	49	24	24	17	15
Estimated outlays	0	47	25	24	17	15
Expiring Authorities—Reserves:						
Estimated authorization level	0	33	27	18	13	9
Estimated outlays	0	31	27	18	13	9
Expiring Authorities—Nurses:						
Estimated authorization level	0	12	0	0	0	0
Estimated outlays	0	11	1	0	0	0
Duty at Sea:						
Estimated authorization level	40	40	41	41	41	41
Estimated outlays	38	40	41	41	41	41
Grade Relief;						
Estimated authorization level	3	33	34	35	36	37
Estimated outlays	3	31	34	35	36	37
Dental Special Pay:						
Estimated authorization level	8	8	8	8	8	8
Estimated outlays	8	8	8	8	8	8
Moving Costs:						
Estimated authorization level	4	5	5	5	5	5
Estimated outlays	4	5	5	5	5	5
Family Separation Allowances:						
Estimated authorization level	2	2	2	2	2	2
Estimated outlays	2	2	2	2	2	2
Adoption Expenses:						
Estimated authorization level	1	1	1	1	1	1
Estimated outlays	1	1	1	1	1	1
Cap on Military Personnel Appropriations:						
Estimated authorization level	−36	0	0	0	0	0
Estimated outlays	−35	−2	0	0	0	0
Health Care Provisions:						
Retiree Dental Insurance:						
Estimated authorization	(1)	283	296	309	322	337
Estimated outlays	(1)	212	293	306	319	333
Composite Health Care System (CHCS):						
Estimated authorization level	(1)	(2)	(2)	(2)	(2)	(2)
Estimated outlays	(1)	(2)	(2)	(2)	(2)	(2)
Civilian Retirement Annuities:						
Estimated authorization level	(1)	10	60	60	60	60
Estimated outlays	(1)	10	60	60	60	60
Public Health Service:						
Estimated authorization level	4	4	4	4	4	4
Estimated outlays	4	4	4	4	4	4
Total Authorizations of Appropriations:						
Estimated authorization level	268,069	2,452	2,351	2,322	2,321	2,311
Estimated outlays from authorizations for 1997	173,007	55,280	21,615	9,373	3,938	2,084
Estimated outlays from authorizations for 1998–2001	0	2,273	2,356	2,321	2,318	2,308

[1] The 1997 impacts of these provisions are included in the amounts specifically authorized to be appropriated in the bill.
[2] CBO is unable to estimate the costs of this provision.

Panama Canal Commission. Title XXXV would authorize the Panama Canal Commission to spend any sums available to it from operating revenues or Treasury borrowing for operation, maintenance, and improvement of the canal in fiscal year 1997. This spending is considered discretionary, because the appropriation bill customarily establishes an obligation ceiling for this account. CBO estimates that Panama Canal Commission collections and outlays will be about $624 million in 1997.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because this bill would affect direct spending, pay-as-you-go procedures would apply. These effects are summarized in the following table.

[By fiscal years, in millions of dollars]

	1996	1997	1998
Change in outlays	0	−1	13
Change in receipts	(1)	(1)	(1)

[1] Not applicable.

8. Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in Public Law 104–4 and would impose no significant costs on State, local, or tribal governments. A number of the bill's provisions—such as those pertaining to cultural resource management, land transfers, and teacher and firefighter placement programs—would affect State, or local governments; however, none would create new enforceable duties or result in significant budgetary impacts on these entitles.

9. Estimated impact on the private sector: This bill would impose no new Federal private sector mandates, as defined in Public Law 104–4.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Kent Christensen, Victoria Fraider, Raymond Hall, and Amy Plapp prepared the estimates affecting the Department of Defense; they can be reached at 226–2840. Kathy Gramp (226–2860) prepared the estimate for the Naval Petroleum Reserve. Deborah Reis (226–2860) prepared the estimate for the Panama Canal Commission. Wayne Boyington (226–2820) prepared the estimates for the costs of changes to civilian retirement programs.

State and local government impact: Leo Lex and Karen McVey (226–2885).

Private sector impact: Neil Singer (226–2900).

12. Estimate approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. NUNN. Mr. President, for those who may be listening, I believe there had originally been a vote at 9:15 that the leader had announced and now that the amendment, which was the SIMPSON amendment, has been disposed of and agreed to with the second-degree amendment that was accepted, so as far as I know—and the Senator from Idaho may want to add to this—there will be no vote on this amendment at 9:15 tomorrow morning.

The PRESIDING OFFICER. The Senator is correct; that vote was vitiated.

Mr. KEMPTHORNE. Mr. President, we are certainly in agreement that the vote which was ordered has been vitiated, or has been dealt with. We have not yet received final word from the majority leader as to whether or not he wishes to still have an early vote. We will know that very shortly.

At this point 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. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

AFRICAN-AMERICAN MEDAL OF HONOR NOMINEES

Mr. KEMPTHORNE. Mr. President, I rise today to pay tribute to seven unsung heroes of World War II. Although a half-century in the making, it is never too late to honor the bravery and heroism of our men and women in uniform. I view the nomination of seven African-American World War II heroes for the Medal of Honor with much admiration and pride. This is an honor that should have been bestowed many decades ago. The award acknowledges a job well done and is absolutely well deserved.

A 15-month study conducted by a team of military historians reviewed the nation's archives and interviewed veterans to find out why no black service member received the Medal of Honor during World War II. Nine black soldiers were awarded the second-highest honor—the Distinguished Service Cross. I was surprised, however, to learn that the study found no evidence that any African-American soldier in World War II was ever nominated for the Medal of Honor, though commanders, comrades and archival records indicate that at least four of the seven nominees had been recommended. This same report found evidence that the segregation of units by race often complicated training, exacerbated relations between officers and enlisted men and their units, and undermined the morale of these units in both subtle and obvious ways.

The Senate Armed Services Committee and the House Committee on National Security approved a provision in the Defense Authorization bill that would authorize the Secretary of the Army to award the Medal of Honor to African-American former service members who have been found by the Secretary of the Army to have distinguished themselves by gallantry above and beyond the call of duty while serving in the U.S. Army during WWII.

It is truly unfortunate that only one of the seven nominees—Vernon J. Baker—is still living. On April 5, 1945, then First Lieutenant Baker led a platoon over ''Hill X'' in Italy. Along the way, he and his men destroyed six machine gun nests, two observer posts and four dugouts while the Germans rained bullets down on them. Out of 25 men, 7 Americans survived while 26 Germans were killed in the action. ''Hill X'' had to be taken in order to capture a castle that guarded the town of Montignoso along Highway 1. The route was key to the Allies push north and its capture helped to hastened the end of WWII. First Lieutenant Baker received the Distinguished Service Cross—our Nation's second highest award—for his actions. And now at long last he will receive the appropriate recognition—the Medal of Honor the highest honor that we can bestow.

Mr. Baker, although raised in Wyoming, moved to St. Maries, ID, in 1987 because he enjoys the State's hunting and great outdoor opportunities. I am proud of and thankful for the many sacrifices that our men and women in uniform have made in the past and continue to make around the world. We are certainly proud that Mr. Baker now resides in the State of Idaho, and that he and the other nominees will now rightfully receive the Congressional Medal of Honor.

HONORING THE DASCHLES CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

Mr. REID. Mr. President, it is my distinct pleasure to rise today to honor Sebastian and Elizabeth Daschle, who celebrated their 50th wedding anniversary on January 16, 1996. Their lives and strong commitment to one another serve as an example to the entire Nation.

Betty Meiers and Sebastian ''Dash'' Daschle were married on a mild winter day in Roscoe SD. Two days later, they were hit by the worst blizzard of the year. Together, the Daschles weathered the storm and have continued to stand beside one another through 50 years of surprises and joys.

The Daschles devotion to one another began early, with Betty waiting for her sweetheart to return home from World War II so they could be married. Since fabric was scarce at the time, Betty's wedding dress and the flower girl's dress were made out of a parachute brought home from the war. While the fabric was unconventional, it was plentiful and provided enough material for Betty's dress to have a long, elegant train. Betty and Dash took their vows on the day of Betty's parents 25th anniversary and, for 30 years, the two couples jointly celebrated their happiness. Clearly, commitment and lasting love run in the family.

Following the wedding, the young couple moved to Aberdeen, SD, to make their home. After an unsuccessful search for a place to live, they had to install plumbing on the top floor of a house to create a makeshift apartment. Betty's father and brother built the Daschles' first house in 1948. In 1952, they built a bigger home on the same lot and have happily lived there ever since.

Through the years, Dash worked as a bookkeeper for Nelson Auto Electric, and eventually worked his way to become a part-owner of the business. The Daschles are proud parents of four boys—including my friend and colleague, the distinguished minority leader Senator TOM DASCHLE. The Daschles now delight each day in the joy of their grandchildren.

For the Daschles, a promise made was a promise kept. Their dedication to their vows and commitment to strong family ties serve as a model for families across America.

I congratulate the Daschles on this achievement, and wish them continued happiness in their lives together.

SALUTE TO THE PERFORMING ARTS

Mr. GRASSLEY. Mr. President, when I think of Iowa, I envision lush, rolling hills; wide, blue skies; and rich, black soil. Located in the heartland of America, Iowa's bounteous fields and streams feed the world. I'm sure most people across the country and throughout the world associate my State with its exceptional agricultural products and productive farmland.

But today, I am going to share with America a different chapter of the Iowa story. Perhaps one that many already have read about or seen on the Big Screen—and that is, Iowa's contributions to film making and the performing arts. A handful of our Iowa-born friends have risen to celebrity status on TV, on the silver screen, and on stage.

To name a few—singer Andy Williams was born in Wall Lake; the Everly Brothers, Don and Phil lived in Shenandoah; Cloris Leachman, who played Phyllis on ''The Mary Tyler Moore Show,'' hails from Des Moines, as did Harriett Nelson of the television series, ''The Adventures of Ozzie and Harriett.'' Marion Michael Morrison, better known as John Wayne, was born in Winterset. The famous musician/composer, Glenn Miller came from Clarinda. And who can ever forget the memorable sounds of the ''Music Man,'' Meridith Wilson is from Mason City. And, last but not least, Mr. President, internationally-acclaimed opera singer, Simon Estes, was born in Centerville, IA.

In addition to the talents of Iowa's hometown celebrities, my State has opened its doors to reveal our scenic countryside to Hollywood film makers. Box office hits filmed in Iowa include, ''Field of Dreams,'' ''The Bridges of Madison County,'' and ''Twister.'' The movie ''Bridges'' was adapted from the novel written by my fellow Iowan, Robert Waller. If asked, Mr. President, I would have to concur with a popular scene from the movie ''Field of Dreams,'' filmed in eastern Iowa near Dyersville. That scene included the lines—''Is this Heaven? No, it's Iowa.''

Mr. President, the list of Iowa-born celebrities includes a hometown girl who never forgot where she came from. The oldest of five children, Donna Belle Mullenger, attended a one room school house and helped with the family chores on a western Iowa farm near Denison. Growing up on a farm, Donna cherished the rare Saturday trips to town, when she would meet friends at the Candy Kitchen and catch a movie at the Ritz Theater.

This girl-next-door later became a household name and Hollywood star. Donna Reed starred in more than 40 films, including such classics as ''It's a Wonderful Life,'' ''Portrait of Dorian Gray,'' and her Oscar-winning performance in ''From Here to Eternity.'' And for 8 years, Donna Reed entertained families in their living rooms across America. ''The Donna Reed Show'' ran from 1958 to 1965.

As I stated earlier in one of my speeches describing the Iowa Spirit, the people of Iowa strive to excel in any and all endeavors, whether it be education, entertainment or enterprise. And the community of Denison, the county seat of Crawford County, is no exception. In memory of the Hollywood actress who was known to say, ''No matter what I do, I am still a farm girl from Denison,'' the community celebrated a 1-day festival in her honor after her death in 1986. At that time, her Oscar was presented to the city of Denison. One year later, Donna Reed's hometown community, friends and family members formed The Donna Reed Foundation for the Performing Arts to recognize youth and promote education.

The Foundation celebrates its 10th annual Donna Reed Festival this week, June 15–23. Building on its charter to provide affordable and high quality education to those who share a love for the arts, the Foundation offers performing arts workshops, and awards an annual college scholarship to applicants interested in studying acting, music, and dance. The first scholarship was awarded in 1987 for $500. Within 8 years, the award had grown to a $10,000 national scholarship. During this week's festival, performing arts instructors and professionals from New York, California, and the Midwest will conduct about 45 professional workshops. One of the highlights at the festival this year includes a tribute to the 50th anniversary of ''It's A Wonderful Life,'' featuring a reunion of cast and crew.

Mr. President, I proudly salute members of the Denison community and their vision for promoting the arts. Borne of hard work, countless volunteer hours, and unparalleled community spirit, The Donna Reed Foundation has achieved a center for cultural and performing arts in America's heartland.

Mr. President, life in Iowa truly is a wonderful life. And I'm sure the citizens of Denison would be the first to agree.

SALUTE TO KBBG–FM RADIO

Mr. GRASSLEY. Mr. President, I rise today to salute an enterprise undertaken almost two decades ago by two community-oriented entrepreneurs in northeast Iowa. Declaring that radio for the Black community was an idea whose time had come, Jimmie Porter founded KBBG–FM radio in 1977 with his partner, Warren Nash, Jr., in Waterloo, IA. Incorporated as Afro-American Community Broadcasting, Inc., KBBG's charter pledged to fulfill the needs, interests and wishes of ethnic minority people in northeast Iowa.

KBBG has come a long way since its first equipment testing of 10 watts on July 26, 1978. On its first full day of broadcasting that August, KBBG reached a 4 to 5 mile radius. Today, the radio station boasts a 60-mile radius, 10,000 watts, and 11 employees.

The largest African American owned and operated noncommercial educational radio station in my State of Iowa, KBBG Radio has provided almost $1.8 million of public service announcements for nonprofit organizations in the last 8 years.

Mr. President, I proudly commend KBBG Radio, its owners and its employees for providing a valuable service to the Waterloo and Cedar Falls metro area and to northeast Iowa.

A model of self-development and community outreach, KBBG continues to build on its well-served motto, communicate to educate. Mr. President, I thank and congratulate KBBG for 18 years of service and extend my wishes for continued success in the future.

DR. BEATRICE BRAUDE AND JUSTICE DELAYED BUT NOT ULTIMATELY DENIED

Mr. MOYNIHAN. Mr. President, this past Monday, the Washington Post reported that Justice Department attorneys have reached a settlement with lawyers representing the estate of Dr. Beatrice Braude concerning monetary damages equitably due for the wrongful dismissal of Dr. Braude from her Federal job in 1953 and subsequent blacklisting. The estate will receive $200,000 in damages. Family members have announced that the funds—which Congress must now appropriate—will be donated to Hunter College, the institution from which Dr. Braude received her bachelor's degree.

This settlement stems from the enormously gratifying decision of U.S. Court of Federal Claims Judge Roger B. Andewelt on March 7, following a hearing last November, that the United States Information Agency (USIA) had wrongfully dismissed Dr. Braude and intentionally concealed the reason for her termination. He concluded that such actions constituted an equitable claim for which compensation is due.

Dr. Braude's suit was made possible through legislation then-Senator Javits and I originally introduced in 1979 and which Senator D'AMATO and I continued to press. When finally enacted, it lifted the statute of limitations, enabling the Court to hear Dr. Braude's case and hand down its decision. I know Senator D'AMATO shares my gratification with the settlement announcement.

With Judge Roger B. Andewelt's decision and this negotiated settlement, we have finally seen a measure of justice which brings back memories of an old and awful time. Dr. Braude, a linguist fluent in several languages, was dismissed from her position at the USIA in 1953 as a result of accusations of disloyalty to the United States. The accusations were old; 2 years earlier, the State Department's Loyalty Security Board had investigated and unanimously voted to dismiss them. The Board sent a letter to Dr. Braude stating ''there is no reasonable doubt as to your loyalty to the United States Government or as to your security risk to the Department of State.''

Dr. Braude was terminated 1 day after being praised for her work and informed that she probably would be promoted. USIA officials told that her that the termination was due to budgetary constraints. Congress had funded the USIA at a level 27 percent below the President's request. The Supplemental Appropriation Act of 1954 (Public Law 83–207) authorized a reduction in force commensurate to the budget cut. Fair enough. As Dr. Braude remarked years later, ''I never felt that I had a lien on a government job.'' But what Dr. Braude did not know is that she was selected for termination because of the old—and answered—charges against her. And because she did not know the real reason for her

dismissal, she was denied certain procedural rights (the right to request a hearing, for instance).

The true reason for her dismissal was kept hidden from her. When she was unable, over the next several years, to secure employment anywhere else within the Federal Government—even in a typing pool despite a perfect score on the typing test—she became convinced that she had been blacklisted. She spent the next 30 years fighting to regain employment and restore her reputation. Though she succeeded in 1982 (at the age of 69) in securing a position in the CIA as a language instructor, she still had not been able to clear her name by the time of her death in 1988. The irony of the charges against Dr. Braude is that she was an anti-communist, having witnessed first-hand communist-sponsored terrorism in Europe while she was an assistant cultural affairs officer in Paris and, for a brief period, an exchange officer in Bonn during the late 1940's and early 1950's.

Mr. President, I would like to review the charges against Dr. Braude because they are illustrative of that dark era and instructive to us even today. There were a total of four. First, she was briefly a member of the Washington Book Shop on Farragut Square that the Attorney General later labeled subversive. Second, she had been in contact with Mary Jane Keeney, a Communist Party activist employed at the United Nations. Third, she had been a member of the State Department unit of the Communist-dominated Federal Workers' Union. Fourth, she was an acquaintance of Judith Coplon.

With regard to the first charge, Dr. Braude had indeed joined the Book Shop shortly after her arrival in Washington in 1943. She was eager to meet congenial new people and a friend recommended the Book Shop, which hosted music recitals in the evenings. I must express some sensitivity here: my F.B.I. records report that I was observed several times at a ''leftist musical review'' in suburban Hampstead while I was attending the London School of Economics on a Fulbright Fellowship.

Dr. Braude was aware of the undercurrent of sympathy with the Russian cause at the Book Shop, but her membership paralleled a time of close U.S.-Soviet collaboration. She drifted away from the Book Shop in 1944 because of her distaste for the internal politics of other active members. Her membership at the Book Shop was only discovered when her name appeared on a list of delinquent dues. It appears that her most sinister crime while a member of the book shop was her failure to return a book on time.

Dr. Braude met Mary Jane Keeney on behalf of a third woman who actively aided Nazi victims after the war and was anxious to send clothing to another woman in occupied Germany. Dr. Braude knew nothing of Keeney's political orientation and characterized the meeting as a transitory experience.

With regard to the third charge, Dr. Braude, in response to an interrogatory from the State Department's Loyalty Security Board, argued that she belonged to an anti-Communist faction of the State Department unit of the Federal Workers' Union.

Remember that the Loyalty Security Board investigated these charges and exonerated her.

The fourth charge, which Dr. Braude certainly did not—or could not—deny, was her friendship with Judith Coplon. Braude met Coplon in the summer of 1945 when both women attended a class Herbert Marcuse taught at American University. They saw each other infrequently thereafter. In May 1948, Coplon wrote to Braude, then stationed in Paris and living in a hotel on the Left Bank, to announce that she would be visiting shortly and needed a place to stay. Dr. Braude arranged for Coplon to stay at the hotel. Coplon stayed for 6 weeks, during which time Dr. Braude found her behavior very trying. The two parted on unfriendly terms. The friendship they had prior to parting was purely social.

Mr. President, Judith Coplon was a spy. She worked in the Justice Department's Foreign Agents Registration Division, an office integral to the FBI's counterintelligence efforts. She was arrested early in 1949 while handing over notes on counterintelligence operations to Soviet citizen Valentine Gubitchev, a United Nations employee. Coplon was tried and convicted—there was no doubt of her guilt—but the conviction was overturned on a technicality. Gubitchev was also convicted but was allowed to return to the U.S.S.R. because of his quasi-diplomatic status.

I bring all this up because, as I mentioned earlier, it is instructive. The world is a dangerous place. On July 11, 1995—6 days before the 50th anniversary of the first successful detonation of an atomic bomb—the National Security Agency released 49 of some 2,200 coded messages sent by the KGB and decrypted between 1943 and 1980. The decoded messages have been kept classified until now. They are known as the VENONA intercepts.

The existence of a Soviet spy ring and the active involvement of American communists—fellow countrymen was the KGB code word for them—has long been established. Of late, details have been flooding in from Moscow. But this is the first American archive to be opened.

At the onset of the Cold War, in Edward Shils' memorable phrase, the American visage began to cloud over. Some saw conspiracy everywhere. Recall, that in 1951, Senator Joseph McCarthy published America's ''Retreat from Victory: The Story of George Catlett Marshall.'' Some denied any such possibility and accused the accusers. Loyalty oaths and background checks proliferated, and all information became Top Secret. A culture of secrecy took hold within the American government, whilst a hugely divisive debate raged in Congress and the press.

We got through it. But the world remains a dangerous place, and it is just possible that we might learn something from the VENONA files. Had they been published in 1950, we might have been spared the soft-on-communism charge that distorted our politics for four decades. We might have been spared the anti-anti-communist stance that was no less unhelpful.

The fact is, there were spies in this country and they did awful things—Coplon among them. But there were innocent people, too, like Dr. Braude, who were caught in a hall of mirrors.

My involvement in Dr. Braude's case dates back to early 1979, when Dr. Braude came to me and my colleague at the time, Senator Javits, and asked us to introduce private relief legislation on her behalf. In 1974, after filing a Freedom of Information Act request and finally learning the true reason for her dismissal, she filed suit in the Court of Claims to clear her name and seek reinstatement and monetary damages for the time she was prevented from working for the Federal Government. The Court, however, dismissed her case on the grounds that the statute of limitations had expired. On March 5, 1979, Senator Javits and I together introduced a bill, S. 546, to waive the statute of limitations on Dr. Braude's case against the U.S. Government and to allow the Court of Claims to render judgment on her claim. The bill passed the Senate on January 30, 1980. Unfortunately, the House failed to take action on the bill before the 96th Congress adjourned.

In 1988, and again in 1990, 1991, and 1993, Senator D'AMATO and I re-introduced similar legislation on Dr. Braude's behalf. Our attempts met with repeated failure. Until at last, on September 21, 1993, we secured passage of Senate Resolution 102, which referred S. 840, the bill we introduced for the relief of the estate of Dr. Braude, to the Court of Claims for consideration as a congressional reference action. The measure compelled the Court to determine the facts underlying Dr. Braude's claim and to report back to Congress on its findings.

The Court held a hearing on the case last November and Judge Andewelt issued his verdict in March. Forty-three years after her dismissal from the USIA and 8 years after her death, the Court found in favor of the estate of Dr. Braude.

Senator D'AMATO and I wish to express our profound admiration for Judge Andewelt's decision in which he absolved Dr. Beatrice Braude of the surreptitious charges of disloyalty with which she was never actually confronted. The Court declared that Dr. Braude ''cared about others deeply and was loyal to her friends, family and country.''

We are equally grateful to Christopher N. Sipes and William Livingston, Jr. of Covington & Burling, two of

the many lawyers who have handled Dr. Braude's case on a pro bono basis over the years. Mr. Sipes quite properly remarked that the decision represents an important page in the annals of U.S. history: ''The Court of the United States has said it recognizes that this conduct is out of bounds. It tells the government it must acknowledge its wrongs and pay for them.''

Anthony Lewis wrote about Dr. Braude's case on March 15 in his regular New York Times column, Abroad at Home. He properly warns us that the cause of the injustice to Beatrice Braude and other loyalty victims—secret proceedings—is not ancient history. The anti-terrorism bill had a provision to allow for the deportation of aliens on secret evidence. It was stripped, fortunately, during floor consideration in the House. But the provision is likely to reappear in some fashion. We must remain vigilant.

Now that the parties to the Braude case have reached an agreement on the monetary damages equitably due to Dr. Braude's estate, Senator D'AMATO and I will be offering legislation soon to release the $200,000 to her estate. When that time comes, I hope that we will have the unqualified and unanimous support of our colleagues.

Ann Kirchheimer, a friend—now 80—who carried on Dr. Braude's fight, recently commented that Dr. Braude's life following her dismissal from the USIA could have been taken from the opening lines of Franz Kafka's book, The Trial: ''Someone must have traduced Joseph K., for without having done anything wrong, he was arrested one fine morning.'' Indeed.

What happened to Dr. Braude was a personal tragedy. But it was also part of a national tragedy, too. This nation lost, prematurely and unnecessarily, the exceptional services of a gifted and dedicated public servant. Stanley I. Kutler, a professor of constitutional history at the University of Wisconsin, estimates that Dr. Braude was one of about 1,500 Federal employees who were dismissed as security risks between 1953 and 1956. Another 6,000 resigned under the pressure of security and loyalty inquiries, according to Professor Kutler, who testified as an expert witness on Dr. Braude's behalf last November. It was, as I said earlier, an awful time. We had settled ''as on a darkling plain, Swept with confused alarm of struggle and flight, Where ignorant armies clash by night.'' It mustn't happen again.

I ask unanimous consent that an article appearing in the June 17, 1996, issue of the Washington Post, ''$200,000 Repayment Agreement for Estate of McCarthy-Era Victim'', Mr. Lewis's March 15, 1996 column, ''Secrecy and Justice,'' from the New York Times, and a letter dated June 19, 1996 from Mr. Sipes to my legislative director, Gray Maxwell, be printed in the CONGRESSIONAL RECORD following my remarks.

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

[From the Washington Post, June 17, 1996]

$200,000 REPAYMENT AGREEMENT FOR ESTATE OF MCCARTHY-ERA VICTIM

The estate of Beatrice ''Bibi'' Braude, who was fired from the U.S. Information Agency and blacklisted 43 years ago during a spasm of anti-communist zealotry, should be paid $200,000, according to an agreement between the U.S. government and attorneys for her estate.

Funding the settlement is up to Congress.

Braude fought for decades to clear her name after her firing in 1953. By the time she was in her seventies, she seemingly had exhausted all court remedies. After her death nearly nine years ago, her friends and relatives took up her cause and persuaded Sens. Daniel Patrick Moynihan (D–N.Y.) and Alfonse M. D'Amato (R–N.Y.) to sponsor legislation that mandated review of the case by the U.S. Court of Federal Claims.

Attorneys for the Justice Department argued earlier this year that there was insufficient proof that loyalty concerns prevented Braude from being rehired for decades. The reason might have been, they argued, because she was a woman and in her forties. Judge Roger B. Andewelt disagreed, saying Braude was a loyal American persecuted ''during a dark era in American history.''

He ordered the Justice Department to negotiate an amount to pay Braude's estate. Christopher Sipes, of the law firm of Covington & Burling, who handled the case without a fee, said lawyers considered what Braude would have earned during the period of her blacklisting. The case, Sipes said, represents a rare acknowledgment of the wrongs committed by the government during the era associated with Sen. Joseph R. McCarthy.

Braude's niece, Ericka, responding to the agreement, said she was nearly speechless. ''It's unbelievable,'' she said, ''and it's about time.''

[From the New York Times, Mar. 15, 1996]

ABROAD AT HOME; SECRECY AND JUSTICE

(By Anthony Lewis)

The case before him, the judge said, ''harks back to a dark era in American history when Senator Joseph R. McCarthy was a powerful political force in this nation, when promising careers in the public and private sectors were arbitrarily cut short based on innuendo, unsubstantiated allegations and irrational fears. . . .''

That was the opening sentence of a remarkable opinion by Judge Roger B. Andewelt of the United States Court of Federal Claims. It told a story of long ago, but one with a moral for today.

Beatrice Braude came to Washington to work for the Government during World War II. She had college and graduate degrees, and she won lots of praise at work. In 1951 she went to the new United States Information Agency. On Dec. 30, 1953, she was told she was going to get a pay raise. The next day she was fired.

Why? They told her that Congress had cut the U.S.I.A. budget. But when she applied for other government jobs over the next several years, she got nowhere. She was even turned down for a position as a typist, although she had a perfect score on the Civil Service typing exam.

Ms. Braude went on to other work. She got a Ph.D. and was a tenured teacher at the University of Massachusetts. But she never again felt the exhilaration she had in government service, and her exclusion from it was a troubling mystery.

Then, when the Privacy Act became law in 1974, she got her records from the Government. They showed she had been fired as a security risk.

She had been investigated by the State Department Loyalty Board in 1951 because of casual past associations with two people considered suspect. The board cleared her, finding that there was ''no reasonable doubt'' as to her loyalty. But the U.S.I.A., on the same evidence, decided to fire her—and to conceal the reason.

Mr. Braude sued, but the courts held that she was too late. In 1982 she finally went back to work for the Government—as a language instructor at the C.I.A. She died in 1988.

But her family, still angry at what had happened, persuaded Senators Daniel Patrick Moynihan and Alfonse D'Amato to sponsor a bill to compensate her for any wrongdoing. It was referred to the Court of Claims for a finding on whether she had a claim in law or equity.

Judge Andewelt said there was no basis for saying that Ms. Braude ''was a security risk or was sympathetic to any political philosophy not within the mainstream.'' Indeed, he said, the record showed her to be ''a rather typical American. She cared about others deeply and was loyal to her friends, family and country.''

The judge found that the U.S.I.A. had ''intentionally concealed'' the reason for her dismissal and had ''blacklisted'' her thereafter. That was wrongdoing, he said, and gave Ms. Braude's heirs an equitable claim. The lawyers will work out the amount due, and the court will send that to Congress for action.

So, 43 years she was fired, 8 years after she died, Beatrice Braude got a kind of justice. I asked her lawyer, Christopher N. Sipes of Washington, why the effort on her behalf had been so persistent.

''She was happy,'' he said, ''she served her country—and in a flash it was gone. In time, bewilderment turned to anger and frustration. She had friends and family who cared so much that they had the same burning desire to see justice done.''

It would be nice to think that the cause of the injustice to Beatrice Braude and other loyalty victims—secret proceedings—is ancient history. But it is not.

The Clinton Administration has pressed for a so-called antiterrorism bill allowing the deportation of aliens on secret evidence. An unusual combination of civil libertarians on the right and left has just deleted that and other dangerous sections from the legislation. But the same proposals will be back on the floor next week as part of an immigration bill.

The National Rifle Association, in its criticism of the antiterrorism bill, made the case as well as anyone. ''The constitutional right to confront one's accusers is a necessary safeguard against government abuses,'' it said. ''Our nation has survived for 200 years without resorting to the use of secret evidence in criminal trials or deportation proceedings. Congress must not set a dangerous precedent by abandoning the right to confront evidence against you.''

Re Estate of Beatrice Braude v. United States; Congressional Reference No. 93–645x.

COVINGTON & BURLING,
Washington, DC, June 19, 1996.

GRAY MAXWELL,
Legislative Director,
Hon. Daniel P. Moynihan,
Russell Senate Office Building,
Washington, DC

DEAR MR. MAXWELL: It was a pleasure speaking with you yesterday. As we discussed, I am writing now to update you on the status of Dr. Braude's case. As you may

recall, on March 7, 1996, Judge Andewelt of the Court of Federal Claims ruled that Dr. Braude had been blacklisted by the Federal Government during the 1950s and 1960s on the basis of spurious allegations of disloyalty and that her state therefore had an equitable claim for compensation from the United States for the wrongs she suffered.

In its opinion, the court left open the amount of compensation due. Following negotiations with the Justice Department, the parties stipulated to $200,000 as the appropriate amount of compensation. On June 3, 1996, Judge Andewelt issued his final report, ''recommend[ing] to Congress that plaintiff's equitably entitled to $200,000 from the United States .'' For your convenience, I have attached copies of the March 7 and June 3 rulings.

The next, and final, step in the Congressional Reference regarding Dr. Braude's case is submission of the final report issued by Judge Andewelt to a review panel composed of three judges of the Court of Federal Claims. *See* 28 U.S.C. §2509(d). This review should complete the Congressional Reference and result in transmission of a final report on Dr. Braude's case back to the Senate. *See* 28 U.S.C. §2509(e).

It is unclear how long the review panel will take with Dr. Braude's case. However, both the Justice Department and plaintiff have submitted a notice of acceptance of the hearing officer's report, and therefore neither party is seeking review or otherwise raising any objections or issues for the review panel to address. It is our hope that, in the light of both parties' acceptance of Judge Andewelt's report, that report will be adopted by the review panel expeditiously and without modification. It is thus our hope that the Senate will shortly be receiving a final report on Dr. Braude's case indicating that she is equitably due $200,000 as a result of her wrongful blacklisting from government employment.

It is our understanding that payment of Dr. Braude's claim requires an appropriation from Congress. (In the alternative, it may be possible, if funds are already available, for her claim to be paid pursuant to a directive of Congress). For this reason, we urge you to discuss her case, and Judge Andewelt's favorite report, with members of the Appropriations Committee, and, more specifically, with the Subcommittee on Commerce, Justice and State. We understand that the Subcommittee has not yet scheduled a mark-up of its FY 1997 Appropriations Bill. We would be happy to accompany you to any meeting with the Staff and urge you to request that the Subcommittee bill include funding for Dr. Braude's claim.

Thank you again for your interest and assistance in this matter. Please feel free to call me or Joan Kutcher if we can be of any further assistance in this matter.

Sincerely yours,

CHRISTOPHER SIPES.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, June 18, 1996, the Federal debt stood at $5,118,200,749,524.53.

On a per capita basis, every man, woman, and child in America owes $19,306.24 as his or her share of that debt.

HONORING THE RAGSDALES FOR CELEBRATING THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Mr. Gene and Mrs. Vieta Ragsdale of Marshfield, MO, who on July 13, 1996, will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Gene and Vieta's commitment to the principles and values of their marriage deserves to be saluted and recognized. I wish them and their family all the best as they celebrate this substantial marker on their journey together.

EARL VARNEY

Mr. SIMPSON. Mr. President, I rise to pay tribute to a most wonderful man and a dear friend of mine, Earl Varney. Earl Varney, a World War I Army veteran, will be honored by the community of Worland, WY, on Military Day, June 29, 1996. Earl will have celebrated his 100th birthday by that day! He is the oldest living veteran of that conflict now residing in Washakie County and quite possibly in the State of Wyoming.

Earl is absolutely an extraordinarily dazzling man. He is Wyoming's answer to George burns! He has all of the energy, graciousness, wit and good humor and civility of George BURNS himself—and especially the wit! His good humor reminds me of the old adage that my Mother, who Earl knew well, used to share with me—''Humor is the universal solvent against the abrasive elements of life.''

My dear father, Milward Simpson, also loved Earl Varney. They used to have a helluva lot of fun together. They were contemporaries in every sense. They were veterans of World War I, great friends and business associates. They also worked together in the American Legion. They had a shared and splendid lifetime of friendship and memories and love and affection. When my Dad died at the age of 95, Earl was one of the first to respond to offer his condolences.

In addition to personally knowing my parents and grandparents, Earl knew the parents and grandparents of my dear wife, Ann. He was at her parents' wedding. He is such a thoughtful and kind man, too, as he always remembers others and the memorable dates and times in their lives.

Earl served this Nation proudly in the final months of World War I before the Armistice. His dates of service were September 18, 1918 to November 26, 1918. He achieved the rank of Corporal. Not only did Earl give to the Nation in uniform, he has also been a great contributor to the good of the entire State of Wyoming. He was born in Ansley, Nebraska on June 14, 1896 but he went on to become a true Wyomingite. After release from the Army in 1918, Earl moved to Thermopolis, WY, and worked as a pharmacist in the local drug store where he first met my wife's father, Ivan Schroll. His other professions over the years included managing a finance and insurance office in Greybull, Wyoming, owning the Varney Motors Ford dealership in Worland, WY, and operating the Worland Oil Corporations-Mobil Bulkplant and Service Stations. He also worked in real estate. Earl didn't really embark on any kind of a retirement program until he reached his mid 80's!!

We are so very fortunate to have Earl living among us in Wyoming. Earl is one of those special people that make up the core and fiber of the State—one of nature's nobleman. I cherish the years I have been the beneficiary of his counsel and friendship. My life is richer because of him. Those of us who know him so well think of him always as a rock solid citizen and a man who is authentic, honest and sincere—a man whose word is his bond. I know the proud community of Worland, WY, will be making June 29 a very special day for this good and dear man—Earl Varney. He so richly deserves it. God bless him.

REPUBLICANS STAND FOR CHILDREN

Mr. PRESSLER. Mr. President, today I would like to address a subject that has received much attention during the last several weeks—the future of our children.

As a father myself, I share the concerns of the many who recently marched on The Mall this month at the Stand for Children rally. Certainly, parents, families, teachers, and community leaders all agree that children should be protected and nurtured. This is a universal sentiment. We all stand for children. Every child deserves a safe and loving environment, adequate nutrition and a full education.

Child poverty and its related problems, such as hunger, certainly deserve our attention. Child poverty is an especially pressing problem in South Dakota, where unemployment in some areas reaches as high as 85 percent. According to the Annie E. Casey Foundation, 17 percent of all South Dakota children live in poverty, compared to 21 percent nationwide. Federal programs are designed to address these issues and many states like South Dakota are doing an admirable job. Child poverty has dropped 3 percent in my State since 1985.

Looking out for the best interests of children is not a partisan issue. The budgets passed in Congress demonstrate that we are protecting children. Child nutrition programs received an increase in this fiscal year—

the National School Lunch program was increased by $173 million, the School Breakfast program by $107 million, the Women, Infants and Children program by $260 million. Head Start also was increased by $36 million. These increases mean that hundreds of additional children in South Dakota will receive the sustenance they need. The increases in school-based nutrition programs are especially beneficial. They allow children to concentrate on what is really important—learning. Clearly, Congress is making good on its commitment to the youngest and most vulnerable in our society.

The single greatest issue affecting our children's future though, is the Federal budget. Our $5 trillion debt threatens the quality of life of future generations on many fronts. Skyrocketing interest payments on our national debt will continue to squeeze out funding for other legitimate Federal programs, such as child care or foster care. We must take immediate action to control deficit spending to preserve our school lunch or Title I programs for future generations.

Budget deficits darken our children's economic future as well. We need a balanced budget to lower interest rates, spur economic development and create jobs. Lower interest rates will make a college education and a first home more affordable.

I was very disappointed that liberals in the Senate once again rejected the Balanced Budget Amendment. This is a moral issue. A balanced budget represents real hope and opportunity for all Americans. I continuously have supported a balanced budget, as well as a Balanced Budget Amendment to the Constitution. Our $5 trillion debt burden is an albatross that our children will be forced to carry. Having just celebrated Father's Day, I would like to give my daughter, and all other children, the gift of freedom from our national debt.

Balancing the budget, preserving programs like school lunch and Head Start, providing real hope and opportunity for future generations—that's how we can stand for children. All are not mutually exclusive goals. I look forward to working with my colleagues in the months ahead to ensure that we in Congress demonstrate a strong, bipartisan commitment to children.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty.

MESSAGES FROM THE HOUSE

At 2:45 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2803. An act to amend the anti-car theft provisions of title 49, United States Code, to increase the utility of motor vehicle title information to State and Federal law enforcement officials, and for other purposes.

H.R. 3525. An act to amend title 18, United States Code, to clarify the Federal jurisdiction over offenses relating to damage to religious property.

H.R. 3572. An act to designate the bridge on United States Route 231 which crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, as the ''William H. Natcher Bridge.''

At 6:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1579. An Act to streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the ''Single Audit Act'').

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3572. An act to designate the bridge on United States Route 231 which crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, as the ''William H. Natcher Bridge''; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following measures were read the first and second times by unanimous consent and placed on the calendar:

H.R. 3060. An act to implement the Protocol on Environmental Protection to the Antarctic Treaty.

H.R. 3562. An act to authorize the State of Wisconsin to implement the demonstration project known as ''Wisconsin Works.''

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3045. A communication from the Acting Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class I (Scotch) Spearmint Oil for the 1995–96 Marketing Year,'' received on June 11, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3046. A communication from the Acting Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Honey Research, Promotion, and Consumer Information Order—Amendment of the Rules and Regulations to Add HTS Code for Flavored Honey,'' (FV–96–701) received on June 11, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3047. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Mediterranean fruit Fly; Removal of Quarantined Areas,'' received on June 14, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3048. A communication from the Acting Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Tobacco Inspection; Grower's Referendum Results,'' (TB-95-15) received on June 13, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3049. A communication from the Acting Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Tobacco Inspection; Grower's Referendum Results,'' (TB-95-13) received on June 13, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3050. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Hazelnuts Grown in Oregon and Washington; Assessment Rate,'' (FV96-982-1) received on June 13, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3051. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Increased Assessment Rate for Domestically Produced Peanuts Handled by Persons not Subject to Peanut Marketing Agreement No. 146 and for Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts,'' (FV96-998-1) received on June 13, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3052. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Apricots Grown in Designated Counties in Washington; Temporary Suspension of Minimum Grade Requirements,'' (FV-96-922-1) received on June 13, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3053. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of program performance for fiscal year 1995; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3054. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Apricots Grown in Washington; Temporary Suspension of Minimum Grade Requirements,'' (FV-96-922-1) received on June 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3055. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Irish Potatoes Grown in Colorado; Assessment Rate,'' (FV–96–948–1) received on June 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3056. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Order—Postponement of Assessments,'' (FV–96–702) received on June 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3057. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Cranberries Grown in States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York,'' (FV–96–929–1) received on June 18, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3058. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the rule entitled ''Virueses, Serums and Toxins and Analogous Products; Master Labels,'' received on June 17, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3059. A communication from the President of the United States, transmitting, pursuant to law, a report on foreign economic collection and industrial espionage; to the Select Committee on Intelligence.

EC–3060. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the Department of Commerce Trade and Investment Programs; to the Committee on Appropriations.

EC–3061. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report of determination and findings relative to the authority to award a contract; to the Committee on Armed Services.

EC–3062. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report of determination and findings relative to the authority to award a contract; to the Committee on Armed Services.

EC–3063. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the major rule entitled ''The Withdrawal of Employer-Employee and Computer Loan Origination Systems Exemptions,'' received on June 13, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–3064. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of three rules including a rule entitled ''Section 8 Tenant-Based Programs,'' received on June 11, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–3065. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–3066. A communication from the Secretary of Housing and Urban Development, transmitting, drafts of proposed legislation entitled ''The FHA Multifamily Housing Reform Act of 1996'' and ''The Housing Enforcement Act of 1996''; to the Committee on Banking, Housing, and Urban Affairs.

EC–3067. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled ''The FHA Single Family Housing Reform Act of 1996''; to the Committee on Banking, Housing, and Urban Affairs.

EC–3068. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled ''The Community Development Block Grant Performance Fund and HOME Performance Fund Act of 1996''; to the Committee on Banking, Housing, and Urban Affairs.

EC–3069. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled ''The Homeless Assistance Performance Fund Act of 1996''; to the Committee on Banking, Housing, and Urban Affairs.

EC–3070. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report entitled ''Expanding Housing Choices for HUD-Assisted Families''; to the Committee on Banking, Housing, and Urban Affairs.

EC–3071. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report entitled ''The Assessment of the Comprehensive Grant Program''; to the Committee on Banking, Housing, and Urban Affairs.

EC–3072. A communication from the Acting Director of the Ballistic Missile Defense Organization, Department of Defense, transmitting, pursuant to law, a notice relative to Presidential Determination 96-27; to the Committee on Armed Services.

EC–3073. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to sixth special impoundment message for fiscal year 1996; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Armed Services.

EC–3074. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated June 11, 1996; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Armed Services, to the Committee on Finance, to the Committee on Foreign Relations, and to the Committee on Governmental Affairs.

EC–3075. A communication from the Chief of the Office of Legislative Liaison (Programs and Legislative Division), Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison study relative to the Base Operating Support at all Air Force Bases; to the Committee on Armed Services.

EC–3076. A communication from the Chief of the Office of Legislative Liaison (Programs and Legislative Division), Department of the Air Force, transmitting, pursuant to law, the report of a multi-function cost comparison study relative to training equipment maintenance and the precision measurement laboratory at Kessler Air Force Base, MS; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–600. A resolution adopted by the Senate of the Legislature of the State of Georgia; to the Committee on Finance.

''SENATE RESOLUTION 288

''Whereas, it is estimated 37 million Americans are without health insurance, many while between jobs, and more are underinsured because of the effects of rising health care costs and spending. The costs of health care are escalating, forcing employers to trim the level and availability of health care benefits to their employees; and

''Whereas, overutilization of health care services for relatively small claims is one of the most significant causes of health care cost and spending increases. Currently, more than two-thirds of all insurance claims for medical spending are less than $3,000.00 per family per year in this country; and

''Whereas, in response to the runaway cost increases on health care spending in this country, the private sector has developed the concept of medical savings accounts. This initiative is designed to ensure health insurance availability for Americans. It is predicated on providing incentives to eliminate unnecessary medical treatment and encourage competition in seeking health care; and

''Whereas, through employer-funded medical savings account arrangements and reduced cost qualified higher deductible insurance policies, millions of Americans could insure themselves for both routine and major medical services. Under the concept of medical savings accounts, an employer currently providing employee health care benefits would purchase instead a low-cost, high deductible major medical policy on each employee. The employer may then set aside the saving premium differential in a medical savings account arrangement. The participating employees would use the money in the account to pay their medical care expenses up to the deductible. However, any account money unspent by the participating employees in a plan year would then belong to the employees to save, spend on medical care, or use otherwise. This would be a strong incentive for people not to abuse health expenditures and to institute ''cost-shopping'' for medical care services; and

''Whereas, by setting aside money for employees to spend on health care, employees could change jobs and use the money they had so far earned to buy interim health insurance or to cover health care expenses thereby eliminating the problems of uninsureds between jobs and helping to reduce ''job-lock''; and

''Whereas, by making medical care decisions the employee's prerogative, individual policyholders have a strong stake in reducing costs. This simple financial mechanism will expand health insurance options to others who presently have no insurance. Most importantly, this move to decrease health care cost burdens in this country would require no new federal bureaucracy and would be revenue neutral to employers; Now, therefore, be it

''*Resolved by the Senate,* That the members of this body encourage the Congress of the United States to enact legislation swiftly and in good faith to enable Americans to establish medical savings accounts; be it further

''*Resolved,* That the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and all members of the Georgia congressional delegation.''

POM–601. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Finance.

''HOUSE JOINT RESOLUTION NO. 227

''Whereas, tax-exempt industrial development bonds play a critical role in promoting economic development in the Commonwealth; and

''Whereas, these bonds are used by local industrial development authorities and corporations to create jobs and bring investment to the Commonwealth; and

''Whereas, in 1995, these bonds, amounting to $134 million, played a role in creating 2,500 jobs; and

''Whereas, the Virginia Small Business Financing Authority, which facilitates the administration of the industrial development bond program for the Commonwealth, finds that federal restrictions on the issuance of these bonds hinders business development; and

''Whereas, particularly restrictive is the $10 million cap and the limitation that bond proceeds cannot be used to finance associated office and warehouse space that businesses expanding in or relocating to Virginia need; and

''Whereas, Congressman Phil English has introduced H.R. 2617 to the 104th Congress to increase the cap to $20 million and to remove many of the unnecessary restrictions on the use of industrial development bonds; and

''Whereas, the Joint Subcommittee Studying Capital Access and Business Financing, created pursuant to House Joint Resolution No. 591 (1995) and Senate Joint Resolution No. 370 (1995), has expressed its support for H.R. 2617; now, therefore, be it

''*Resolved by the House of Delegates, the Senate concurring,* That the Congress of the United States be urged to pass legislation providing states and localities with additional flexibility relating to the issuance of tax-exempt industrial development bonds to promote economic development; and, be it

''*Resolved further,* That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Virginia Liaison Office, and to each member of the Virginia Congressional Delegation in order that they may be apprised of the sense of the General Assembly of Virginia.''

POM–602. A joint resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Foreign Relations.

''ASSEMBLY RESOLUTION NO. 23

''Whereas, Since illegally coming to power in 1959, the government of Fidel Castro has constantly demonstrated a consistent disregard for internationally adopted standards of human rights and domestic values; and

''Whereas, The Cuban people have demonstrated their desire for freedom and democracy and their opposition to the Castro government by risking their lives by organizing demonstrations in opposition to Castro's totalitarian regime; and

''Whereas, Cubans regardless of their age, gender and medical conditions, are presently undertaking the hazardous and perilous 90 mile journey of freedom to the United States; and

''Whereas, Fidel Castro is attempting to manipulate this exodus of innocent people to win concessions from an American nation that has grown increasingly impatient and intolerant of his regime; and

''Whereas, The Castro regime has historically placed citizens of the United States in danger by maintaining a government dominated by the military and proliferating its offensive military capacity 90 miles from this nation's shores; and

''Whereas, In response to Castro's continued ruthless leadership, many Americans, regardless of ethnic or national background, feel strongly that the United States needs to isolate Castro's Cuba from the rest of the democratic world; and

''Whereas, The citizens of New Jersey fully support the federal ''Cuban Democracy Act of 1992'' and the trade embargo currently imposed by the government of the United States against the Cuban government; and

''Whereas, While additional sanctions recently imposed by President Clinton are having a dramatic impact on the ability of Castro to continue his forced rule over the Cuban people, a full quarantine of Cuba will further isolate the Castro government from the rest of the world, and thus hasten its movement towards democratic elections; now, therefore be it

''*Resolved by the General Assembly of the State of New Jersey:*

''1. The President of the United States is memorialized to assist the people of Cuba by implementing a full quarantine of Cuba until such time that the authoritarian regime of Fidel Castro gives way to a democratically elected government.

''2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President and Vice President of the United States, the Speaker of the House of Representatives and every member of Congress elected from this State.''

POM–603. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on Foreign Relations.

''SENATE RESOLUTION 2035

''Whereas, the Commonwealth of Puerto Rico enjoys a close relationship with the province of Taiwan, Republic of China, and

''Whereas, Dr. Sun Yat-Sen founded the Republic of China in Taiwan, which is at present the fourteenth largest commercial country, the twentieth in gross national product and the twenty-fifth in gross per capita income, and

''Whereas, the population of the Republic of China in Taiwan is greater than the population of two thirds of the members of the United Nations Organizations, and

''Whereas, the Republic of China in Taiwan has consistently shown its support to democracy and world peace, its concern for regional and international development, and its interest in programs of assistance to its global fellow neighbors, and

''Whereas, the establishment of an ad hoc committee for the study and analysis of the special situation of the Republic of China in Taiwan in the international community, has been proposed to the United Nations Organization in order to find a fair and viable solution to its participation within the frame of the United Nations Organization, and

''Whereas, the people of the Republic of China in Taiwan deserve appropriate recognition and credit for their dynamic participation in the international community, and

''Whereas, the Republic of China in Taiwan should be granted full membership in the United Nations Organization and its affiliated organizations in the same manner as other divided nations such as South Korea and the former East and West Germany, which have been granted full participation, and

''Whereas, considering that our Puerto Rican people lack the power to influence directly the United States of America's foreign policy which applies to Puerto Rico, through a vote for the president and representation entitled to vote, it is essential for this High Body to state its feelings on this matter; therefore, be it

''*Resolved by the Senate of Puerto Rico:*

''SECTION 1.—The President and the Congress of the United States of America are hereby requested to give their utmost consideration to render active support to the Republic of China in Taiwan as an important commercial nation, and as a former ally, in order to assist in achieving the full participation of the Republic of China in Taiwan in the international community in general, and in the United Nations Organization in particular.

''SECTION 2.—A copy of this Resolution, translated into the English language, shall be remitted to the President, to the Congress of the United States of America and to the Representative of the Republic of China in Taiwan.

''SECTION 3.—This Resolution shall take effect immediately after its approval.''

POM–604. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Government Affairs.

''SENATE CONCURRENT MEMORIAL 1001

''Whereas, the federal government was established by the states through the ratification of the Constitution of the United States; and

''Whereas, the federal government was granted carefully limited powers under the Constitution of the United States and the Tenth Amendment to the United States Constitution provides that ''[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people''; and

''Whereas, the Constitution of the United States established a system in which the states ceded only certain powers to the federal government; and

''Whereas, the framers recognized that separation of powers is essential and ensured that the rights of the people would be protected by establishing checks and balances not only between the branches of the federal government but also between the federal government and state governments; and

''Whereas, the legislative, executive and judicial branches of the federal government have by many actions usurped powers reserved by the Constitution of the United States to the states and to the people; and

''Whereas, by the combined actions of the legislative, executive and judicial branches of the federal government, the relationship between the federal government and state governments established by the Constitution of the United States has been severely unbalanced; and

''Whereas, the federal judiciary, itself a branch of the federal government, has failed to stop many of these federal excesses; and

''Whereas, the Supreme Court of the United States, in *Garcia* v. *San Antonio Metropolitan Transit Authority* (469 U.S. 528 (1985)), noted that the interests of states are best protected by their representation in Congress; and

''Whereas, to restore the balance of power between the federal government and state governments intended by the framers of the Constitution of the United States, the federal government must carefully consider, and be accountable for, the constitutional boundaries of its jurisdiction to protect the states and the people from the unwarranted assumption of power by the federal government.

''Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

''1. That the One Hundred Fourth Congress of the United States enact legislation requiring the Congress of the United States to specify the section of the Constitution of the United States that grants Congress the authority to enact the proposed section of law. The Arizona Legislature supports the inclusion in such legislation:

''(a) That Congress be required to state explicitly the extent to which the proposed section of law preempts any state, local or tribal law, and if so, an explanation of the reasons for such preemption.

''(b) That if Article I, Section 8, Clause 3, Constitution of the United States, is identified as the Constitutional provision granting authority to Congress for its proposed section of law, Congress report a list of factual findings establishing a substantial nexus between the regulatory effect of the proposed section of law and interstate commerce.

''2. That the Secretary of State of the State of Arizona transmit certified copies of this Memorial to each Member of the Senate of the United States and the House of Representatives of the United States and to the Speaker of the House of Representatives and the President of the Senate of each state legislature in the United States.''

POM–605. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Governmental Affairs.

''SENATE CONCURRENT RESOLUTION NO. 86

''Whereas, the number of unfunded federal mandates imposed upon the states by the United States Congress has alarmingly increased in recent years; and

''Whereas, this continuing imposition places Hawaii and her sister states in the precarious position of either attempting to fund the federal requirements with diminishing amounts of available revenue or jeopardizing eligibility for certain federal funds; and

''Whereas, the United States Congress should try to understand the difficult posture in which the states have been cast and the urgent necessity of the states to receive monetary assistance for these mandates or relief from the enforcement of these unfunded decrees; and

''Whereas, the members of this Legislature desire to convey to the United States Congress the seriousness of this problem so that the Congress may be completely cognizant of the effect the actions of the federal government have at the state legislative level and may be more sensitive to the difficulties unfunded federal mandates create; now, therefore be it,

''*Resolved by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1996, the House of Representatives concurring,* That the United States Congress is respectfully requested not to enact federal legislative mandates on states without necessary funding; and be it further

''*Resolved,* That certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the speaker of the United States House of Representatives, and the members of Hawaii's congressional delegation.''

POM–606. A joint resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Governmental Affairs.

''SENATE RESOLUTION NO. 63

''Whereas, the number of unfunded federal mandates imposed upon the states by the United States Congress has alarmingly increased in recent years; and

''Whereas, this continuing imposition places Hawaii and her sister states in the precarious position of either attempting to fund the federal requirements with diminishing amounts of available revenue or jeopardizing eligibility for certain federal funds; and

''Whereas, the United States Congress should try to understand the difficult posture in which the states have been cast and the urgent necessity of the states to receive monetary assistance for these mandates or relief from the enforcement of these unfunded decrees; and

''Whereas, the members of this Legislature desire to convey to the United States Congress the seriousness of this problem so that the Congress may be completely cognizant of the effect the actions of the federal government have at the state legislative level and may be more sensitive to the difficulties unfunded federal mandates create; now, therefore, be it

''*Resolved* by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1996, That the United States Congress is respectfully requested not to enact federal legislative mandates on states without necessary funding; and be it further

''*Resolved,* That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's congressional delegation.''

POM–607. A joint resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Governmental Affairs.

''HOUSE JOINT RESOLUTION NO. 26

''Whereas, Maxfield Parrish was a citizen of New Hampshire for 68 years; and

''Whereas, he was one of the foremost American artist/illustrators of the early 20th century; and

''Whereas, Maxfield Parrish painted 2 posters for the state of New Hampshire; and

''Whereas, through his art, Maxfield Parrish continued to expose millions to the beauties of the New Hampshire landscape; now, therefore, be it

''*Resolved by the Senate and House of Representatives in General Court convened:*

''That the New Hampshire legislature requests that the United States Postal Service issue a postage stamp honoring Maxfield Parrish; and

''That copies of this resolution be sent by the house clerk to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the United States Postmaster General and New Hampshire's Congressional delegation.''

POM–608. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Governmental Affairs.

''HOUSE JOINT RESOLUTION NO. 179

''Whereas, employees of the Commonwealth and its political subdivisions may defer compensation to a date later in life when tax rates might be more advantageous; and

''Whereas, this deferred income remains the ''property'' of the employer as required by federal Internal Revenue Service regulations and technically has not been distributed to the employee; and

''Whereas, because the deferred compensation remains in the hands of the employer, there is a possibility that the employer can access deferred compensation funds should the employer find itself in need of revenue for any purpose; and

''Whereas, language contained in federal legislation would have required that all assets and income in state and local government deferred compensation plans be held in trust for the exclusive benefit of participants and their parties; and

''Whereas, current law prevents states from enacting similar requirements without compromising the tax advantages of deferred compensation plans; now, therefore, be it

''*Resolved by the House of Delegates, the Senate concurring,* That the Congress of the United States be urged to enact legislation to provide that public employees' deferred compensation funds may be used for no other purpose than to return deferred compensation assets and income to the plan's participants and their beneficiaries. The Congress is urged to provide that all assets and earnings of deferred compensation plans for state and local government employees be held in trust for the exclusive benefit of participants and their beneficiaries; and, be it

''*Resolved further,* That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Virginia Liaison Office, and the members of the Virginia Congressional Delegation in order that they may be apprised of the sense of the General Assembly of Virginia on this issue.''

POM–609. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on Veterans' Affairs.

''HOUSE CONCURRENT RESOLUTION NO. 5046

''Whereas, More than 600,000 members of the United States Armed Forces, including activated units of the Ready Reserve and National Guard, were deployed to the Persian Gulf region in Operation Desert Shield and Operation Desert Storm to liberate Kuwait; and

''Whereas, United States service personnel were exposed not only to the hazards of war, but to an unknown variety of potential health hazards, including exposure to smoke from oil well fires, depleted uranium and infectious biological weapons; and

''Whereas, More than 55,000 individuals who served in Operation Desert Shield and Operation Desert Storm have reported wide-ranging medical problems that began during service, or shortly after their return from the Persian Gulf, a significant number of which have not been accurately diagnosed or treated; and

''Whereas, There is evidence that family members of Gulf War veterans are experiencing health problems similar in nature to those of the veterans, including abnormal numbers of birth defects in children conceived by Gulf War veterans; and

''Whereas, In November 1994, Congress enacted the Persian Gulf War Veterans' Act, authorizing the Department of Veterans Affairs to compensate any Persian Gulf War veteran suffering from a chronic disability resulting from undiagnosed illnesses that occurred either during active duty or within a certain period following service in the Persian Gulf War; and

''Whereas, The Department of Defense has been conducting research into the causes of symptoms that have collectively come to be called ''Gulf War Syndrome'' for over three years and during that time, the Department has failed to make any substantive scientific progress in determining the causes, effects, and transmissibility of, or treating this disabling and sometimes fatal syndrome: Now, therefore,

''*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein,* That we memorialize the President and the United States Congress to take action to identify, locate and provide funds for research and treatment of Gulf War related illnesses among Persian Gulf War Veterans, and, to that end, to work jointly with private research facilities; and be it further

''*Resolved,* That we urge the President and the Congress of the United States, and the Department of Defense to review the necessity for secrecy of all classified information bearing on the detrimental health effects that the Gulf War Veterans and their families are experiencing, and to make any previously classified material available for publication; and be it further

''*Resolved*, That we urge the President and the Congress of the United States to place a moratorium on the donation of blood, blood products and organs by veterans of the Gulf War until a determination regarding the communicability of these illnesses has been made; and be it further

''*Resolved*, That the Secretary of State be directed to send enrolled copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to each member of the Kansas Congressional Delegation, to the Administrator of Veterans Affairs, to the Secretary of Defense and to the Secretary of Health and Human Services (Center for Disease Control).''

POM–610. A concurrent resolution adopted by the Legislative of the State of Oklahoma; to the Committee on Veterans' Affairs.

''SENATE CONCURRENT RESOLUTION NO. 57

''Whereas, Oklahoma's atomic veterans showed steadfast dedication and undisputed loyalty to their country and made intolerable sacrifices in service to their country; and

''Whereas, these atomic veterans gave their all during the terribly hot atomic age to keep our country strong and free; and

''Whereas, these atomic veterans were unknowingly placed in the line of fire, after being assured that they faced no harm, and were subjected to an ungodly bombardment of ionizing radiation; and

''Whereas, the radiation to which they were exposed is now and will continue eating away at their bodies every second of every day for the rest of their lives with no hope of cessation or cure; and

''Whereas, because their wounds were not of the conventional type and were not caused by the enemy but by the United States Government, the atomic veterans did not receive service-connected medical and disability benefits and did not receive a medal such as the Purple Heart; and

''Whereas, many atomic veterans have already died and others will die a horrible and painful death; now therefore, be it

''*Resolved by the Senate of the 2nd session of the 45th Oklahoma Legislature, the House of Representatives concurring therein:*

''That atomic veterans be recognized by the federal government.

''That the United States Senators and Representatives from Oklahoma propose or support legislation granting service-connected medical and disability benefits to all atomic veterans who were exposed to ionizing radiation and propose or support legislation issuing a medal to atomic veterans to express the gratitude of the people and government of the United States for the dedication and sacrifices of these veterans.

''That copies of this resolution be distributed to the President of the United States, the Vice President of the United States, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, the Secretary of Defense, the Secretary of Veterans Affairs, the Chairs of the United States House and Senate Veterans Affairs Committees, and each member of the Oklahoma Congressional Delegation.

''Adopted by the Senate the 21st day of May, 1996.''

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, without amendment:

S. 253. A bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Members of Congress, and for other purposes (Rept. No. 104–282).

S. 1577. A bill to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001 (Rept. No. 104–283).

By Mr. STEVENS, from the Committee on Governmental Affairs, with amendments:

H.R. 2739. A bill to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1888. An original bill to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 1996.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Vicky A. Bailey, of Indiana, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2001.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INHOFE (for himself, Mr. FAIRCLOTH, Mr. GRAMS, Mr. ABRAHAM, Mr. HELMS, and Mr. MCCONNELL):

S. 1885. A bill to limit the liability of certain nonprofit organizations that are providers of prosthetic devices, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 1886. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of educational grants by private foundations, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. HATCH, and Mr. HEFLIN):

S. 1887. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 1888. An original bill to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 1996; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1889. A bill to authorize the exchange of certain lands conveyed to the Kenai Native Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, and for other purposes; to the Committee on Energy and Natural Resources..

By Mr. FAIRCLOTH (for himself, Mr. KENNEDY, Mr. HATCH, Mr. BIDEN, Mr. LOTT, Mr. DASCHLE, Mr. THURMOND, Mr. BYRD, Mr. WARNER, Mr. LEAHY, Mr. COCHRAN, Mr. HEFLIN, Mr. D'AMATO, Mr. JOHNSTON, Mr. GRAMM, Mr. BREAUX, Mr. FRIST, Ms. MOSELEY-BRAUN, Mr. LEVIN, Mr. SIMON, Mr. ROCKEFELLER, Mr. REID, Mr. DODD, Mr. GLENN, Mr. KERREY, Mr. KERRY, Mr. HARKIN, Mr. BRADLEY, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Mrs. BOXER, Mr. WYDEN, Mrs. HUTCHISON, Mr. COVERDELL, Mr. PRYOR, Mr. LAUTENBERG, and Mrs. FEINSTEIN):

S. 1890. A bill to increase Federal protection against arson and other destruction of places of religious worship; read twice, and placed on the calendar.

By Mrs. BOXER (for herself and Mr. BINGAMAN):

S. 1891. A bill to establish sources of funding for certain transportation infrastructure projects in the vicinity of the border between the United States and Mexico that are necessary to accomodate increased traffic resulting from the implementation of the North American Free Trade Agreement, including construction of new Federal border crossing facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself and Mr. WELLSTONE):

S. 1892. A bill to reward States for collecting medicaid funds expended on tobacco-related illnesses, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1893. A bill to provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself, Mr. FAIRCLOTH, Mr. GRAMS, Mr. ABRAHAM, Mr. HELMS, and Mr. MCCONNELL):

S. 1885. A bill to limit the liability of certain nonprofit organizations that are providers of prosthetic devices, and for other purposes; to the Committee on the Judiciary.

THE PROSTHETIC LIMB ACCESS ACT OF 1996

Mr. INHOFE. Mr. President, a few years ago I became exposed to a problem that exists in the lives of thousands of Americans. It happened when one of my closet friends in Oklahoma, Buddy Martin; lost both of his legs.

He was one of the fortunate ones who had the resources to purchase artificial limbs, and is able to live today a much more normal life than one could imagine.

It is because of this exposure that I rise today to introduce a bill to provide relief to thousands of Americans. Everyday far too many Americans are unable to live full and productive lives like Buddy Martin because they cannot afford adequate prosthetic care. There are over 250,000 Americans who cannot afford adequate prosthetic care. While the government provides assistance through Medicare and other programs they can not meet all of the needs, and they don't have to. The private sector

stands ready to help, through nonprofit foundations, but they cannot because of our country's product liability laws. That is why I am introducing the Prosthetic Limb Access Act of 1996, I am joined by my colleagues Senators FAIRCLOTH, GRAMS, ABRAHAM, and HELMS.

In Oklahoma, a nonprofit foundation called Limbs for Life takes used artificial limbs, reconditions them, and provides them to needy people in third world countries, they do not give them to Americans. It is not because there is not the need, they do not provide them because of our country's laws regarding product liability. They would be unable to afford the necessary insurance to provide the limbs to needy Americans. One doctor in Oklahoma, Dr. John Sabolich, the Nation's foremost prosthesis expert, currently saws used devices in half before throwing them away, because of liability. He showed me a $50,000 prosthetic arm that was about to be destroyed; to make it reusable would only have required about 20 minutes of work. It is a disgrace that perfectly good artificial limbs have to be destroyed when there are thousands of Americans who could use them.

My bill would provide the necessary product liability relief, while still protecting the patients by providing relief for intentional wrongdoing. This would allow hundreds of Americans to care for themselves, work, and better enjoy a more full life.

There are over 3,000 new amputations each week, which amounts to 160,000 amputations each year, for a grand total of 3.8 million amputees in the United States. The number of new amputees has increased over the years because of the early detection of cancer, doctors are able to detect cancer earlier and it is better to sacrifice a limb to save a person. Therefore the demand for more limbs by needy people will only increase. I have been told that if this bill is enacted that at least 2,000 limbs per year could be made available for needy Americans. These are 2,000 people who otherwise would not have access to an artificial arm or leg. These are 2,000 people who are currently not living full and productive lives, who need assistance to care for themselves, sometimes to just accomplish tasks that we all take for granted such as eating, moving around, or even working.

I have met many of these people who would benefit from this legislation and have listened to their heartbreaking stories. And for everyone I've heard of there are hundreds more who go daily without a prosthetic device, depending on others.

There is Nestor, a man who is missing both arms. He states:

> My prosthesis is broken and I am unable to eat or do any activities of daily living such as personal care or cooking. I live alone and have no friends to help, so I must do things for myself.

There is Pearl, a 46-year-old woman with one leg missing, who lives in a nursing home. She said:

> I slip and fall so often when my crutches slip away from me—and it hurts a lot when my wrist or neck or other body parts are throbbing with pain for weeks due to my falls—and although I try to be careful and watchful, the crutches still can slip away from me when encountering the mopped floors or wet spots that are in a nursing home.

There is Dalia, she was fitted with her current prosthesis in 1983, but since then her body has changed and it no longer fits properly. She says:

> When I changed prosthesis, my whole body changed, my balance is off especially effecting my back. I have fallen down, have worsening osteoporosis and am very frustrated because I can't do the things I used to do.

Mr. President, I know these are sad stories, and I know we as Members run across sad stories every day. But here we can do something positive for them, which will solve their problems, at no cost to the taxpayers. We can provide them the same medical services we are now giving poor people in third world countries, and we can do this through the nonprofit sector. We have needy people and a willing organization ready to help. Mr. President, we should at least treat our own citizens as well as we treat those in other countries.

Mr. President, my legislation is supported not only by the Limbs for Life Foundation, but also: Goodwill Industries, National Amputee Fund, National Association for the Advancement of Orthotics and Prosthetics, American Academy of Physical Medicine and Rehabilitation, and the American Congress of Rehabilitation Medicine.

Mr. President, this is a simple bill which would create major relief for a number of needy people. It is not a broad product liability bill, so therefore it should not draw the opposition that other bills have received this Congress. It corrects a small problem that literally means the world for a large group of disabled Americans. I hope we can move this bill forward this year.

By Mr. FRIST:

S. 1886. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of educational grants by private foundations, and for other purposes; to the Committee on Finance.

EDUCATIONAL GRANTS LEGISLATION

● Mr. FRIST. Mr. President, I introduce a bill which is essential in building a higher educated and more productive labor force as we move toward the next century. My bill would encourage private foundations to increase the amounts they currently provide for educational assistance to students in their communities.

Currently, guidelines developed by the Internal Revenue Service can have the effect of prohibiting certain foundations from being able to provide the maximum amount of educational assistance to local students. As the Federal Government faces greater and greater fiscal constraints, we must look for ways to encourage the private sector to fill unmet educational needs.

Essentially, under current law, a private foundation will not suffer tax penalties if it meets certain tests when providing scholarships or educational loans to employees, or children of employees, of a particular employer. While there is a facts and circumstances test which can be met, uncertainty surrounding application of this test to an employer-related grant program results in much greater usage of a safe-harbor percentage test which has been developed by the Internal Revenue Service. This safe-harbor percentage test basically limits the amount of scholarships and loans that a foundation may provide to one out of four applicable children of employees of a particular company. This 25-percent test can cause hardship, especially in cases where a substantial percentage of the community at large works for a single employer.

My proposal eliminates this rigid 25-percent test.

I hope my colleagues will join me in supporting this essential education bill. By providing these private foundations relief from the IRS' rigid 25-percent test, we will be granting valuable and badly needed educational support to America's hard-working families.●

By Mr. GRASSLEY (for himself, Mr. HATCH, and Mr. HEFLIN):

S. 1887. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL COURTS IMPROVEMENTS ACT OF 1996

● Mr. GRASSLEY. Mr. President, I am introducing for myself, Senator HATCH, and Senator HEFLIN, a bill entitled ''The Federal Courts Improvements Act of 1996.'' A first version of the bill, S. 1101, was introduced in August 1995, at the request of the Judicial Conference. In October of last year, we held a comprehensive hearing on that bill in the Judiciary Subcommittee on Administrative Oversight and the Courts, which I chair, at which both judges and lawyers testified at length on the substance of many of S. 1101's provisions. The present bill was crafted after many months of detailed discussions and intense collaboration between myself, Senators HATCH and HEFLIN, and the Administrative Office of the U.S. Courts. More importantly, we have worked closely with the other members of the subcommittee to address their concerns and include their suggestions, making this truly a bipartisan bill.

At the onset, I would like to elaborate on the spirit in which this bill was crafted. I am sure my colleagues are well aware, many of my efforts have focused on saving the Federal Government's sparse resources and making the most of taxpayer dollars. As chairman of the Judiciary Subcommittee with jurisdiction over the courts, I am also concerned that the Federal judicial system be administered in the

most efficient and cost-effective manner possible, while maintaining a high level of quality in the administration of justice. In fact, I sent out a judicial questionnaire earlier this year requesting assistance from individual judges on their ideas and views of the needs of the Federal judiciary. I hope some of you have had the opportunity to review my subcommittee's report on the courts of appeal, which I released recently. The report on the District courts will be completed shortly. I found it enlightening to communicate with the individual judges, and hope that these lines of candid and constructive communication with the individual judges and the Administrative Office remain open and continue to produce beneficial results in terms of efficiency, cost savings, and other improvements within the Federal judiciary.

In drafting the Federal Courts Improvement bill, we worked closely with the Administrative Office to assess and address the needs of the Federal judiciary. As a result, the bill contains both technical and substantive changes in the law, many of which were carried over from previous Congresses and-or originally proposed in S. 1101. During our working sessions on the bill, some of the provisions in S. 1101, such as the sections dealing with Federal Defender Services matters, were determined to warrant further inquiry or additional hearings. On the whole, the bill is broad-reaching, and contains provisions concerning judicial process improvements; judiciary personnel administration, benefits and protections; judicial financial administration; Federal Courts Study Committee recommendations; and other miscellaneous issues. Almost all of the provisions have been formally endorsed by the Judicial Conference, the governing body of the Federal courts. I would now like to mention some of the more salient provisions of the bill.

Many provisions contained in this bill streamline the operation of the Federal court system. A good example of our attempt to render the judiciary more efficient is section 605, which abolishes a special tribunal with narrow jurisdiction, the Special Court, the Regional Rail Reorganization Act of 1973, established in the early 1970's to oversee the reorganization of insolvent railroads. The work of this court is basically concluded, with the court's docket containing 10 largely inactive cases. This section transfers the Special Court's jurisdiction over those cases and any future rail reorganization proceedings to the U.S. District Court for the District of Columbia, where the court's records and a majority of its judges are currently located, and makes other technical and conforming changes incidental to the court's abolition. The elimination of this court will produce budgetary and administrative economies and, according to the Administrative Office of the U.S. Courts, result in an annual cost savings of approximately $175,000.

Section 209 simplifies the appeal route in civil cases decided by magistrate judges with consent by confining appeals of judgments in such cases to the court of appeals and eliminating an alternative route of appeal to the district judge. A single forum of appeal in civil consent cases simplifies court procedures and recognizes the existing practice in most districts. The Judicial Conference recommended such action in the long range plan for the Federal courts. Also, this section would not alter the role of magistrate judges as adjuncts to article III courts since district judges would still control the referral of consent cases to magistrate judges.

Section 304 changes the reappointment procedure for incumbent bankruptcy judges. Rather than requiring the judicial council for a circuit or a merit selection panel to undergo a lengthy and time-consuming screening process, this section streamlines the reappointment process for judges whose performance has previously been reviewed. In this manner, the section eliminates unnecessary expenditures of time and money.

Another example is section 202, which authorizes magistrate judges to try all petty offense cases. Traditionally, safeguards applicable to criminal defendants charged with more serious crimes have not been applicable to petty offense cases because the burdens were deemed undesirable and impractical in dealing with such minor misconduct. Section 202 also authorizes magistrate judges to try misdemeanor cases upon either written consent or oral consent of the defendant on the record. This amendment enhances the efficiency of the courts, since most defendants routinely consent to proceeding before the Federal magistrate judge system. Presently, consent to trial of misdemeanor cases by magistrate judges is required to be in writing, although there is no legal significance between written consent and consent made orally on the record, provided that the defendant's consent is made with full knowledge of the consequences of such consent, is intelligently given, and is voluntary. Elimination of the written-consent requirement saves time and eases burdensome paperwork for court personnel, while preserving knowing and voluntary consent in such cases.

Additional sections that facilitate judicial operations are sections 201 and 205. Section 201 authorizes magistrate judges temporarily assigned to another judicial district because of an emergency to dispose of civil cases with the consent of the parties. Section 205 clarifies that deputy clerks may act whenever the clerk is unable to perform official duties for any reason, and permits the court to designate an acting clerk of the court, when it is expected that the clerk will be unavailable or the office of clerk will be vacant for a prolonged period.

Provisions in this bill also clarify existing law to better fulfill Congress' original intent. For example, section 208 enables the United States to obtain a Federal forum in which to defend suits against Federal officers and agencies when those suits involve Federal defenses. This section would legislatively reverse the Supreme Court's decision in *International Primate Protection League, et al.* v. *Administrators of Tulane Educational Fund, et al.*, 111 S.Ct. 1700 (1991), which held that only Federal officers, and not Federal agencies, may remove State court actions to Federal court pursuant to 28 U.S.C. 1442(a)(1). The section would also reverse at least three other Federal district court decisions which held that Federal officers sued exclusively in their official capacities cannot remove State court actions to Federal court. The result of these decisions has been that Federal agencies have had to defend themselves in State court, despite important and complex Federal issues such as preemption and sovereign immunity. Section 208 fulfills Congress' intent that questions concerning the exercise of Federal authority, as well as the scope of Federal immunity and Federal-State conflicts, be adjudicated in Federal court. It also clarifies that suits against Federal agencies, as well as those against Federal officers sued in either an individual or official capacity, may be removed to Federal district court. More importantly, this section does not alter the requirement that a Federal law defense be alleged for a suit to be removable pursuant to 28 U.S.C. §1442(a)(1).

Another example is section 503, which repeals a provision in a 1981 continuing appropriation resolution barring annual cost-of-living adjustments in pay for Federal judges except as specifically authorized by Congress. Repeal of section 140 restores the operation of 28 U.S.C. §461 as to article III judges and parity with the other two branches of Government, as enacted by the Federal Salary Cost-of-Living Adjustment Act of 1975 and amended by the Ethics Reform Act of 1989.

Several sections improve the judicial court system in other ways. Section 206 amends section 1332 of title 28 relating to diversity jurisdiction to raise the jurisdictional amount in diversity cases from $50,000 to $75,000. The purpose of this amendment is to supplement the increase of the jurisdictional amount from $10,000 to $50,000 in the 100th Congress by a modest upward adjustment to $75,000. Section 210 requires each Judicial Council to submit an annual report to the Administrative Office of the United States Courts on the number and nature of orders relating to judicial misconduct or disability under section 332 of title 28 of the United States Code. This reporting requirement was recommended by the Report of the National Commission on Judicial Discipline and Removal of August 1993, which found that reliable information concerning council orders was difficult to obtain.

In addition, section 608 extends by 6 months the due date of the Civil Justice Reform Act reports on the demonstration and pilot programs. The bill at section 609 also extends the authorization of appropriations by 1 year of the use of arbitration by district courts under 28 U.S.C. §651. This will give us more time, if needed, to consider how we will implement permanently alternative dispute resolution in the courts.

In conclusion, this bill is the result of careful consideration by members of the subcommittee and their staff, in close collaboration with the Administrative Office, who have all worked long and hard in attempting to produce a strong, bipartisan piece of legislation. I am pleased to say that the legislation we are introducing today not only enhances and improves the operation of the Federal judiciary, but also takes into consideration any potential increase in costs to the Federal budget.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1889. A bill to authorize the exchange of certain lands conveyed to the Kenai Native Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, and for other purposes; to the Committee on Energy and Natural Resources.

THE KENAI NATIVE ASSOCIATION EQUITY ACT

● Mr. MURKOWSKI. Mr. President, today I introduce the Kenai Native Association Equity Act. This legislation will correct a significant inequity in Federal law with respect to lands conveyed to the Kenai Natives Association [KNA] under the Alaska Native Claims Settlement Act [ANCSA]. This legislation, which will mark the final outcome of a process begun nearly 14 years ago.

The legislation directs the completion of a land exchange and acquisition package between the U.S. Fish and Wildlife Service [USFWS] and KNA. The legislation will allow KNA, for the first time, to make economic use of lands conveyed them under ANSCA. The final stage of this process began by directing in Public Law 102–458, a land exchange and acquisition package between the USFWS and KNA. Over the past year, negotiations were completed, resulting in the legislation I am introducing today.

Mr. President, unlike other corporations in ANCSA, KNA, as an urban corporation, was not entitled to receive monetary settlement or additional lands than those granted under ANCSA. KNA ultimately selected 19,000 of its 23,040 entitlement within what later became the Kenai National Wildlife Refuge. KNA lands are located between operating oilfields within the refuge to the North and urban and suburban developments to the South.

At the request of the USFWS, KNA officials chose lands along the boundaries of the refuge so that development would be allowed. Notwithstanding the representation that development would be allowed, the USFWS advised KNA after selections were made that use of the property would be severely restricted by the application of section 22(g) of ANCSA.

Section 22(g) requires that all uses of private inholdings within the refuge comply with the laws and regulations applicable to the public lands within a refuge and that those lands be managed consistent with the purpose for which the refuge was established. Section 22(g) has been an ongoing problem in Alaska as it has significantly limited the economic use of private lands within refuges.

Pursuant to agreements between USFWS and KNA, this legislation will allow USFWS to acquire three small parcels of land and KNA's remaining ANCSA entitlement at appraised value. These parcels include: Stephanka Tract, 803 acres on the Kenai River; Moose River Patented Tract, 1,243 acres; Moose River Selected Tract, 753 acres; and Remaining Entitlement, 454 acres.

The total habitat acquisition of 2,253 acres will be purchased with *Exxon Valdez* oilspill funds at a cost of $4,443,000. Therefore, there would be no cost to the Federal Government for the purchase of these lands. Refuge boundaries would be adjusted to remove 15,500 acres of KNA lands from the refuge, thus resolving the 22(g) conflict. This can be done because, although the property is within the refuge—it does not belong to the Federal Government. KNA would also receive the refuge headquarters site in downtown Kenai which consists of a building and a 5-acre parcel.

Under the terms of this agreement, the USFWS has proposed, in order to maintain equivalent natural resource protection for Federal resources, that Congress designate the Lake Todatonten area, approximately 37,000 acres, as a BLM Special Management Area [SMA]. The lake is adjacent to the Kanuti National Wildlife Refuge. The SMA would be subject to subsistence preferences under ANILCA and to valid existing rights. While I support the intent of this provision I do intend on exploring its implications on land use closely during Senate hearings before the Energy and Natural Resources Committee.

Mr. President, I believe the Kenai Native Association has waited long enough to resolve these issues. It is my intention to move this legislation quickly and get it behind us.●

By Mr. FAIRCLOTH (FOR HIMSELF, Mr. KENNEDY, Mr. HATCH, Mr. BIDEN, Mr. LOTT, Mr. DASCHLE, Mr. THURMOND, Mr. BYRD, Mr. WARNER, Mr. LEAHY, Mr. COCHRAN, Mr. HEFLIN, Mr. D'AMATO, Mr. JOHNSTON, Mr. GRAMM, Mr. BREAUX, Mr. FRIST, Ms. MOSELEY-BRAUN, Mr. LEVIN, Mr. SIMON, Mr. ROCKEFELLER, Mr. REID, Mr. DODD, Mr. GLENN, Mr. KERREY, Mr. KERRY, Mr. HARKIN, Mr. BRADLEY, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Mrs. BOXER, Mr. WYDEN, Mrs. HUTCHISON, Mr. COVERDELL and Mr. PRYOR):

S. 1890. A bill to increase Federal protection against arson and other destruction of places of religious worship.

THE CHURCH ARSON PROTECTION ACT OF 1996

Mr. FAIRCLOTH. Senator KENNEDY and I stand here today united in our belief that the rash of church arson must end and now. If we in Congress cannot agree that church burning is a despicable crime, what can we agree upon? It is not a matter of liberals, conservatives, blacks, or whites. It is about justice, faith, and right and wrong. Five of these churches—sadly, including a recent one on last Sunday night—were located in my home State of North Carolina.

I have every confidence that local law enforcement in my State can solve these crimes, but there is a real possibility that persons from outside of my State and other States may have set the fires, and that is the need for this bill and for Federal law enforcement assistance and a Federal statute. We have taken too long as a nation to react to this tragedy.

I do not know why the response has been so slow, nor do I fully understand if these crimes were the acts of conspirators or copycats.

What I do know is that we are sending a clear message today to anyone who is thinking about burning a church, that the wrath of the Federal Government will fall upon them. Scoundrels who burn churches have no refuge in our America on this day or any other day. They should and will be prosecuted and punished to the fullest extent of the law.

To that end, Senator KENNEDY and I have introduced this bill, full of both symbol and substance, to protect houses of worship.

Growing up and living in the rural South, I understand better than a lot of people that the church serves as a center of family life, of the community life, and in so many of these areas life is built around the church. Consequently, they hold in more ways than one a sacred place in the hearts of the people within that community. There is far more potential in these churches to cure what ails us as a nation than the Federal Government will ever possess. Let us renew our commitment with energy and conscience to protect the rights of all Americans without regard to race or religion.

Mr. KENNEDY. Mr. President, recently, the entire Nation has watched in horror and disbelief as an epidemic of terror has gripped the South. Events we all hoped were a relic of the past are now almost a daily occurrence. The wave of arsons primarily directed at African American churches is a reminder of some of the darkest moments in our history—when African-Americans were mired in a quicksand of racial injustice. We have come a long way from the era of Jim Crow, the Klan, and nightly lynchings. But these arsons are a chilling reminder of how far we have to go as a nation in rooting out racism.

In the 1960's, at a time when acts of violence against African-Americans were commonplace, when white freedom workers were being murdered by cowardly racists, Congress first began to speak vigorously and in a bipartisan fashion to condemn this violence and address the many faces of bigotry. Today, we again speak with a united voice in introducing bipartisan legislation to address this alarming recent epidemic of church burnings.

I commend my colleague from North Carolina, Senator FAIRCLOTH, for his leadership on the legislation we are introducing today. It is vitally important for the American people to recognize that all Americans—Democrats and Republicans, whites and nonwhites, Catholics, Protestants, Jews, and Muslims—must speak with a united voice in condemning and combating these outrageous acts. We must send the strongest possible signal that Congress intends to act swiftly and effectively to address this festering crisis.

President Clinton has also spoken eloquently on this issue, and has provided strong leadership. I applaud his efforts to commit substantial additional Federal resources to the investigations. Just as it was appropriate in the 1960's for the Federal Government to play an important role in reducing racial unrest, it is vitally important today for the Federal Government to take an active role in combating these racist arsons.

I also commend Congressmen HENRY HYDE and JOHN CONYERS, who developed the bipartisan House bill that was passed swiftly and unanimously yesterday, and I urge the Senate to act with similar swiftness.

There are four basic components to the Faircloth-Kennedy bill. First, it provides needed additional tools for Federal prosecutors to address violence against places of worship. The bill amends the primary Federal statute dealing with destruction of places of worship to make it easier to prosecute these cases. Current law contains onerous and unnecessary jurisdictional obstacles that have made this provision largely ineffective. In fact, despite the large number of incidents of destruction or desecration of places of religious worship in recent years, only one prosecution has been brought under this statute since its passage in 1988. Our bill will breathe life into this statute by removing these unnecessary obstacles.

In addition, our bill strengthens the penalty for church arson by conforming it with the penalties under the general Federal arson statute. By conforming the penalty provisions of these two statutes, the maximum potential penalty for church arson will double, from 10 years to 20 years. Our bill also extends the statute of limitations from 5 to 7 years, giving investigators needed additional time to solve these difficult crimes.

Giving prosecutors additional tools will enable them to address the current crisis more effectively. However, we must also deal with the aftermath of the arsons that have left so many needy communities without a place of worship. The bill contains an important provision granting the Department of Housing and Urban Development the authority to make loan guarantees to lenders who provide loans to places of worship that have been victimized by arson.

This provision does not require an additional appropriation of funds to HUD. It simply gives HUD authority to use funds it already has. These loan guarantees will serve an indispensable function to help expedite the rebuilding process and the healing process.

These arsons have placed an enormous burden on State and local law enforcement, who also must investigate the crimes and address the tense aftermath within their communities. Our bill contains two measures to assist State and local law enforcement and local communities in responding to these vicious crimes. The Department of the Treasury is authorized to hire additional ATF agents to assist in these investigations, and to train State and local law enforcement officers in arson investigations. ATF already trains 85 to 90 percent of local law enforcement in how to investigate arson. This authorization will facilitate needed additional training.

The bill also authorizes the Department of Justice to provide additional funds to the Community Relations Service, a small but vital mediation arm established by the Civil Rights Act of 1964. The mission of the Community Relations Service is to go into a community and reduce racial unrest through mediation and conciliation. The Community Relations Service has worked effectively to calm communities during some of the Nation's most difficult moments in the battle for racial justice, and it has earned the respect of law enforcement officials and community leaders nationwide.

In 1996, its budget was cut in half—from 10 million to $5 million. As a result, at a time when its services are in enormous demand, the Community Relations Service is about to be forced to lay off half of its already slim staff. This bill authorizes the restoration of funds to the Community Relations. We must act now, because its services are urgently needed.

Finally, the bill reauthorizes the Hate Crimes Statistics Act. This rash of arsons demonstrates the need to document all hate crimes nationwide. Reauthorizing the Hate Crimes Statistics Act is essential, and law enforcement groups, religious leaders, and civil rights leaders throughout the Nation strongly support it.

Taken together, this bill represents a sensible and practical response to the church arson crisis. We have a constitutional obligation to preserve the separation of church and state, but we also have a Federal obligation to protect the right of all Americans to worship freely without fear of violence. We believe this legislation is a timely and constructive step to stem the tide of violence in the South. If more can be done, we will do it.

In a larger sense, this tragic violence provides an opportunity for all Americans to examine our consciences on the issue of prejudice. We must work to root out racism and bigotry in every form. If we create a climate of intolerance, we encourage racist acts of destruction. While I respect and indeed cherish the first amendment right of free expression, we must be mindful that words have consequences. It is distressing that hate crimes are on the rise—whether arson of a church or assaults and murders because of bigotry. At other times in our history, we have been able to act together to heal a sudden or lingering sickness in our society, and we will do so now. The fundamental challenge is to re-commit ourselves as a Nation to the basic values of tolerance and mutual respect that are the Nation's greatest strengths.

The courage and faith demonstrated by the parishioners and clergy of the burned churches is an inspiration to the entire country. Their churches may have burned, but their spirit endures, and it is stronger than ever.

I also welcome the outpouring of generosity from numerous sources in the private sector. I commend the many individuals, businesses, congregations, and charitable organizations that have pledged financial support to rebuild the churches. These generous acts, as Martin Luther King once said, ''will enable us as a Nation to hew out of the mountain of despair a stone of hope.''

I urge my colleagues to join in expediting action on this urgent legislation. America is being tested, and the people are waiting for our answer.

Mr. President, this Faircloth-Kennedy bill addresses the recent spate of arsons that have gripped the South. The bill contains a number of measures designed to assist prosecutors and investigators in pursuit of the cowardly perpetrators of these crimes, and to assist victims and communities in the rebuilding process. This statement pertains to Congress' constitutional authority to amend the criminal provision pertaining to destruction of religious property and violent interference with right of free exercise of religious worship.

The bill amends title 18, United States Code, section 247 to make it easier for prosecutors to establish Federal violations in instances of destruction or desecration of places of religious worship. Although section 247 was passed in 1988, there has been only one Federal prosecution due to the onerous jurisdiction requirements contained in section 247(b).

The interstate commerce requirement of section 247(b)(1) is much greater than in other similar Federal statutes. For example, title 18, United States Code, section 844(i) is the general Federal arson statute and contains

a much lower interstate commerce threshold than is found in section 247(b)(1).

The $10,000 requirement of section 247(b)(2) is arbitrary and unnecessary, and does not reflect the serious nature of many bias motivated acts of violence against places of religious worship. For example, there have been a number of incidents of bias-motivated violence committed by skinheads against synagogues which involved firing gunshots into these sacred places of worship, or the desecration of solemn symbols or objects, such as a Torah.

The Justice Department is providing specific examples of the limitations of section 247 which it will present at a hearing scheduled for June 25, 1996 in the Judiciary Committee. The monetary damage amount in these incidents described above is minimal. Yet, the devastation caused by these crimes is enormous, and the Federal Government can and should play a role in prosecuting these heinous acts of desecration.

The Faircloth-Kennedy bill amends section 247 in a number of ways. Most importantly, the onerous jurisdictional requirements of section 247(b) are discarded in favor of a more sensible structure that will better enable prosecutors to pursue the cowardly perpetrators of these crimes.

Section 2 of the bill contains congressional findings that set out in explicit detail the constitutional authority of Congress to amend section 247. A hearing was conducted in the House of Representatives on May 21, 1996, and a hearing will be conducted in the Senate on June 25, 1996, in which substantial evidence has or will be presented to support these congressional findings.

Congress has three separate bases of constitutional authority for amending section 247. First, Congress has authority under section 2 of the 13th amendment to enact legislation that remedies conditions which amount to a badge or incident of slavery. The Supreme Court, in *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409 (1968), and *Griffin* v. *Breckenridge*, 403 U.S. 88 (1971), held that Congress has broad power under the 13th amendment to enact legislation that addresses societal problems of discrimination. In Griffin, the Supreme Court held that ''there has never been any doubt of the power of Congress to impose liability on private persons under section 2 of the th[e Thirteenth] Amendment.

The arsons that have occurred have been directed primarily at African-American churches. Although a number of the perpetrators have not been apprehended, it is clear from the statement of the Justice Department that a substantial number of the arsons were motivated by animus against African-Americans. Indeed, these events are a tragic reminder of a sad era in our Nation's history, when African-Americans were mired in a quicksand of racial injustice. As such, Congress has the authority under the 13th amendment to amend section 247, and to eliminate the interstate commerce requirement altogether.

Congress also has authority under the commerce clause to enact this legislation. As the record makes clear, the churches, synagogues, and mosques that have been the targets of arson and vandalism, serve many purposes. On Saturdays or Sundays, they are places of worship. During the rest of the week, they are centers of activity. A wide array of social services, such as inoculations, day care, aid to the homeless, are performed at these places of worship. People often register to vote, and vote at the neighborhood church or synagogue. Activities that attract people from a regional, interstate area often take place at these places of worship. There is ample evidence to establish that Congress is regulating an activity that has a ''substantial effect'' upon interstate commerce.

Mr. President, I would like to include as cosponsors of this legislation the Senator from West Virginia [Mr. BYRD]; the Senator from Connecticut [Mr. DODD]; and the Senator from Alabama [Mr. HEFLIN].

Mr. President, I ask unanimous consent the upcoming hearing on church arson currently scheduled for June 25, 1996 by the Judiciary Committee as well as excerpts of other statements submitted in the context of that hearing be made a part of the overall record pertaining to consideration of the Faircloth-Kennedy church arson prevention bill.

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

EXCERPT OF STATEMENT OF DEVAL PATRICK, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION, BEFORE THE COMMITTEE ON THE JUDICIARY, MAY 21, 1996

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear today to discuss the efforts of the Department of Justice to prosecute those individuals responsible for the deplorable act of setting fires to houses of worship and intimidating their parishioners.

Let me assure you all, first and foremost, that the Department of Justice considers investigation of church fires and prosecution of those persons responsible for attempting to destroy houses of worship to be among our most important investigative and prosecutorial priorities. Houses of worship have a special place in our society. They are, of course, the center of a community's spiritual life. In many communities, the church is the center of its social life as well. As we have seen in communities that are the subject of today's hearing, destruction of a church can have devastating effects.

When the fire is accompanied by an explicit or implied threat of violence directed at church members because of their race, these devastating effects are multiplied. In our society, arson of a church attended predominantly by African Americans carries a unique and menacing threat—that those individuals are physically vulnerable because of their race. These threats are intolerable; no one in our society should have to endure them. The Department of Justice is committed to insuring that those who make such threats will be prosecuted and will serve sentences commensurate with the cowardly and despicable nature of their actions.

I will provide a more general overview of federal prosecutorial activities.

FEDERAL JURISDICTION

There are a number of statutes that provide federal jurisdiction over arsons at churches.

We also have jurisdiction under 18 U.S.C. 247 and 248. Under 18 U.S.C. 247, anyone who ''intentionally defaces, damages, or destroys and religious real property, because of the religious charter of that property, or attempts to do so,'' through use of fire, has committed a felony. Subsection (b) of the statute states that the defendant must have traveled in interstate or foreign commerce, or used a ''facility or instrumentality of interstate or foreign commerce in interstate or foreign commerce'' in committing the crime, and caused more than $10,000 damage.

Section 844(h) of Title 18 applies when fire or an explosive is used to commit another crime, and section 844(i) of Title 18 prohibits the use of fire when destroying a building used in interstate or foreign commerce. Section 248(a)(3) of Title 18 makes it a crime to ''intentionally damage[] or destroy[] the property of a place of religious worship.'' As we discuss later, however, our ability to use 248 may be limited.

SUCCESSFUL PROSECUTIONS

Investigation of church fires is extremely challenging. Fire often destroys all of the relevant evidence. In addition to examining the evidence at the scene of the fire, many witnesses must be interviewed in order to get a lead, as there are seldom witnesses to an arson at a church, particularly churches located in rural areas, as many of these churches are. There are currently over 200 federal agents from the ATF and FBI assigned to the various fires we are investigating.

We have had successful federal prosecutions, and have secured sentences commensurate with the seriousness of these crimes. Two recent cases demonstrate the type of investigations and prosecutions that vindicate federal rights.

MAURY COUNTY, TENNESSEE

In January of 1995, two African American churches and an African American-owned tavern were burned. Local law enforcement investigated, and arrested three suspects, all of whom said the fires were the result of actions they took while intoxicated, and were intended only as a joke. The FBI also investigated, and determined that all three defendants spent a Sunday watching the Super Bowl, drinking, and discussing their hatred of African Americans. The discussion later turned specifically to ''burning nigger churches.'' After gathering various supplies, the defendants first drove to an adjoining county and tried to set fire to the tavern by throwing a molotov cocktail through the window. It failed to ignite. They also burned a cross on the tavern property. They then crossed back into Maury County and went to the Friendship Missionary Baptist Church, an African American church, and threw a railroad tie and molotov cocktail through the window. The fire ignited and caused heavy damage to the church. They also attached a small cross to the church sign and ignited it. They then drove to another African American church, the Canaan African Methodist Episcopal Church, again throwing a molotov cocktail into the church and causing damage, and again leaving a cross on church property.

The FBI obtained inculpatory statements and physical evidence, and identified other persons who later testified before the grand jury concerning the defendants' intent to burn African American churches. Attorneys from the United States Attorney's Office for

the Middle District of Tennessee, as well as from the Criminal Section of the Civil Rights Division, participated in the Federal prosecution of these three defendants. They also met often with local church officials, not only to keep them apprised of the developments in the Federal prosecution, but also to discuss with them the impact of this attack on the members of the church.

The defendants were arrested in August of 1995 on Federal charges of violating 18 U.S.C. 241 by conspiring to set fire to the two African American churches and the tavern. They pled guilty to the Federal charges in October of 1995. Two of the defendants were sentenced to 33 months in Federal prison, and the third to 57 months, for this hate crime.

One reason we decided to proceed with a Federal prosecution was that because the tavern firebombing occurred in another county, trial in State court would have required separate State indictments and resulted in the juries in each case seeing only part of the overall crime. The Federal conspiracy charge permitted the full scope and nature of the crime to be presented in one prosecution, and provided certain evidentiary advantages, such as the admissibility of co-conspirator statements. In addition, the sentences these defendants would have received under local law were much less than Federal law would permit. The Federal sentencing guidelines permitted the court to tailor sentences which reflected the culpability and subsequent cooperation and acceptance of responsibility by the defendants. The Government was able successfully to argue at sentencing that the leader of three defendants deserved an enhanced sentence. The Federal investigation also revealed that the local firefighters who responded to the first church burning were placed at a substantial risk of death or serious bodily injury by the fire, which also persuaded the court to impose an enhanced sentence. The decision to proceed against these defendants in Federal court and on Federal charges resulted in sentences that fit the contemptible nature of their actions and the effect of those actions on the members of the churches they attempted to destroy.

PIKE COUNTY, MISSISSIPPI

On April 5, 1993, on the 25th anniversary of the death of Rev. Martin Luther King, Jr., two African American churches in rural southern Mississippi burned to the ground. The FBI, with some cooperation by the local sheriff's department, took the lead in the investigation and identified three suspects, one adult and two juveniles. The Bureau contacted the father of one suspect, and met with the suspect, his father and his attorney. Later the Bureau agent and a lawyer from the criminal Section of the Civil Rights Division met with another suspect and the suspect's parents. The suspects admitted setting fire to the churches. The churches were chosen because they were African American churches, and the suspects admitted making racially derogatory remarks such as ''Burn Nigger Burn'' and ''that will teach you Niggers'' when setting the fires.

These fires were set in an area of Mississippi with a disturbing and violent racial past. This prosecution sent a strong message that this sort of violence will not be tolerated. A thorough six month investigation was done, followed by grand jury testimony. On October 1, 1993, all three participants pled guilty to violating 18 U.S.C. 241. Two defendants were sentenced to 37 months in Federal prison and one to 46 months.

These are two instances of successful Federal investigation and prosecution of hate crimes involving the burning of African American churches. Other fires have been investigated jointly with State and local authorities. Some of these have resulted in State convictions and lengthy sentences.

INCREASE IN REPORTS OF CHURCH FIRES

We have found a disturbing increase in the number of fires at churches reported to the Justice Department over the past two years. As of May 1, 1996—only four months into the year—we had received reports of fires at 24 churches, seventeen of which occurred at churches in which the membership is predominantly African American. During 1995, we received reports of fires at 13 churches, and reports of acts of vandalism at three churches that did not involve fires. Eleven of the fires that occurred in 1995 were at African American churches. From 1990 through 1994, we received and investigated reports of fires at only 7 houses of worship, 6 of which were at African American churches, and acts of vandalism at 5 synagogues.

This pattern of church fires has not been limited to one region of the country. The reports of church fires occurring in 1996 have come from Alabama, Georgia, Louisiana, Mississippi, Tennessee, Virginia, South Carolina, and Texas in the southern United States, and also from Arizona, Maryland, and New Jersey. In 1995, we investigated church fires that occurred in Alabama, North and South Carolina, and Tennessee, and also one that occurred at an African American church in Washington state.

Nearly one-quarter of the cases reported to us in 1995 and 1996 have been resolved. Of the 24 fires reported to us as of May 1 of this year, arrests have been made in two cases, and one has been determined to have been accidental. The rest remain under active federal investigation, and we are hopeful that we can bring some to conclusion soon. Of the 13 fires and 3 incidents of vandalism occurring in 1995, 10 remain under active federal investigation. Two investigations have been closed after successful federal prosecution, and one fire was determined to be accidental. Arrests have been made in two of the incidents still under active investigation. The three incidents of vandalism at churches in Alabama were resolved through local prosecution.

We have taken a number of steps to encourage local law enforcement personnel throughout the country and others to contact the FBI and ATF whenever a fire appears suspicious. We have also spoken to church and civil rights leaders in many areas to encourage them to get the word out to their parishioners and members that fires and acts of vandalism at houses of worship are of serious federal concern, and that they should quickly report these incidents to both local and federal officials.

I recently went to Boligee, Alabama, to visit the sites of recent church arsons and to meet with local law enforcement officials as well as officials of the damaged churches. I spoke both of the high priority these cases have in the Department of Justice, and of our need for a close relationship with local law enforcement and local citizens regarding these kinds of actions. I was heartened by the reception I was given by local church officials, and I hope they, and other church members and other citizens around the country fully understand the Department's commitment. I know that Assistant Secretary James Johnson from the Department of the Treasury has also made a number of visits to churches around the country victimized by suspicious fires, and has explained the manner in which the federal government is responding to these fires.

I am sure that local church and community members are as frustrated as we are by those instances in which church fires are not yet solved. I certainly hope that those same officials and citizens understand that we are actively investigating these fires, and doing whatever we can to determine what happened and to make arrests where criminal activity occurred. It is important to remember that arsons are among the most difficult crimes to solve. Fire often destroys important evidence. Some of these fires were set at churches located in rural, isolated areas, and for that reason the fires at some were extensive. In some instances, churches burned to the ground. It is not yet clear whether the increase in the number of fires reported to us reflects an increase in the number of fires that have occurred, or reflects an increase in reporting. As I stated earlier, we have actively encouraged local citizens and law enforcement officials to report all fires at houses of worship to federal officials, and recent publicity about some church fires may have encouraged the reporting of others.

It is clear, however, from some of the cases that have been solved, that some of the people who have set fires at houses of worship are motivated by hate. Most of the other cases are still under investigation. As you know, I cannot discuss specifics of any open case. I can say, however, that during our investigation we focus not only on the circumstances of the specific fire before us, but also on whether, if we identify an individual or individuals responsible for the fire, there is any evidence that these individuals have any ties to fires that have occurred elsewhere in the country. Because these investigations are ongoing, it is premature to draw conclusions one way or the other as to whether the fires we are seeing are part of an organized hate movement.

DIFFICULTIES WITH FEDERAL JURISDICTION

While I mentioned the Federal statutes that give us jurisdiction over some fires and acts of vandalism at houses of worship, using those statutes does present some difficulties.

18 U.S.C. 241 applies when we have two or more defendants acting in a conspiracy. While we can get significant jail sentences under section 241, we can use section 241 only when we have a conspiracy of two or more persons. When we do not have two or more individuals involved in the fire, section 241 is not available.

When we are left with only one suspect, our jurisdiction is provided by 18 U.S.C. sections 247 or 248. Prosecutions under section 247 are complicated significantly by the fact that subsection (b) of the statute states that the defendant must have traveled in interstate or foreign commerce, or used a ''facility or instrumentality of interstate or foreign commerce in interstate or foreign commerce'' in committing the crime, and caused more than $10,000 damage. These provisions make this statute nearly impossible to use. The $10,000 requirement means that when the damage from the fire is minimal, or when hate is expressed, not through fire but through desecration or defacement of houses of worship, 18 U.S.C. 247 is not an available source of jurisdiction. In those cases, the message of hate is just as clear, and the effect on the victims often just as palpable and disturbing, but an important law enforcement tool is not available.

18 U.S.C. 248(a)(3) also provides Federal jurisdiction in church arsons. While that section could be a useful tool to address this problem, we believe that the Supreme Court's recent decision in *United States* v. *Lopez*, 115 S.Ct. 1624 (1995), may make use of that provision more difficult.

Section 844(h) of title 18 applies when fire or an explosive is used to commit another crime, and section 844(i) of title 18 prohibits the use of fire when destroying a building used in interstate or foreign commerce. Their utility is limited, however, where no other crime is present, or the interstate commerce nexus is not met.

CONCLUSION

The Clinton Administration is determined to address this problem using all the law enforcement and investigative tools available, working cooperatively with our Federal as well as State and local law enforcement. Solving these crimes, and punishing those responsible, remains a high priority for this Administration.

STATEMENT BY THE REV. DR. JOSEPH E. LOWERY, PRESIDENT, SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE, CHAIRMAN, BLACK LEADERSHIP FORUM, INC., TO THE JUDICIARY COMMITTEE, TUESDAY, MAY 21, 1996

Mr. Chairman, and Members of the Judiciary Committee, the Department of Justice through the Assistant Attorney General, Civil Rights Division, has advised us that (as of April 24, 1996) they have investigated ''fires and incidents of desecration'' at 46 different houses of worship in 15 States . . . since 1990.

Of the 46 incidents listed, 29 remain unsolved. So far in 1996, 25 incidents have been reported, and 23 remain unsolved.

We have been outraged at these continuing attacks on places of worship—and sorely disappointed that until recently law enforcement in particular, as well as government and media in general—have seemed only mildly interested in focusing on these acts of terrorism. Scant notice was given by national media until a church where the assistant pastor was a well known professional football star—was torched.

In late 1995, SCLC intensified its protest and plea to law enforcement agencies to unleash all available resources to bring these criminals to justice.

In early 1996 we visited the sites of burned churches in Alabama and Louisiana. Subsequently, Asst. Atty. Gen. Deval Patrick visited our offices in Atlanta to assure us that the investigation of these fires would be given top priority. An official in the enforcement division of the Treasury Department (ATF) also called and informed us that a Joint Task Force with the Justice Dept.—consisting of approximately 100 persons—had been assigned to the investigation. We were advised that two of the officers originally assigned to the Task Force had been removed after it was discovered that they had been among ATF agents who attended a Good Ol' Boy Roundup, where shameful racist activities took place. It is our understanding that none of the agents who frequented these ''Roundups'' has been dismissed or severely disciplined. African Americans are concerned that many law enforcement agencies include personnel who are also members of racist groups.

We are not surprised at this feeble response to racist behavior—for like the national response to these church burnings, it represents a fifty-first state in the nation—''the state of denial''. While we have been shocked as a nation at the rise of hate groups and right-wing terrorists that have bombed federal buildings, and militia groups that pose serious threats to democracy, we have downsized the racist nature of these groups. History, however, is clear that hate mongers in this nation are usually integrated with white supremacists, anti-Semites, and neo-Nazis. They are usually gun addicts and are heavily armed with assault weapons.

Is it any wonder that we are outraged that law enforcement agencies insist on denying the racist nature of these attacks on the soul of the Black community—our churches?

A few days ago a gang of white teenagers in Ft. Myers, Florida—known as ''Lords of Chaos''—shot and killed a high school band director who uncovered their mayhem. This gang of white teens—from affluent homes (some of whom were honor students)—had burned a soft drink warehouse, a restaurant with exotic birds; had burned property of a Baptist church and were on their way to attack Disney World with assault weapons. What the media have hardly mentioned is that their plans included a shooting spree against Black tourists following the attack on Disney.

We are witnessing a frightening and serious assault on African Americans in this nation, in the judicial and legislative suites—as well as in the streets. One hundred years ago, around the time of Plessy vs. Ferguson (separate but equal) African Americans were stripped of political power and our properties including churches were burned. One hundred years later the ghost of Plessy vs. Ferguson and the forces that ended reconstruction are haunting the nation. Our children are cast into inferior courses by ''tracking'' and other forms of miseducation and denial of justice and equal opportunity in education. Our voting rights are being devastated by federal judges who hold the sacred rulings of their predecessors in contempt. Equal opportunities in employment and economic enterprise are imperiled by the assault on affirmative action. The rhetoric around welfare reform suggests that welfare recipients are black, lazy, dishonest, and need to be penalized for being poor. It is soundly perceived and believed that efforts to balance the budget are totally insensitive to the needs of the poor and elderly—and that the budget should be balanced on the backs of the poor. So-called angry white males are concerned that affirmative action, the Federal government, and welfare recipients are their enemies and are responsible for their economic uncertainties. These misconceptions are fomented by the rhetoric and policies of extremists in both the public and private sector.

While we continue to call for intensive and massive efforts by law enforcement to bring these criminals to justice, we recognize that concomitantly, we must: (1) recognize the widening impact of anti-Black, anti-poor policies, in creating attitudes of hostility that can translate into acts of hostility; (2) we must hold accountable the extremist groups that fan flames of racial and class divisions.

We would strongly urge the Congress of these United States to:

1. Call for a massive, intense effort on the part of the FBI, and the entire law enforcement contingency of the United States government to bring to justice those who committed these crimes.

2. Commend, support and encourage the ministers, congregations and communities that refuse to be intimidated by these cowardly acts of terrorism. The message must be loud and clear that the African American community will not be intimidated in 1996 any more than we were in 1896, 1963 or any other time. These attacks stiffen our resistance to oppression and render firm our resolve in the pursuit of justice and equity.

We respectfully urge this committee and the Congress to remember the history of fire bombing of churches in our community. While no life has been lost, we recall with deep pain and sorrow the murder of four little girls in Sunday school in a church in Birmingham, Alabama. These criminals must be stopped before such tragedies recur.

3. We respectfully urge the committee and the Congress to seek ways and means of addressing the economic distress, the loss of jobs, the growing fears and uncertainties about the future in ways that do not make African Americans, Hispanics, women, and low income persons—scapegoats.

We urge the Congress to engage in a positive campaign to achieve racial justice and an end to political, judicial, economic and street violence.

We believe that an intelligence system and advanced criminological technology that can identify terrorists in faraway lands, and in New York and Oklahoma, ought to be able to apprehend angry arsonists who burn churches.

Finally, some religious extremists have offered rewards for the culprits and challenged civil rights groups to match the reward monies.

We believe the religious community could better serve the common good by engaging in joint efforts to eliminate the climate of hostility which encourages acts of hostility. We are willing to work together for social justice, the beloved community, and an end to economic, political, judicial and physical violence.

EXCERPTS OF TESTIMONY OF JOHN W. MAGAW, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, BEFORE THE COMMITTEE ON THE JUDICIARY, MAY 21, 1996

Thank you, Mr. Chairman, Mr. Conyers, and members of the Committee, for providing this forum to discuss the Federal response to the recent series of church fires, predominately African-American, that have occurred in the Southeastern United States. The Bureau of Alcohol, Tobacco and Firearms is the arson investigative agency of the Federal government, and we bring unparalleled expertise to fire investigations. Today, I'd like to highlight ATF's role in working with State and local fire and police authorities, the Federal Bureau of Investigation, and the Civil Rights Division of the Department of Justice in investigating these fires. The burning of churches is a particularly heinous crime because those who would attack our churches seek to strike at our most fundamental liberties and sources of personal support. African-American churches historically have served as places of sanctuary, centers of the community, and symbols of freedom. ATF is committed to fully applying all of our investigative resources to determine the cause of these fires and arrest those responsible for the arsons.

Although ATF has dedicated a tremendous amount of resources to investigating this unusual increase in the number of church fires, church fires are not necessarily a new phenomenon. According to statistics compiled by the National Fire Data Center (NFDC) in the U.S. Fire Administration, 179 church fires were reported in 1994. The NFDC estimates that the statistics represent half of the actual number of fires which occur each year. ATF has investigated 135 church fires across the United States since October 1, 1991. However, as depicted in the displayed pie chart, all church fires that ATF initially investigates are not determined to be arsons.

CURRENT CHURCH FIRE INVESTIGATIONS

Since January 1995, ATF has conducted more than 2,600 fire investigations. During this same period, ATF has conducted 51 church fire investigations. Twenty-five of these investigations are arsons which occurred at predominately African-American churches in the Southeast. These include six in Tennessee: five each in Louisiana and South Carolina; four in Alabama; three in Mississippi; and one each in Virginia and Georgia. These locations are reflected in the displayed map chart. As you know, these investigations are ongoing and, therefore, I am unable to go into detail about the specifics of these fires. I can tell you that, as of May 15, 1996, there have been two individuals arrested in connection with fires in Williamsburg County and Manning, South Carolina. In addition, there have been three arrests in Lexington County, South Carolina; one arrest in Tyler, Alabama; and another in

Satartia, Mississippi. I am confident that we will make additional arrests in the near future.

The concentration of arsons at African-American churches, depicted on the line chart, raises the obvious possibility of race/hate-based motives. The proximity in time and geographic region indicates the possibility that some of the fires are connected. Because of the potential of racial motives, and the possibility that some fires may be connected, there has been an extraordinary degree of coordination of the various investigations. We are always aware of the possibility that evidence and information developed in one investigation might provide valuable leads in another. While the targets, timing, and locations of the arsons have resulted in heightened attention to race/hate-based motives and possible connections, ATF must also examine all other possible motives for the fires. Motives can range from blatant racially motivated crimes to financial profit to simply personal revenge or vandalism. In any event, the motive in one arson does not automatically speak to the motive in another arson or series of arsons. A conspiracy was uncovered involving at least two fires in South Carolina. We have not yet found any evidence of an interstate or national conspiracy, but until our work is done no motive or suspect will be eliminated.

The Bureau of Alcohol, Tobacco and Firearms (ATF) is the arson investigative agency of the Federal government and we bring unparalleled expertise to fire investigations. AFT derives its authority to investigate arson incidents, in part, from 18 U.S.C. Section 844(i) which makes it a Federal crime to use explosives or fire to destroy property affecting interstate commerce. The legislative history of this law makes it clear that Congress intended it to cover churches and synagogues. The interstate nexus generally flows from national or international affiliations that involve the movement of funds, property, and other support services across State boundaries.

Since January 1995, ATF has conducted more than 2,600 fire investigations. During this same period, ATF has conducted 51 church fire investigations. Twenty-five of these investigations are arsons which occurred at predominately African-American churches in the Southeast. We are working in concert with over 20 State and local law enforcement and fire agencies, as well as with the FBI, the Civil Rights Division of the Department of Justice, U.S. Attorneys' offices, and local prosecutors. We have committed virtually every arson investigative resource at our disposal to the investigation of the African-American church fires. Approximately 100 ATF special agents have been assigned to the active investigations in the Southeast. We have employed all of ATF's investigative resources, such as our National Response Teams, Certified Fire Investigators, and ATF-trained accelerant detecting canines to help process the crime scenes.

Because of the potential of racial motives, and the possibility that some fires may be connected, there has been an extraordinary degree of coordination of the various investigations. A conspiracy was uncovered involving at least two fires in South Carolina. We have not found any evidence so far of an interstate or national conspiracy, but until our work is done no motive or suspect will be eliminated. African-American churches have served as places of sanctuary, centers of the community, and symbols of freedom. We will continue to vigorously pursue all investigative leads to solve these arsons and remove the fear.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

FAIRCLOTH-KENNEDY CHURCH ARSON PREVENTION ACT

Section One: Short Title: This section notes that the bill may be cited as ''The Church Arson Prevention Act of 1996.''

1. Sections Two and Three: Amendment to Federal Criminal Code.—Title 18, United States Code, Section 247, is one of the principal federal statutes addressing destruction of religious property. Since its passage in 1988, this provision has been used once by federal prosecutors, despite the hundreds of incidents of destruction or desecration of religious property. (The one case involved the murder of a cult member by another cult member.) The reason prosecutors do not use the statute is because it contains jurisdictional requirements that, as a practical matter, have been impossible to meet.

Specifically, section 247(b) contains a very high interstate commerce requirement, a requirement that is not constitutionally mandated, even after *Lopez*. The level of interstate commerce required under section 247(b) is much higher than is required in other similar federal statutes, such as the arson statute.

In addition, in cases of destruction of religious property, there is a requirement that the damage exceed $10,000. The monetary requirement is arbitrary, and does not reflect the seriousness of many crimes. For example, there have been a number of very serious cases involving skinheads firing gunshots into synagogues that could not be prosecuted under this statute because the damage did not exceed $10,000.

The upshot of these two requirements is that section 247 is essentially useless because prosecutors cannot meet the unduly onerous jurisdictional requirements. The attached bill (Section 3) addresses this problem by eliminating these unworkable jurisdictional requirements and replacing them with a more sensible scheme that will expand the scope of a prosecutor's ability to prosecute religious violence under section 247. The monetary requirement is eliminated altogether, and the interstate commerce requirement is replaced by a much more workable framework that will enable prosecutors to prosecute church arsons, as well as other serious acts of religious violence, under this statute. The House bill contains a very similar provision, and the Administration supports this approach.

The Senate bill pertaining to section 247 contains two additional features that are not contained in the House bill. First, the Senate bill conforms the penalty provisions of section 247 so that they are identical to the general federal arson statute. Presently, if a defendant is prosecuted under the federal arson statute for the arson of a building in which nobody is injured, he faces a maximum possible penalty of 20 years. However, if that same person burns down a place of religious worship, and is prosecuted under section 247, the maximum possible penalty is 10 years. Similarly, the statute of limitations for prosecutions under the general federal arson statute is seven years, while it is only five years under section 247. The Senate bill corrects these anomalies by conforming these provisions of section 247 to the provisions of the federal arson statute.

The Senate bill (Section 2) also contains the requisite Congressional findings that enable Congress to amend section 247. These findings, in conjunction with the extensive factual record that is being generated, are intended to ensure that the bill withstands constitutional scrutiny.

2. Section 4: Loan Guarantees—The Senate bill contains a provision intended to assist victims in seeking to rebuild without running afoul of First Amendment establishment clause concerns. Under this provision. HUD will have the authority to use up to $5,000,000 from an existing fund to extend loan guarantees to financial institutions who make loans to 501(c)(3) organizations that have been damaged as a result of an act of terrorism or arson. This provision does not require an appropriation of additional funds to HUD. It will simply give HUD the authority to use already existing funds in a new manner. The financial benefit derives primiarly to the financial institution, which now has the ability to make certain loans that it might now otherwise have considered. The House bill does not contain this provision.

3. Section 5: Additional Resources to ATF—ATF trains approximately 85-90% of state and local law enforcement in how to investigate suspicious fires. It has been very difficult for state and local enforcement to keep pace with the recent spate of arsons. As a result, ATF has played a prominent role in these investigations. The bill contains authorization language (Section 5) for ATF to add investigators and technical support personnel to participate in these investigations, and to train state and local law enforcement with the necessary arson investigation skills to enable them to conduct these difficult investigations. The House bill does not contain this provision.

4. Section 5: Additional Resources to Community Relations Service—The Community Relations Service is the mediation/conciliation arm of the Justice Department that was created as part of the Civil Rights Act of 1964. Its mission is to go out in the community to quell racial unrest through mediation and conciliation. From working in Memphis following the death of Martin Luther King to working in Los Angeles during the Rodney King riots, the Community Relations Service has worked to calm communities during our nation's most tense moments. CRS focuses on non-litigation approaches to problem solving, and has earned the respect of police chiefs and community leaders across the country.

In an unfortunate development, CRS had its budget cut in half (10 million to 5 million) during the 1996 appropriation cycle. Consequently, effective June 22nd, at a time when their services are in great demand, CRS will be forced to lay off almost half its staff, unless they get additional money. Section 5 of the bill contains authorization language for CRS to receive such sums as are necessary to perform these essential services. It is Senator Kennedy's hope that CRS ultimately will be funded at 1995 levels. The House bill does not contain this provision.

5. Section 6: Reauthorization of the Hate Crimes Statistics Act—Newspaper reports give differing accounts of the number of church fires that have occurred over the past two years. The inability to document the number of such incidents points to the need to reauthorize the Hate Crimes Statistics Act permanently.

Section 7 contains a provision permanently reauthorizing the Hate Crimes Statistics

Act. Although the Senate has already passed a separate bill reauthorizing the HCSA, the House has not acted. Given the paucity of time remaining in this legislative term, it is imperative to pass the HCSA reauthorization as soon as possible. As a result, it has been included in the Senate bill.

If you have any questions, feel free to contact me at 224–4031. I hope your Senator will consider co-sponsoring this proposal so that the Senate can send a strong message to the American public on this pressing issue.

6. Section 7: Sense of the Senate—Section 7 is a sense of the Senate resolution commending individuals and entities who have assisted financially, or offered to assist financially, in the rebuilding process. This resolution encourages the private section to continue these efforts.

7. Section 8: Severability Provision.—This clarifies the severability of all provisions of this bill.

Mr. KENNEDY. I think I have 2 minutes left. I yield 2 minutes to the Senator from Alabama for his comments.

Mr. THURMOND. Mr. President, may I make an inquiry? Am I listed on that bill as cosponsor? I just want to find out.

Mr. KENNEDY. Senator FAIRCLOTH, I think, is indicating in the affirmative, Senator.

Mr. FAIRCLOTH. Yes, the ones so far are Senator LOTT, Senator THURMOND, Senator WARNER, Senator D'AMATO, Senator GRAMM, Senator Frist, and Senator COCHRAN. There are several others, and many more who are going to sign on, but you are listed, Senator THURMOND.

Mr. KENNEDY. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes, 30 seconds.

Mr. KENNEDY. I yield 2 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, we recently awoke once again to disturbing news that has become all-too-commonplace. We were told that during the night, additional southern black churches had been burned. These recent church burnings came amidst heightened national concern over the epidemic of such episodes throughout the South. As each fire is reported, we cling to the hope that what we will hear is that it was the result of an accident and not the work of some demented arsonist. The evidence, however, points away from the accidental fire.

As these hateful incidents continue to occur with alarming regularity, we are reminded of some of the most terrible moments of the civil rights struggle of the 1960's. Then, homes, businesses, churches, and other property was set afire in the dark of the night by those who wanted to preserve the existing social order. Their goal was to intimidate and frighten those working legally for the causes of equality and integration.

To those of us who remember those dark days and who applaud the progress which has been made in our society since then in terms of race relations, these current images of fires at churches in the early hours before dawn are profoundly disturbing and disconcerting. This is not supposed to happen in this day and age, not in the South or anywhere in this country.

Such incidents remind us that such hatred is alive in the United States of America and it is directed today at the very heart of these small, rural black communities. We ask ourselves who would hate a group enough to burn its church, the spiritual and social center of the community. The forces of evil are intentionally striking at the very soul of these communities by destroying their most sacred and powerful symbols.

Last week, the President said:

"This country was founded on the premise of religious liberty. It's how we got started * * * It is the cruelest of all ironies that an expression of bigotry in America that would sweep this country is one that involves trashing religious liberty.

Most would agree that one of the most logical institutions or symbols for bringing different people together would be a house of worship. What better venue could there be for transcending social and cultural division than the spiritual setting provided by a church?

These fires are far more than an expression of religious bigotry. The fact that these small churches are so much more to the community than simply places of worship makes the expressions of hatred even more egregious. They go beyond religion to the very essence of racial hatred. We have to ask ourselves what kind of hatred could possibly motivate individuals to destroy these symbols of a community in such a despicable manner.

As the Government searches for ways to address this epidemic, including the legislative efforts which I strongly support, we have to look at the twin possibilities of a conspiracy and the work of copycat arsonists. If it is a conspiracy, the work of one isolated group or groups fanning their hatred across the South, then our task is to find the perpetrators and prosecute them to the fullest extent of the law. Some of the evidence points to a conspiracy, such as the timing of the fires—they have all occurred in the very early hours of the morning, before day-light. As disturbing as it would be, it would be better for us as a country if the fires are the result of a conspiracy, the work of one group of individuals that does not reflect the current sentiment in this region of the country.

If, on the other hand, they are the result of copycats, which is more likely the case, then we are dealing with a societal disease. Addressing such a societal ill is far more difficult and requires a much different response that goes beyond basic law enforcement. At the same time, it provides us with an opportunity to reevaluate race relations in this country and to seek new ways to improve them. As these tragic fires illustrate, some remedial attention with regard to continued progress in race relations is needed.

There are some ways in which communities can be brought together because of these fires. White churches should invite their black neighbors who have lost their places of worship to come and worship with them. Black and white churches should come together in forming watches to prevent these attacks in the future. Ministers—black and white—should speak forcefully about racial equality and of the importance of honoring houses of God and keeping them sacred.

These rather small but commonsense acts of neighborliness and spiritual leadership could direct more attention on where we are in terms of racial attitudes and relations. It is sad that with all the progress we have made over the last few decades, these kinds of terrorist acts still occur. Throughout my career, I have striven to promote racial harmony in my State and throughout the Nation. I am proud of the progress we have made. But, as my time in the Senate draws to a close, I am, frankly, quite disheartened that these kinds of incidents are again plaguing our society.

While we do all in our power possible to stop these hate crimes, bring their perpetrators to justice, and encourage compliance with the law, we should also ask ourselves if there is more we can do as individual communities to advance the causes of equal rights and racial harmony. So, Mr. President, I support the Faircloth-Kennedy bill. I think it is an improvement over the House bill. A lot of work has gone into this. I think it approaches the situation with an investigatory device, to try to enhance the right of the FBI to investigate these terrible acts that are occurring throughout our Nation.

Senator PRYOR has asked me to add his name to this. I am sure there will be others. I ask unanimous consent the cosponsors' names be allowed to be entered for a period of time following this.

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

Mr. HEFLIN. Mr. President, I also see this as an opportunity to bring further improvement in regard to race relations. Yesterday I spoke with a group of Methodist ministers. I told them this was an opportunity to extend a hand of friendship to the black members of churches that were destroyed, to endeavor to try to work with them to improve their lot in the agony they are suffering today. I think this is an opportunity.

I do not know whether this is a conspiracy or whether it is a copycat situation. If it is a conspiracy, we should root out the perpetrators of this and punish them. If it is a copycat situation, then we have to try to work to remove the root cause.

So, it is something I think the American people ought to be aware of, and that they ought to do everything they can to address these crimes.

I fully support this bill.

Mr. KENNEDY. Mr. President, I yield the remainder of our time.

Mr. FAIRCLOTH. Mr. President, any time I have remaining I also yield back.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, the Senator from Massachusetts and the Senator from North Carolina, have they completed their remarks and the introduction of their bill?

Mr. KENNEDY. I thank the Chair and ranking minority member for yielding for this purpose. We yield back our time.

Mr. NUNN. I congratulate both Senators on taking this step. I think there is nothing that is so discouraging and heartbreaking than to see the burnings that have taken place of churches across much of our country.

I congratulate both the Senator from Massachusetts and the Senator from North Carolina. Maybe we can get unanimous support for denouncing this unexplainable and detestable series of acts. Whatever the cause, I think the message should go out that the U.S. Senate is firmly on record, both sides of the aisle, every political philosophy, deploring this kind of conduct.

So I congratulate both Senators for introducing this bill. I know it will receive prompt and careful consideration by the Senate and the respective committees.

Ms. MIKULSKI. Mr. President, I rise today to voice my strong condemnation of the rash of church burnings that have swept through the South. This is a national crisis.

These acts of terrorism, which are aimed solely at predominately black churches, strike at the very heart of what is sacred in our country—the right to freedom of religion and fundamental civil rights. Churches, mosques, temples, and synagogues are sanctuaries where Americans enjoy the freedom to worship. That is why these acts are truly repugnant, and I am outraged that the arsons continue.

Yesterday the Senate passed unanimously a resolution expressing our horror at these repugnant acts, and calling for rigorous investigation and prosecution of these crimes. I was proud to be a cosponsor of that resolution.

But we can and must do more. That is why I am cosponsoring the bill introduced by my colleagues, Senators KENNEDY and FAIRCLOTH, that will make it easier for the Federal Government to investigate and prosecute crimes involving the intentional destruction of churches.

Our Nation has made tremendous progress since the civil rights movement in the 1960's. Church burnings turn the clock back on the strides we have made since the 1960's and bring shame to our great Nation. Our Nation cannot tolerate the increasing number of black church arsons. The burnings have reached epidemic proportions.

It is a painful reminder of a time when hate and ignorance prevailed in many parts of the country. The perpetrators of these crimes must be caught and punished. They must know that our Nation will not tolerate or encourage these cowardly acts. Citizens around the country are outraged that places of worship—mostly in small Southern towns—are being burned to the ground. Many of the churches are historic landmarks. Some were erected over 100 years ago.

Black churches are the lifeblood in small Southern communities—by burning these churches the arsonists strike at the very heart of the black community. But, all of us who worship and believe in God are hurt by these church burnings; they strike everyone.

Faith built our country. We must begin building bridges to destroy the plague of racism. It is the basis of our Constitution that everyone has the freedom to worship wherever they please. These fundamental freedoms must be protected from those who would like to bully and intimidate peaceful, worshiping citizens.

Nearly 40 churches have burned since the beginning of the year. This is the worst kind of terrorism. It is reminiscent of a time when the Ku Klux Klan and other hate groups felt free to burn crosses, lynch innocent blacks, and burn churches. The current wave of church burnings has targeted remote, isolated places of worship in Southern black communities. These arsonists sneak into the night to torch churches falsely believing they will not be caught. We must not let these arsonists continue to commit their acts without being punished.

Our country will not tolerate this kind of moral outrage and shame. Federal prosecutors should be able to investigate and prosecute these criminals to the fullest extent allowed by law. Federal prosecution of those who are responsible for these fires at churches should be the highest national priority. We need to have the resources to go after these criminals; a civilized society cannot continue to have churches being burned to the ground every other day.

It is encouraging that my Senate colleagues in a bipartisan fashion have come together to condemn the church burnings. This is an issue that crosses all racial and party lines. We need to begin rebuilding—the churches across the South and the moral fabric of our country.

We must do all that we can to bring these criminals to justice. We are all the victims of the rash of church burnings in our country.

I urge my colleagues to support the Kennedy-Faircloth bill. The legislation will give law enforcement officials the tools they need to stop this terrible epidemic.

We must come together to begin healing the racial wounds caused by the church fires. Racism and hatred have no place in our country.

Mr. KERRY. Mr. President, I join my colleagues to express concern and outrage at the dastardly acts of hatred and violence against black churches, against good and decent people, people of faith with a strong sense of community. This legislation is a bipartisan statement that the United States Senate is determined to bring this outrage to a halt.

Make no mistake, those who have set these churches ablaze have rekindled our desire to stamp out bigotry and prejudice everywhere. There was a time in America, not long ago, when many of us were involved in the Civil Rights movement with men and women of good will—white and black—who demonstrated and marched for equal rights and justice in the face of the worst kind of violence, hatred, and bigotry. Black churches had long been a refuge from prejudice and served as the symbol of community for millions of Americans who were the victims of blind intolerance that raged throughout this country.

We cannot and must not let the hatred and ignorance of a few criminals, arsonists, separatists, or supremacists turn back the clock on the progress we have made toward racial equality. We must, in this face of the haters, the bigots, and the racists, strengthen our resolve to tear down the walls that divide us and stand together, shoulder-to-shoulder, in solidarity against intolerance and this kind of violent, destructive, sociopathic behavior directed at our fellow citizens.

Those who have committed these hate crimes have forgotten the lessons of history. They have forgotten or never learned what America went through in the 1960s. They have forgotten the faces on the bridge in Selma, the burning bus of the Freedom Riders ablaze in Anniston, AL and the horrifying scene of demonstrators being dragged from the bus and beaten. They have forgotten the image of ''Bull'' Connor ordering the use of police dogs and fire hoses on demonstrators in Birmingham. They have forgotten or never learned the meaning of the assassination of Dr. King. These thugs are no different than the haters, cowards, and common criminals in white hoods who burned crosses in the middle of the night in a reign of terror against innocent people who sought only fairness, equal rights, and justice.

We can thank God that history taught most of us a lesson. History has passed its own lesson on the cross-burners along with men like ''Bull'' Connor because of their racism, ignorance and cowardice. But now, years later, those who learned nothing from history, or those too young, too alone, too desocialized, disinterested, or demoralized to know better are burning churches instead of crosses, and they must be brought to justice.

As a nation and as one people united in our constitutional, religious, and philosophical belief in equal justice

under the law, we cannot let the actions of these criminals result in bitterness, anger, or retaliation. We cannot let them divide us. We must remember the words of Martin Luther King who said,

''I've seen too much hate to want to hate myself, and I've seen hate on the faces of too many sheriffs, too many White Citizens Councilors, and too many Klansmen of the South to want to hate, myself; and every time I see it, I say to myself: hate is too great a burden to bear.''

Let Dr. King's words be our lesson as we find these criminals, bring them to justice, and rally together for an end to hatred and intolerance in this Nation.

I commend the Senators who have taken the leading roles in crafting the language on which we will be voting, and I urge my colleagues to support the bill.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, I rise to cosponsor the Church Arson Protection Act of 1996 introduced today by Senators KENNEDY and FAIRCLOTH.

Since the beginning of this year, a series of fires have swept our country. More than 30 predominantly African-American churches in the southeast have been burned. Not all of the fires have been set by people filled with racial hatred. But many have. And even one is too much.

Passing this measure is the least we can do to address this problem. With this new law, we send a clear message to every person who is thinking of setting fire to a place of worship: we will catch you. If you think that any church is small and remote, think again. No church is too small or remote for us not to care about it. If you think that you can burn all of the evidence, think again. We will find the evidence. If you think that no one cares if you burn a church used by African Americans, think again. This Nation condemns your actions.

In the last few months, the FBI, the Bureau of Alcohol, Tobacco and Firearms, and State and local law enforcement have vigorously investigated the fires in our churches. They have made numerous arrests and have leads on many other cases.

Despite this progress, the news of these fires is genuinely disturbing and perplexing. How could anyone do such a heinous thing? How could anyone burn a church and feel proud of their actions? No one who is truly committed to the principles of our country could do this. This Nation was founded on tolerance and respect for religious worship. And the greatest battle of our country's short life has been fought for the principle of racial tolerance.

Many people may say that these fires are a blow aimed at racial and religious equality. And they are. But they are feeble and small swats. We will rebuild the burned churches; we will condemn the bigots who started the fires; and with this law, we will help assure that punishment is swift, sure, and severe. These fires cannot undo the progress in race relations that we have made as a nation.

So today, I rise to cosponsor this legislation. And I urge my fellow Senators to pass it rapidly an unanimously.

Mr. D'AMATO. Mr. President, what has happened recently in this country is abominable and we have all heard the reports: yet another church, attended by black parishioners, was torched in the South. The recent rash of arson attacks on black churches should put this country in fear; it has to this Senator.

These cases of arson are more than the destruction of a structure; it is the destruction of the congregation and the communities themselves. This is the time for this body, and for all this Nation, to lend their support to these communities and these congregations for they have suffered a tremendous loss. If we allow this to continue with impunity in America, what protection do any of us have?

The reporting of over 30 church burning in 18 months indicates the need for a swift and just response. The responsible parties must be caught and prosecuted to the fullest extent of the law. These malicious burnings must end and end now.

By Mrs. BOXER (for herself and Mr. BINGAMAN):

S. 1891. A bill to establish sources of funding for certain transportation infrastructure projects in the vicinity of the border between the United States and Mexico that are necessary to accomodate increased traffic resulting from the implementation of the North American Free Trade Agreement, including construction of new Federal border crossing facilities, and for other purposes; to the Committee on Environment and Public Works.

THE BORDER INFRASTRUCTURE, SAFETY, AND CONGESTION RELIEF ACT OF 1996

Mrs. BOXER. Mr. President, I rise today to introduce the Border Infrastructure, Safety and Congestion Relief Act of 1996 with Senator BINGAMAN of New Mexico.

When the Senate debated the North American Free Trade Agreement, I opposed it on the grounds that the United States was unprepared for its impact on our environment, infrastructure, and labor relations. In fact our Mexican border States face trying to handle the increased traffic from NAFTA in less time than it takes to design, review and construct major highway projects.

Now that NAFTA is a reality, however, I am determined to make it work to California's best advantage.

Whatever its shortcomings, NAFTA has increased trade across our borders. However, this trade boom now threatens to overwhelm residents and businesses in the border region of San Diego and Imperial Counties. In California's border community of Otay Mesa, my colleagues, you can see that the new global economy is choking old city streets.

To get a good idea of the problem, you need look no further than Otay Mesa Road.

Just a few miles up the road is the Otay Mesa Port of Entry. Serving a border region of over 4 million people, it is the third-busiest truck crossing on the United States-Mexico border and the only commercial crossing facility linking San Diego and Tijuana. The number of trucks crossing annually at Otay Mesa has increased from 668,000 in 1993 to more than 1.5 million today. Daily traffic is expected to double again by the year 2010.

The Otay Mesa Port is connected to the U.S. Interstate Highway System by this one city street, which narrows to two lanes before reaching Interstate 905. Otay Mesa Road already carries traffic that is three times its design capacity.

In Imperial County the situation is similar, if slightly less intense. The Calexico/Mexicali Port of Entry serves a regional population of 1 million. The border crossing opens on to a two-lane road with no shoulders, which is expected to carry truck, car and bus traffic through the heart of Calexico.

Between Otay Mesa and Calexico, construction is beginning on a new Federal border port of entry at Tecate. The U.S. Department of Transportation is providing no direct funding to link any of these stations with the regional road networks.

The California Transportation Commission recently approved shifting $244 million from other transportation projects in the State to the border region as a down payment on about $1 billion in needed infrastructure improvements to serve commercial vehicle traffic crossing the California-Mexico border.

The State of California is doing its share. Now, State transportation officials are demanding Federal assistance—over and above the State's current Federal highway funding—to help pay for these border improvements.

That is why Senator BINGAMAN and I are introducing the Border Infrastructure, Safety and Congestion Relief Act of 1996.

Our bill provides a two-level system for Federal assistance to fund the States' top-priority border infrastructure projects:

First, it establishes a $500 million Border Infrastructure Trust Fund to provide grants by the Secretary of Transportation to the States in order to pay for new or upgraded connections to the National Highway System.

States could also be reimbursed for projects that have begun any time since 1994, when NAFTA was implemented. This means that California would not be penalized for putting its State money up early to prepare for NAFTA with projects such as the new inspection station at Otay Mesa.

We also allow provide up to $10 million, if needed, for the Attorney General to use to provide transportation improvements for the Border Patrol

and other law enforcement agencies. I believe that we should do more at the border to deter drug smuggling and illegal immigration. My bill will provide important help in funding access roads, lighting, and other transportation improvements needed by our Federal law enforcement agencies.

The second part of our bill would authorize Federal loan guarantees to assist the States in financing major construction of high-cost, revenue-producing projects, such as toll roads. The assistance is provided through the State Infrastructure Bank pilot program, established under the National Highway System Designation Act of 1995. Our bill, however, would authorize new Federal funds to finance border infrastructure projects.

The final part of the bill authorizes Federal assistance to railroad projects in the border region which are intermodal and will provide traffic congestion relief by providing a rail alternative for freight shipments. These loan guarantees for railroad improvements would be provided under the Railroad Revitalization and Regulatory Reform Act of 1976.

This assistance is critical to San Diego's efforts to reopen the eastern extension of the San Diego & Arizona Eastern Railway. Extending this railroad across southeastern California will provide a critical link to the U.S. national rail network. By providing fast and efficient service to new markets throughout Mexico, it is also San Diego's best opportunity to take advantage of NAFTA. Trade with Mexico's interior offers the San Diego region its greatest opportunity to take full advantage of NAFTA. But this cannot happen without good, dependable rail service.

In today's post-cold-war global marketplace, the competition is economic. America's place in the world will be determined largely by our ability to produce and market goods and services and deliver them efficiently into that global marketplace.

I have been working with the San Diego House delegation, local elected officials, and members of the community to make Washington pay much greater attention to our infrastructure needs at the border. The San Diego Association of Governments, the four-State Border Trade Alliance business group and the Greater San Diego Chamber of Commerce have endorsed my legislation.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Border Infrastructure Safety and Congestion Relief Act of 1996''.

SEC. 2. FINDINGS.

Congress finds that—

(1) although the United States Customs Service has collected increased duties, merchandise fees, and revenues from other commerce-related activities because of the approval and implementation of the North American Free Trade Agreement, these increased revenues have not been accompanied by Federal funding for improving transportation facilities along the international borders of the United States to ensure the free and safe flow of trade destined for all States and regions of the United States;

(2) because of NAFTA, all 4 States along the United States-Mexico border will require significant investments in highway infrastructure capacity and motor carrier safety enforcement at a time when border States face extreme difficulty in meeting current highway funding needs;

(3) the full benefits of increased international trade can be realized only if delays at the borders are significantly reduced; and

(4) the increased revenues to the general fund of the Treasury described in paragraph (1) should be sufficient to provide Federal funding for transportation improvements required to accommodate NAFTA-generated traffic, in an amount above and beyond regular Federal transportation funding apportionments.

SEC. 3. DEFINITIONS.

In this Act:

(1) BORDER REGION.—The term ''border region'' means the region located within 60 miles of the United States border with Mexico.

(2) BORDER STATE.—The term ''border State'' means California, Arizona, New Mexico, and Texas.

(3) FUND.—The term ''Fund'' means the Border Transportation Infrastructure Fund established under section 4(g).

(4) NAFTA.—The term ''NAFTA'' means the North American Free Trade Agreement.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 4. DIRECT FEDERAL ASSISTANCE FOR BORDER CONSTRUCTION AND CONGESTION RELIEF.

(a) IN GENERAL.—Using amounts in the Fund, the Secretary shall make grants under this section to border States that submit an application that demonstrates need, due to increased traffic resulting from the implementation of NAFTA, for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws.

(b) GRANTS FOR CONNECTORS TO FEDERAL BORDER CROSSING FACILITIES.—The Secretary shall make grants to border States for the purposes of connecting, through construction or reconstruction, the National Highway System designated under section 103(b) of title 23, United States Code, with Federal border crossing facilities located in the United States in the border region.

(c) GRANTS FOR WEIGH-IN-MOTION DEVICES IN MEXICO.—The Secretary shall make grants to assist border States in the purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment that are to be located in Mexico if real time data from the devices is provided to the nearest United States port of entry and to State commercial vehicle enforcement facilities that serve the port of entry.

(d) GRANTS FOR COMMERCIAL VEHICLE ENFORCEMENT FACILITIES.—The Secretary shall make grants to border States to construct, operate, and maintain commercial vehicle enforcement facilities located in the border region.

(e) LIMITATIONS ON EXPENDITURES OF FUNDS.—

(1) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall be 80 percent.

(2) ALLOCATION AMONG STATES.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2001, the Secretary shall allocate amounts remaining in the Fund, after any transfers under section 5, among border States in accordance with an equitable formula established by the Secretary in accordance with subparagraphs (B) and (C).

(B) CONSIDERATIONS.—Subject to subparagraph (C), in establishing the formula, the Secretary shall consider—

(i) the annual volume of international commercial vehicle traffic at the ports of entry of each border State as compared to the annual volume of international commercial vehicle traffic at the ports of entry of all border States, based on the data provided in the most recent report submitted under section 8;

(ii) the percentage by which international commercial vehicle traffic in each border State has grown during the period beginning on the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182) as compared to that percentage for each other border State; and

(iii) the extent of border transportation improvements carried out by each border State during the period beginning on the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182).

(C) MINIMUM ALLOCATION.—Each border State shall receive not less than 5 percent of the amounts made available to carry out this section during the period of authorization under subsection (i).

(f) ELIGIBILITY FOR REIMBURSEMENT FOR PREVIOUSLY COMMENCED PROJECTS.—The Secretary shall make a grant under this section to a border State that reimburses the border State for a project for which construction commenced after January 1, 1994, if the project is otherwise eligible for assistance under this section.

(g) BORDER TRANSPORTATION INFRASTRUCTURE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Border Transportation Infrastructure Fund to be used in carrying out this section, consisting of such amounts as are appropriated to the Fund under subsection (i).

(2) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), upon request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to make grants under this section and transfers under section 5.

(B) ADMINISTRATIVE EXPENSES.—An amount not exceeding 1 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.

(h) APPLICABILITY OF TITLE 23.—Title 23, United States Code, shall apply to grants made under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund to carry out this section and section 5 $125,000,000 for each of fiscal years 1998 through 2001. The appropriated amounts shall remain available for obligation until the end of the third fiscal year following the fiscal year for which the amounts are appropriated.

SEC. 5. CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.

At the request of the Attorney General, the Secretary may transfer, during the period consisting of fiscal years 1998 through 2001, up to $10,000,000 of the amounts from the Fund to the Attorney General for the

construction of transportation infrastructure necessary for law enforcement in border States.

SEC. 6. BORDER INFRASTRUCTURE INNOVATIVE FINANCING.

(a) PURPOSES.—The purposes of this section are—

(1) to encourage the establishment and operation of State infrastructure banks in accordance with section 350 of the National Highway System Designation Act of 1995 (109 Stat. 618; 23 U.S.C. 101 note); and

(2) to advance transportation infrastructure projects supporting international trade and commerce.

(b) FEDERAL LINE OF CREDIT.—Section 350 of the National Highway System Designation Act of 1995 (109 Stat. 618; 23 U.S.C. 101 note) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

''(l) FEDERAL LINE OF CREDIT.—

''(1) DEFINITIONS.—In this subsection, the terms 'border region' and 'border State' have the meanings provided in section 3 of the Border Infrastructure Safety and Congestion Relief Act of 1996.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the general fund of the Treasury $100,000,000 to be used by the Secretary to make lines of credit available to—

''(A) border States that have established infrastructure banks under this section; and

''(B) the State of New Mexico which has established a border authority that has bonding capacity.

''(3) AMOUNT.—The line of credit available to each participating border State shall be equal to the product of—

''(A) the amount appropriated under paragraph (2); and

''(B) the quotient obtained by dividing—

''(i) the contributions of the State to the Highway Trust Fund during the latest fiscal year for which data are available; by

''(ii) the total contributions of all participating border States to the Highway Trust Fund during that fiscal year.

''(4) USE OF LINE OF CREDIT.—The line of credit under this subsection shall be available to provide Federal support in accordance with this subsection to—

''(A) a State infrastructure bank engaged in providing credit enhancement to creditworthy eligible public and private multimodal projects that support international trade and commerce in the border region; and

''(B) the New Mexico Border Authority;

(each referred to in this subsection as a 'border infrastructure bank').

''(5) LIMITATIONS.—

''(A) IN GENERAL.—A line of credit under this subsection may be drawn on only—

''(i) with respect to a completed project described in paragraph (4) that is receiving credit enhancement through a border infrastructure bank;

''(ii) when the cash balance available in the border infrastructure bank is insufficient to pay a claim for payment relating to the project; and

''(iii) when all subsequent revenues of the project have been pledged to the border infrastructure bank.

''(B) THIRD PARTY CREDITOR RIGHTS.—No third party creditor of a public or private entity carrying out a project eligible for assistance from a border infrastructure bank shall have any right against the Federal Government with respect to a line of credit under this subsection, including any guarantee that the proceeds of a line of credit will be available for the payment of any particular cost of the public or private entity that may be financed under this subsection.

''(6) INTEREST RATE AND REPAYMENT PERIOD.—Any draw on a line of credit under this subsection shall—

''(A) accrue, beginning on the date the draw is made, interest at a rate equal to the current (as of the date the draw is made) market yield on outstanding, marketable obligations of the United States with maturities of 30 years; and

''(B) shall be repaid within a period of not more than 30 years.

''(7) RELATIONSHIP TO STATE APPORTIONMENT.—Funds made available to States to carry out this subsection shall be in addition to funds apportioned to States under section 104 of title 23, United States Code.''.

SEC. 7. RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM.

(a) PURPOSE.—The purpose of this section is to provide assistance for freight rail projects in border States that benefit international trade and relieve highways of increased traffic resulting from NAFTA.

(b) ISSUANCE OF OBLIGATIONS.—The Secretary shall issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 832), in such amounts, and at such times, as may be necessary to—

(1) pay any amounts required pursuant to the guarantee of the principal amount of an obligation under section 511 of the Act (45 U.S.C. 831) for any eligible freight rail project described in subsection (c) during the period that the guaranteed obligation is outstanding; and

(2) during the period referred to in paragraph (1), meet the applicable requirements of this section and sections 511 and 513 of the Act (45 U.S.C. 832 and 833).

(c) ELIGIBILITY.—Assistance provided under this section shall be limited to those freight rail projects located in the United States that provide intermodal connections that enhance cross-border traffic in the border region.

(d) LIMITATION.—Notwithstanding any other provision of law, the aggregate unpaid principal amounts of obligations that may be guaranteed by the Secretary under this section may not exceed $100,000,000 during any of fiscal years 1998 through 2001.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make loan guarantees under this section $10,000,000 for each of fiscal years 1998 through 2001.

SEC. 8. REPORT.

(a) IN GENERAL.—The Secretary shall annually submit to Congress and the Governor of each border State a report concerning—

(1) the volume and nature of international commercial vehicle traffic crossing the border between the United States and Mexico; and

(2)(A) the number of international commercial vehicle inspections conducted by each border State at each United States port of entry; and

(B) the rate of out-of-service violations of international commercial vehicles found through the inspections.

(b) INFORMATION PROVIDED BY UNITED STATES CUSTOMS SERVICE.—For the purpose of preparing each report under subsection (a)(1), the Commissioner of Customs shall provide to the Secretary such information described in subsection (a)(1) as the Commissioner has available.

By Mr. LAUTENBERG (for himself and Mr. WELLSTONE):

S. 1892. A bill to reward States for collecting Medicaid funds expended on tobacco-related illnesses, and for other purposes; to the Committee on Finance.

THE TOBACCO MEDICAID RECOVERY ACT OF 1996

Mr. LAUTENBERG. Mr. President, I rise to introduce the Tobacco Medicaid Recovery Act, along with Senator WELLSTONE.

This bill will create a new Federal/State partnership to help recover Medicaid costs associated with tobacco use.

Mr. President, for years, the tobacco industry has hooked Americans on products that cause death and disease. They've made billions of dollars in the process. But they've never been held accountable.

When big tobacco sells it's deadly products, all Americans pay the price. Not only through the mothers and fathers, sisters and brothers who are lost to lung cancer and other diseases. But through the higher taxes that must be paid to support programs like Medicaid.

Mr. President, 10 courageous states are suing the tobacco industry for the large Medicaid costs associated with tobacco use. There are two other states, including New Jersey, that will soon file suit and 10 others that may file before the summer is out. These suits enjoy bipartisan support from Democratic and Republican governors and Democratic and Republican state attorney generals. In fact, I was pleased to be joined this morning in unveiling this legislation with Mike Moore, attorney general from Mississippi, Hubert ''Skip'' Humphrey, attorney general from Minnesota, and Bob Butterworth, attorney general from Florida. They are all leaders in suing the tobacco industry for Medicaid costs and strongly support this legislation. The Minnesota suit is being supported by its Republican Governor, Arne Carlson, and the Florida suit is being supported by its Democratic Governor, our former colleague Lawton Chiles.

Mr. President, the tobacco industry is fighting hard to avoid being held accountable. It doesn't just use every hardball legal tactic in the book. It has even sent its hired guns into state attorney generals' offices to intimidate them.

In one case, a state official was warned not to sue the industry—and if the state did, the industry would force the state to pay enormous sums—including the possible deposition of every single Medicaid recipient in that state.

Mr. President, the courageous states, like Mississippi, Minnesota and Florida, who have taken on the tobacco companies deserve more Federal support—because they are doing the Federal taxpayers' bidding. If they are successful in their litigation, they must return the Federal portion of Medicaid funds to Washington. The Federal government should be helping them get this money, not sitting on its hands.

This legislation would allow the states to keep a third of the Federal

portion to better serve the needs of their Medicaid recipients—their seniors, disabled, poor children and pregnant women.

Another third of the Federal share would go to the National Institutes of Health to conduct research on the diseases caused by tobacco products, like lung cancer and heart disease.

Finally, the balance would go into the Federal Treasury to help reduce the deficit.

Currently, many states are sitting on the fence, thinking how difficult and expensive it will be to sue the tobacco industry. This bill may get them off the fence, and into battle with the industry.

Mr. President, it is time for the Federal government to help states get the taxpayers' money back. It is time to reward the states for trying to hold the tobacco companies accountable, and provide an incentive for those considering entering the fray.

This bill could provide states with millions in much needed Medicaid funds. It could increase funding for the National Institutes of Health. And it will not increase the deficit.

I urge my colleagues on both sides of the aisle to support this common sense legislation that will help our state taxpayers.

Mr. President, I ask unanimous consent the text of the legislation and a summary of it be printed in the RECORD.

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

S. 1892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tobacco Medicaid Recovery Act of 1996''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Federal taxpayers pay for approximately $20,000,000,000 each year in Federal health expenditures to treat tobacco-related illnesses, including expenditures incurred under the medicare and medicaid programs operated under titles XVIII and XIX of the Social Security Act, health care programs carried out by the Secretary of Veterans Affairs under chapter 17 of title 38, United States Code, and other Federal health care programs. These expenditures often contribute to an increase in the Federal budget deficit.

(2) According to the Centers for Disease Control and Prevention, tobacco-related illnesses cost the medicaid program under title XIX of the Social Security Act $5,100,000,000 each year.

(3) The efforts of several States that are attempting under Federal law, including in some cases, under the Federal anti-racketeering statutes, or under State law, to recover the health care costs incurred under the medicaid program for the treatment of individuals with diseases attributable to the use of tobacco products from the manufacturers of such products, are to be commended.

(b) PURPOSE.—The purpose of this Act is to reward States that successfully recover the Federal and State health care costs incurred under the medicaid program for the treatment of individuals with diseases attributable to the use of tobacco products by providing increased funding for their medicaid programs and to provide increased resources to the National Institutes of Health.

SEC. 3. INCENTIVE PAYMENTS FOR COLLECTION OF MEDICAID FUNDS EXPENDED ON TOBACCO-RELATED ILLNESSES.

(a) FINANCIAL REWARD FOR SUCCESSFUL RECOVERIES.—Section 1903(d) of the Social Security Act (42 U.S.C. 1396b(d)) is amended by adding at the end the following new paragraph:

''(7)(A) Notwithstanding any other provision of law, if a State recovers, by judgment in, or settlement of, any suit arising under Federal or State law, amounts expended as medical assistance under the State plan for the treatment of individuals with diseases attributable to the use of tobacco products, from a manufacturer of tobacco products, the State shall notify the Secretary of the amount of such recovery. Upon receipt of such a notice, the Secretary shall determine the amount of Federal expenditures under this title that are attributable to the amounts recovered, based on the Federal medical assistance percentage, as defined in section 1905(b), for such State. The Secretary shall treat the amount so determined as an overpayment under this section, in accordance with paragraph (2)(A), and with respect to such amount shall do the following:

''(i) Provide that the State shall retain ⅓ of such amount, for the purpose of using such funds to meet the non-Federal share of expenditures under the State plan with respect to which payments may be made under this title.

''(ii) Pay ⅓ of such amount to the Director of the National Institutes of Health, for the purpose of conducting disease research.

''(B) Any amount of new budget authority or outlays resulting from the provisions of this paragraph shall not be counted for any purpose under section 251 or 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(C) For purposes of this paragraph—

''(i) the term 'manufacturer of tobacco products' has the meaning given such term by section 5702(d) of the Internal Revenue Code of 1986; and

''(ii) the term 'tobacco products' has the meaning given such term by section 5702(c) of such Code.''.

(b) CONFORMING AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting ''; and''; and

(3) by inserting after paragraph (62) the following new paragraph:

''(63) provide that the State shall provide prompt notice to the Secretary of the amount of any recovery from a manufacturer of tobacco products, as defined in section 1903(d)(7)(C)(i), of expenditures for medical assistance provided under such plan for the treatment of individuals with diseases attributable to the use of tobacco products, as defined in section 1903(d)(7)(C)(ii).''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to amounts recovered on and after the date of the enactment of this Act.

LAUTENBERG BILL TO REWARD STATES FOR RECOUPING MEDICAID EXPENDITURES FOR TOBACCO-RELATED ILLNESSES

This legislation recognizes the following:

States who sue the tobacco industry for Medicaid costs face tremendous expenses, intimidation and extraordinary legal tactics from the tobacco industry.

Pursuant to the Medicaid statute and other legal interpretations, states must return the Federal Medicaid share of any award to the Federal government.

States should be rewarded for their efforts to recoup Federal tax dollars.

This bill will do the following:

Upon a settlement or a jury award between a state and a tobacco company, the Federal government shall return 33 percent of the Federal share of the award to the states to be used in their Medicaid programs.

Another 33 percent of the Federal share shall be placed in an NIH Trust Fund to be used for research on lung cancer, heart disease and other illnesses.

The final 34 percent of the Federal share shall be used for deficit reduction.

By Mrs. FEINSTEIN:

S. 1893. A bill to provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes; to the Committee on Indian Affairs.

THE TORRES-MARTINEZ SETTLEMENT AGREEMENT ACT OF 1996

Mrs. FEINSTEIN. Mr. President, today I rise to introduce legislation that will ratify the settlement agreement negotiated by the U.S. Departments of the Interior and Justice, Imperial Irrigation Water District, Coachella Valley Water District, and the Torres-Martinez Desert Cahuilla Indian Tribe. This settlement agreement resolves a long standing dispute to replace reservation lands the Torres-Martinez Tribe lost due to flooding from the Salton Sea.

In 1876, the Torres-Martinez Indian Reservation was created by a 640-acre section of land in Coachella Valley, California at the northern end of the Salton Sink. The Reservation was expanded in 1891 adding approximately 12,000 acres to the original 640-acre reservation. Between 1905 and 1907, flood waters of the Colorado River filled the Salton Sink, creating the Salton Sea, inundating approximately 2,000 acres of the reservation lands. In 1909, an additional 9,000 acres of land were then submerged under the Salton Sea.

Today, the federal government holds 25,000 acres of the reservation in trust for the Tribe. Of this parcel, 11,800 acres is either currently under water or has been condemned as uninhabitable due to runoff and drainage water from the irrigation systems of the Imperial, Coachella, and Mexicali Valleys into the Salton Sea. Since 1982, the United States government, acting for the Tribe, has been negotiating with the Imperial and Coachella Valley Water Districts to compensate the Tribes for the loss of their reservation lands.

In the settlement agreement, the Torres-Martinez Indian Tribe will receive $14 million: $10 million from the U.S. government and $4 million from the water districts. From these funds, the Tribe can acquire and take into trust 11,800 acres of land. Of these parcels, 11,160 must be contiguous to existing reservation land. The Tribe can acquire the remaining 640 acres within the Coachella Valley only if the local

governing body or Riverside County does not object. The Tribe's right to conduct gaming on lands taken into trust is limited and restricted to one gaming operation on one site.

In return, the irrigation districts would be granted a permanent flowage easement over tribal and Federal lands within the minus 220 foot contour of the Salton Sink.

The settlement of this land dispute has been a major concern for many years. It has taken more than ten years for all parties involved to reach a consensus on the settlement agreement. There have been competing interests and priorities for everyone involved, including completion of the construction of the Route 86 Expressway project.

All parties involved in negotiating this settlement agreement have worked hard to reach a consensus to implement this agreement. The Tribe has agreed to give local communities the right to veto its purchase of land and Riverside County has passed a resolution in support of this settlement agreement. Moreover, construction of Route 86 will progress.

I commend the Departments of the Interior and Justice, the Coachella and Imperial Water Districts, and the Torres-Martinez Tribe for remaining committed to resolving this issue.

Mr. President, I ask unanimous consent that the resolution passed by Riverside County in support of the agreement and correspondence I have received from the Water Districts and the Torres-Martinez Tribe indicating the accuracy of this legislation in completely implementing the settlement agreement, be printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mrs. FEINSTEIN. Mr. President, Congressman Sonny Bono introduced identical legislation last Thursday and the Native American and Insular Affairs Subcommittee of the House Resources Committee has scheduled hearings this afternoon on this legislation. I look forward to working with the Senate Committee on Indian Affairs to implement this agreement in law and the Appropriations Committee to provide funds as outlined in the settlement agreement.

I hope my colleagues will join me today in enacting this legislation.

EXHIBIT 1

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

From: Supervisor Wilson.

Subject: Support of Legislation for Settlement With Torres-Martinez Indian Tribe.

Recommended Motion: That the Board take a position in support of the attached draft legislation, proposed by Congressman Sonny Bono and providing for settlement with the Torres-Martinez Indian Tribe by providing compensation for acquisition of lands in the Coachella Valley; further, direct the county Executive Office to immediately forward copies of the Board Minute Order to members of California's Congressional delegation.

Justification: The accidental creation of the Salton Sea in 1905–1907 resulted in approximately 12,000 acres of Torres-Martinez Indian Tribal lands in the southeastern Coachella Valley being either underwater or unusable. There has been litigation since 1982 by the Federal Government on behalf of the Tribe against Coachella Valley Water District and Imperial Irrigation District, and the Tribe itself filed litigation in 1991. In addition to the issue of compensation to the Tribe, the completion of Highway 86 is also at risk, as the alignment and construction of the highway is contingent on right-of-way on existing Tribal lands.

The attached draft legislation has been developed in consultation with all parties, and I am advised that all are in agreement with its provisions. It provides the Tribe with funds to acquire 12,000 acres, either in entirety in the ''primary'' acquisition area (Avenue 56, also known as Airport Blvd., south to the Riverside/Imperial County line) which is adjacent to existing Tribal lands, or up to 640 acres (out of the total 12,000) in the ''secondary'' acquisition area (the remainder of the Coachella Valley, generally from Desert Hot Springs southeast to Avenue 56).

Finally, the legislation authorizes the Tribe to establish a single gaming site, and provides land use jurisdiction within the secondary acquisition area with the ability to protest acquisition/conversion of land to Tribal status within 60 days of being notified of the Tribe's intent.

County Counsel worked directly with Congressman Bono's staff in development of the draft legislation, and I urge the Board's support of this proposed settlement.

ROY WILSON.

BAYH, CONNAUGHTON & MALONE, P.G.
Washington, DC, June 14, 1996.

Hon. DIANNE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I would like to transmit correspondence from Coachella Valley Water District, the Imperial Irrigation District and the Torres-Martinez Desert Cahuilla Indians regarding the Torres-Martinez settlement legislation (H.R. 3640).

For the past four years, on behalf of the water districts and in full cooperation with the Tribe, I have assisted in facilitating this settlement through the Departments of the Interior and Justice. The legislation introduced by Rep. Bono in the House accurately and completely implements the settlement agreement. Thus, all parties support enactment of this legislation and ask that you sponsor the companion bill on the Senate side.

We appreciate your consideration of our request and are grateful for all of the help we have received from Mia Ellis, Susy Elfving and your other staff members over the past several years. We are close to the finish line and we ask that you and Senator Boxer help us on the Senate side in enacting this legislation that is so critical to both the Tribe and the water users in the Imperial and Coachella Valleys of California.

Thank you.

Sincerely,

JOSEPH FINDARO.

COACHELLA VALLEY WATER DISTRICT,
Coachella, CA, June 14, 1996.

Hon. DIANE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The text of the Torres-Martinez settlement legislation (introduced by Congressman Bono in the House as H.R. 3640) accurately and completely implements the settlement agreement. We, therefore, support enactment of this legislation and request that you sponsor this legislation in the Senate.

Yours very truly,

TOM LEVY,
General Manager-Chief Engineer.

IMPERIAL IRRIGATION DISTRICT,
Imperial, CA, June 14, 1996.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I sincerely appreciate your consideration of our request to carry the Senate companion bill to authorize the Torres-Martinez land claims settlement.

The text of the Torres-Martinez settlement legislation (introduced in the House by Rep. Bono as H.R. 3640) accurately and completely implements the settlement agreement. We therefore support enactment of this legislation and request that you sponsor this legislation in the Senate.

Again, thank you for your assistance.

Sincerely,

ERIC E. YODER,
Government Relations.

THE TORRES MARTINEZ
DESERT CAHUILLA INDIANS,
Thermal, CA, June 14, 1996.

Hon. DIANNE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The text of the Torres-Martinez settlement legislation (introduced by Rep. Bono in the House as H.R. 3640) accurately and completely implements the settlement agreement. We therefore support enactment of this legislation and request that you sponsor this legislation in the Senate.

We thank you for all of your assistance.

Sincerely,

MARY E. BELARDO,
Chairperson.

LAW OFFICES OF
THOMAS E. LUEBBEN,
Albuquerque, NM, June 14, 1996.

Attention: Mia Ellis.

Re Torres-Martinez settlement legislation, H.B. 3640.

Hon. DIANNE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The text of the Torres-Martinez settlement legislation (introduced by Rep. Bono in the House as H.R. 3640) accurately and completely implements the settlement agreement. We therefore support enactment of this legislation and request that you sponsor this legislation in the Senate.

Sincerely,

RICHARD L. YOUNG,
Attorney for Torres-Martinez,
Desert Cahuilla Indians.

CITY OF DESERT HOT SPRINGS,
Desert Hot Springs, CA, June 10, 1996.

Hon. DIANNE FEINSTEIN,
Senate, Hart Senate Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: Soon President Clinton is expected to approve a settlement of claims by the Torrez-Martinez Desert Cahuilla Indian Tribe regarding the Salton Sea. The Imperial Irrigation District and our district will be signing this agreement along with the Tribe and the Federal government.

This settlement resolve long-standing disputes concerning land and water use in our region of California. At the local level, there is widespread support finally settling the dispute and for swift enactment of legislation to implement this settlement. We, therefore,

urge you to sponsor this legislation for introduction in the Senate concurrently with House introduction.

The Cahuilla Indian Tribe will receive $14 million, approximately $4 million from the two water districts and $10 million from the federal government. The districts will receive permanent flowage easements, the Tribe will be able to purchase new lands, and local water rights will be protected.

We appreciate the attention your staff has given this matter over the last several years and look forward to working with you to obtain implementing legislation.

Sincerely,

GERALD F. PISHA,
Mayor.

ADDITIONAL COSPONSORS

S. 794

At the request of Mr. LUGAR, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 794, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes.

S. 912

At the request of Mr. KOHL, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 912, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 949

At the request of Mr. WARNER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1402

At the request of Mr. CRAIG, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1402, a bill to amend the Waste Isolation Pilot Plant Land Withdrawal Act, and for other purposes.

S. 1491

At the request of Mr. GRAMS, the names of the Senator from Florida [Mr. MACK], the Senator from Tennessee [Mr. FRIST], and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

S. 1641

At the request of Mr. GRAMS, the names of the Senator from Tennessee [Mr. FRIST] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1641, a bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes.

S. 1731

At the request of Mr. CRAIG, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1731, a bill to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes.

S. 1811

At the request of Mr. MACK, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1811, a bill to amend the Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'' to confirm and clarify the authority and responsibility of the Secretary of the Army, acting through the Chief of Engineers, to promote and carry out shore protection projects, including beach nourishment projects, and for other purposes.

S. 1815

At the request of Mr. GRAMM, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1815, a bill to provide for improved regulation of the securities markets, eliminate excess securities fees, reduce the costs of investing, and for other purposes.

SENATE RESOLUTION 238

At the request of Mr. HELMS, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of Senate Resolution 238, a resolution expressing the sense of the Senate that any budget or tax legislation should include expanded access to individual retirement accounts.

AMENDMENT NO. 4048

At the request of Mr. DORGAN the names of the Senator from California [Mrs. BOXER] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of amendment No. 4048 proposed to S. 1745, an original bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

INOUYE AMENDMENT NO. 4050

Mr. INOUYE proposed an amendment to the bill (S. 1745) to authorize appropriations for fiscal year 1997 for military activities for the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert:

SECTION 1. CHIEF AND ASSISTANT CHIEF OF ARMY NURSE CORPS.

(a) CHIEF OF ARMY NURSE CORPS.—Subsection (b) of section 3069 of title 10, United States Code, is amended—

(1) in the first sentence, by striking out ''major'' and inserting in lieu thereof ''lieutenant colonel'';

(2) by inserting after the first sentence the following: ''An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general.''; and

(3) in the last sentence, by inserting ''to the same position'' before the period at the end.

(b) ASSISTANT CHIEF.—Subsection (c) of such section is amended by striking out ''major'' in the first sentence and inserting in lieu thereof ''lieutenant colonel''.

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade

(2) The item relating to such section in the table of sections at the beginning of chapter 307 of title 10, United States Code, is amended to read as follows:

''3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade.''.

SEC. 2. CHIEF AND ASSISTANT CHIEF OF AIR FORCE NURSE CORPS.

(a) POSITIONS AND APPOINTMENT.—Chapter 807 of title 10, United States Code, is amended by inserting after section 8067 the following:

''§ 3069. Air Force nurses: Chief and assistant chief; appointment; grade

''(a) POSITIONS OF CHIEF AND ASSISTANT CHIEF.—There are a Chief and assistant chief of the Air Force Nurse Corps.

''(b) CHIEF.—The Secretary of the Air Force shall appoint the Chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general. The Chief serves during the pleasure of the Secretary, but not for more than three years, and may not be reappointed to the same position.

''(c) ASSISTANT CHIEF.—The Surgeon General shall appoint the assistant chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after section 8067 the following:

''3069. Air Force Nurse Corps: Chief and assistant chief; appointment; grade.''.

GRASSLEY AMENDMENT NO. 4051

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

Insert page 108, at the end of line 5, a new Section 368:

SEC. 368. TRANSFER OF EXCESS PERSONAL PROPERTY TO SUPPORT LAW ENFORCEMENT ACTIVITIES.

(a) TRANSFER AUTHORITY.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2576 the following new section:

''§ 2576a. Excess personal property: sale or donation for law enforcement activities

''(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State

agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

''(A) suitable for use by the agencies in law enforcement activities, including counterdrug activities; and

''(B) excess to the needs of the Department of Defense.

''(2) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

''(b) CONDITIONS FOR TRANSFER.—The Secretary may transfer personal property under this section only if—

''(1) the property is drawn from existing stocks of the Department of Defense; and

''(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment.

''(c) CONSIDERATION.—Personal property may be transferred under this section without cost to the recipient agency.

''(d) PREFERENCE FOR CERTAIN TRANSFERS.—In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to those applications indicating that the transferred property will be used in the counterdrug activities of the recipient agency.''

(2) The table of sections at the beginning of such chapters is amended by inserting after the item relating to section 2576 the following new item:

''2576a. Excess personal property: sale or donation for law enforcement activities.''

(b) CONFORMING AMENDMENTS.—(1) Section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note) is repealed.

(2) Section 1005 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1630) is amended by striking out ''section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 372 note) and section 372'' and inserting in lieu thereof ''sections 372 and 2576a''.

GRAMS (AND OTHERS) AMENDMENT NO. 4052

Mr. GRAMS (for himself, Mr. ROBB, and Mr. LEAHY) proposed an amendment to the bill, S. 1745, surpa; as follows:

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

SEC. . SENSE OF THE SENATE.

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

(1) In 1791, President George Washington commissioned Pierre Charles L'Enfant to draft a blueprint for America's new capital city; they envisioned Pennsylvania Avenue as a bold, ceremonial boulevard physically linking the U.S. Capitol building and the White House, and symbolically the Legislative and Executive branches of government.

(2) An integral element of the District of Columbia, Pennsylvania Avenue stood for 195 years as a vital, working, unbroken roadway, elevating it into a place of national importance as ''America's Main Street''.

(3) 1600 Pennsylvania Avenue, the White House, has become America's most recognized address and a primary destination of visitors to the Nation's Capital; ''the People's House'' is host to 5,000 tourists daily, and 15,000,000 annually.

(4) As home to the President, and given its prominent location on Pennsylvania Avenue and its proximity to the People, the White House has become a powerful symbol of freedom, openness, and an individual's access to their government.

(5) On May 20, 1995, citing possible security risks from vehicles transporting terrorist bombs, President Clinton ordered the Secret Service, in conjunction with the Department of the Treasury, to close Pennsylvania Avenue to vehicular traffic for two blocks in front of the White House.

(6) While the security of the President and visitors to the White House is of grave concern and is not to be taken lightly, the need to assure the President's safety must be balanced with the expectation of freedom inherent in a democracy; the present situation is tilted too heavily toward security at freedom's expense.

(7) By impeding access and imposing undue hardships upon tourists, residents of the District, commuters, and local business owners and their customers, the closure of Pennsylvania Avenue, undertaken without the counsel of the government of the District of Columbia, has replaced the former openness of the area surrounding the White House with barricades, additional security checkpoints, and an atmosphere of fear and distrust.

(8) In the year following the closure of Pennsylvania Avenue, the taxpayers have borne a significant burden for additional security measures along the Avenue near the White House.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President should direct the Department of the Treasury and the Secret Service to work with the Government of the District of Columbia to develop a plan for the permanent reopening to vehicular traffic of Pennsylvania Avenue in front of the White House in order to restore the Avenue to its original state and return it to the people.

FORD (AND BROWN) AMENDMENTS NOS. 4053–4054

(Ordered to lie on the table.)

Mr. FORD (for himself and Mr. BROWN) submitted two amendments intended to be proposed by them to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4053

At the end of subtitle B of title I, add the following:

SEC. 113. DEMILITARIZATION OF ASSEMBLED CHEMICAL MUNITIONS.

(a) PILOT PROGRAM.—(1) The Secretary of Energy and the Secretary of Defense shall jointly conduct a pilot program to identify and demonstrate technologies for demilitarization of assembled chemical munitions that are feasible alternatives to incineration of such munitions.

(2) For the purpose of paragraph (1), the term ''assembled chemical munition'' means an entire chemical munition, including component parts, chemical agent, propellant, and explosive.

(b) PROGRAM REQUIREMENTS.—(1) The Secretary of Energy shall enter into a contract for carrying out the pilot program.

(2) The contract shall provide for—

(A) the United States and the contractor to share the costs of the contractor's activities under the pilot program equally when the Secretary of Energy determines that such a cost sharing arrangement is feasible; and

(B) subject to paragraph (3), the contractor to be liable for any claim under the pilot program only with respect to activities performed by or under the exclusive control of the contractor.

(3) The aggregate amount of the liability of the contractor under paragraph (2)(B) may not exceed $50,000,000. The United States shall be liable for and indemnify the contractor for any liability of the contractor under the pilot program in excess of such amount.

(4) The pilot program shall terminate not later than September 30, 1999.

(c) EVALUATION AND REPORT.—Not later than December 31, 1999, the Secretary of Energy and the Secretary of Defense shall jointly—

(1) evaluate each alternative technology identified and demonstrated feasible under the pilot program; and

(2) submit to Congress a report containing the evaluation.

(d) LIMITATIONS ON CONTRACTING FOR BASELINE INCINERATION.—(1) Notwithstanding any other provision of law, the Secretary of Defense shall not enter into any contract for the purchase of long lead materials for the construction of any incinerator in the State of Kentucky for the incineration of chemical munitions known as ''baseline incineration'' before—

(A) the expiration of 60 days of continuous session of Congress after the date on which the report required under subsection (c) is received by Congress; and

(B) the transfer required by subsection (e)(2) has been completed.

(2) For the purposes of paragraph (1)(A)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(e) FUNDING, TRANSFER, AND ADDITIONAL LIMITATION.—(1)(A) Of the amount authorized to be appropriated under section 107, $60,000,000 shall be available for the pilot program under this section.

(B) The funds made available under subparagraph (A) may not be derived from funds to be made available under the chemical demilitarization program for the alternative technologies research and development program at bulk sites.

(2) Funds made available for the pilot program pursuant to paragraph (1) shall be transferred to the Secretary of Energy for use for the pilot program.

(3) No funds authorized to be appropriated by section 107 may be obligated until the transfer required by paragraph (2) has been made. The limitation in the preceding sentence is in addition to the limitation in subsection (d)(1)(B).

AMENDMENT NO. 4054

At the end of subtitle B of title I, add the following:

SEC. 113. DEMILITARIZATION OF ASSEMBLED CHEMICAL MUNITIONS.

(a) PILOT PROGRAM.—The Secretary of Defense shall conduct a pilot program to identify and demonstrate feasible alternatives to incineration for the demilitarization of assembled chemical munitions.

(b) PROGRAM REQUIREMENTS.—The Secretary of Defense shall designate an executive agent to carry out the pilot program required to be conducted under subsection (a).

(2) The executive agent shall—

(A) be an officer or executive of the United States Government;

(B) be accountable to the Secretary of Defense; and

(C) not be, or have been, in direct or immediate control of the chemical weapon stockpile demilitarization program established by 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) or the alternative disposal process program carried out under sections 174 and 175 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 50 U.S.C. 1521 note).

(3) The executive agent may—

(A) carry out the pilot program directly;

(B) enter into a contract with a private entity to carry out the pilot program; or

(C) transfer funds to another department or agency of the Federal Government in order to provide for such department or agency to carry out the pilot program.

(4) A department or agency that carries out the pilot program under paragraph (3)(C) may not, for purposes of the pilot program, contract with or competitively select the organization within the Army that exercises direct or immediate management control over either program referred to in paragraph (2)(C).

(5) The pilot program shall terminate not later than September 30, 2000.

(c) ANNUAL REPORT.—Not later than December 15 of each year in which the Secretary carries out the pilot program, the Secretary shall submit to Congress a report on the activities under the pilot program during the preceding fiscal year.

(d) EVALUATION AND REPORT.—Not later than December 31, 2000, the Secretary of Defense shall—

(1) evaluate each demilitarization alternative identified and demonstrated under the pilot program to determine whether that alternative—

(A) is a safe and cost efficient as incineration for disposing of assembled chemical munitions; and

(B) meets the requirements of section 1412 of the Department of Defense Authorization Act, 1986; and

(2) submit to Congress a report containing the evaluation.

(e) LIMITATION ON LONG LEAD CONTRACTING.—Notwithstanding any other provision of law, the Secretary may not enter into any contract for the purchase of long lead materials for the construction of an incinerator at any site in Kentucky or Colorado until the executive agent designated for the pilot program submits an application for such permits as are necessary under the law of the State of Kentucky and Colorado for the construction at that site of a plant for demilitarization of assembled chemical munitions by means of an alternative to incineration.

(f) ASSEMBLED CHEMICAL MUNITION DEFINED.—For the purpose of this section, the term ''assembled chemical munition'' means an entire chemical munition, including components parts, chemical agent, propellant, and explosive.

(g) FUNDING.—(1) Of the amount authorized to be appropriated under section 107, $60,000,000 shall be available for the pilot program under this section.

(2) Funds made available for the pilot program pursuant to paragraph (1) shall be made available to the executive agent for use for the pilot program.

(3) No funds authorized to be appropriated by section 107 may be obligated until funds are made available to the executive agent under paragraph (2).

KERRY (AND OTHERS) AMENDMENT NO. 4055

Mr. KERRY (for himself, Mr. MCCAIN, Mr. KERREY, Mr. SMITH, Mr. PRESSLER, Mr. ROBB, Mr. DASCHLE, Mr. LEAHY, and Mr. MOYNIHAN) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of subtitle E of title VI add the following:

SEC. 643. PAYMENT TO VIETNAMESE COMMANDOS CAPTURED AND INTERNED BY NORTH VIETNAM.

(a) PAYMENT AUTHORIZED.—(1) The Secretary of Defense shall make a payment to any person who demonstrates that he or she was captured and incarcerated by the Democratic Republic of Vietnam after having entered into the territory of the Democratic Republic of Vietnam pursuant to operations conduction under OPLAN 34A or its predecessor.

(2) No payment may be made under this Section to any individual who the Secretary of Defense determines, based on the available evidence, served in the Peoples Army of Vietnam or who provided active assistance to the Government of the Democratic Republic of Vietnam during the period 1958 through 1975.

(3) In the case of a decedent who would have been eligible for a payment under this section if the decedent had lived, the payment shall be made to survivors of the decedent in the order in which the survivors are listed, as follows:

(A) To the surviving spouse.

(B) If there is no surviving spouse, to the surviving children (including natural children and adopted children) of the decedent, in equal shares.

(b) AMOUNT PAYABLE.—The amount payable to or with respect to a person under the section is $40,000.

(c) TIME LIMITATIONS.—(1) In order to be eligible for payment under this section, the claimant must file his or her claim with the Secretary of Defense within 18 months of the effective date of the regulations implementing this Section.

(2) Not later than 18 months after the Secretary receives a claim for payment under this section—

(A) the claimant's eligibility for payment of the claim under subsection (a) shall be determined; and

(B) if the claimant is determined eligible, the claim shall be paid.

(d) DETERMINATION AND PAYMENT OF CLAIMS.—(1) SUBMISSION AND DETERMINATION OF CLAIMS. The Secretary of Defense shall establish by regulation procedures whereby individuals may submit claims for payment under this Section. Such regulations shall be issued within 6 months of the date of enactment of this Act.

(2) PAYMENT OF CLAIMS.—The Secretary of Defense, in consultation with the other affected agencies, may establish guidelines for determining what constitutes adequate documentation that an individual was captured and incarcerated by the Democratic Republic of Vietnam after having entered the territory of the Democratic Republic of Vietnam pursuant to operations conducted under OPLAN 34A or its predecessor.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the total amount authorized to be appropriated under section 301, $20,000,000 is available for payment under this section. Notwithstanding Sec. 301, that amount is authorized to be appropriated so as to remain available until expended.

(f) PAYMENT IN FULL SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an individual under this section shall be in full satisfaction of all claims by or on behalf of that individual against the United States arising from operations under OPLAN 34A or its predecessor.

(g) ATTORNEY FEES.—Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Section, more than ten percent of a payment made under this Section on such claim.

(h) NO RIGHT TO JUDICIAL REVIEW.—All determinations by the Secretary of Defense pursuant to this Section are final and conclusive, notwithstanding any other provision of law. Claimants under this program have no right to judicial review, and such review is specifically precluded.

(I) REPORTS.—(1) No later than 24 months after the enactment of this Act, the Secretary of Defense shall submit a report to the Congress on the payment of claims pursuant to this section.

(2) No later than 42 months after the enactment of this Act, the Secretary of Defense shall submit a final report to the Congress on the payment of claims pursuant to this section.

REID AMENDMENT NO. 4056

Mr. REID proposed an amendment to amendment No. 4052 proposed by Mr. GRAMS to the bill, S. 1745, supra; as follows:

At the end of the amendment add the following: ''provided that the Secretary of the Treasury and the Secret Service certify that the plan protects the security of the people who live and work in the White House.''

CRAIG (AND OTHERS) AMENDMENT NO. 4057

Mr. CRAIG for himself, Mr. BINGAMAN, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. BURNS, Mr. DORGAN, Mrs. FEINSTEIN, Mr. HATCH, Mr. LEVIN, Ms. SNOWE, Mr. MURKOWSKI, Mrs. BOXER, Mr. HELMS, and Mr. COHEN) proposed an amendment to the bill, S. 1745, supra; as follows:

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

SEC. . SENSE OF SENATE REGARDING THE UNITED STATES-JAPAN SEMICONDUCTOR TRADE AGREEMENT.

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

(1) The United States and Japan share a long and important bilateral relationship which serves as an anchor of peace and stability in the Asia Pacific region, an alliance which was reaffirmed at the recent summit meeting between President Clinton and Prime Minister Hashimoto in Tokyo.

(2) The Japanese economy has experienced difficulty over the past few years, demonstrating that it is no longer possible for Japan, the world's second largest economy, to use exports as the sole-engine of economic growth, but that the Government of Japan must promote deregulation of its domestic economy in order to increase economic growth.

(3) Deregulation of the Japanese economy requires government attention to the removal of barriers to imports of manufactured goods.

(4) The United States-Japan Semiconductor Trade Agreement has begun the process of deregulation in the semiconductor sector and is opening the Japanese market to competitive foreign products.

(5) The United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector.

(6) The mechanisms include joint calculation of foreign market share, deterrence of dumping, and promotion of industrial cooperation in the design of foreign semiconductor devices.

(7) Because of these actions under the United States-Japan Semiconductor Trade Agreement, the United States and Japan today enjoy trade in semiconductors which is mutually beneficial, harmonious, and free from the friction that once characterized the semiconductor industry.

(8) Because of structural barriers in Japan, a gap still remains between the share of the

world market for semiconductor products outside Japan that the United States and other foreign semiconductor sources are able to capture through competitiveness and the share of the Japanese semiconductor market that the United States and those other courses are able to capture through competitiveness, and that gap is consistent with the full range of semiconductor products as well as a full range of end-use applications.

(9) The competitiveness and health of the United States semiconductor industry is of critical importance to the overall economic well-being and high technology defense capabilities of the United States.

(10) The economic interests of both the United States and Japan are best served by well functioning, open markets, deterrence of dumping, and continuing good cooperative relationships in all sectors, including semiconductors.

(11) A strong and healthy military and political alliance between the United States and Japan requires continuation of the industrial and economic cooperation promoted by the United States-Japan Semiconductor Trade Agreement.

(12) President Clinton has called on the Government of Japan to agree to a continuation of a United States-Japan Semiconductor Trade Agreement beyond the current agreement's expiration on July 31, 1996.

(13) The Government of Japan has opposed any continuation of a government-to-government agreement to promote cooperation in United States-Japan semiconductor trade.

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

(1) it is regrettable that the Government of Japan has refused to consider continuation of a government-to-government agreement to ensure that cooperation continues in the semiconductor sector beyond the expiration of the Semiconductor Trade Agreement on July 31, 1996; and

(2) the President should take all necessary and appropriate actions to ensure the continuation of a government-to-government United States-Japan Semiconductor Trade Agreement before the current agreement expires on that date.

(c) DEFINITION.—As used in this section, the term ''United States-Japan Semiconductor Trade Agreement'' refers to the agreement between the United States and Japan concerning trade in semiconductor products, with arrangement, done by exchange of letters at Washington on June 11, 1991.

BINGAMAN (AND BUMPERS) AMENDMENT NO. 4058

Mr. BINGAMAN (for himself and Mr. BUMPERS) proposed an amendment to the bill, S. 1745, supra; as follows:

Beginning on page 32, strike out line 22 and all that follows through page 33, line 21, and insert in lieu thereof the following:

SEC. 212. SPACE CONTROL ARCHITECTURE STUDY.

(A) REQUIRED CONSIDERATION OF KINETIC ENERGY TACTICAL ANTISATELLITE PROGRAM.—The Department of Defense Space Architect shall evaluate the potential cost and effectiveness of the inclusion of the kinetic energy tactical antisatellite program of the Department of Defense as a specific element of the space control architecture which the Space Architect is developing for the Secretary of Defense.

(b) CONGRESSIONAL NOTIFICATION OF ANY DETERMINATION OF INAPPROPRIATENESS OF PROGRAM FOR ARCHITECTURE.—(1) If at any point in the development of the space control architecture the Space Architect determines that the kinetic energy tactical antisatellite program is not appropriate for incorporation into the space control architecture under development, the Space Architect shall immediately notify the congressional defense committees of such determination.

(2) Within 60 days after submitting a notification of a determination under paragraph (1), the Space Architect shall submit to the congressional defense committees a detailed report setting forth the specific reasons for, and analytical findings supporting, the determination.

(c) REPORT ON APPROVED ARCHITECTURE.—Not later than March 31, 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the space control architecture approved by the Secretary. The report shall include the following:

(1) An assessment of the potential threats posed to deployed United States military forces by the proliferation of foreign military and commercial space assets.

(2) The Secretary's recommendations for development and deployment of space control capabilities to counter such threats.

(d) FUNDING.—(1) The Secretary of Defense shall release to the kinetic energy tactical antisatellite program manager the funds appropriated in fiscal year 1996 for the kinetic energy tactical antisatellite program. The Secretary may withdraw obligated balances of such funds from the program manager only if—

(A) the Space Architect makes a determination described in subsection (b)

(B) a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

(2) Not later than April 1, 1997, the Secretary of Defense shall release to the Kinetic energy tactical antisatellite program manager any funds appropriated for fiscal year 1997 for a kinetic energy tactical antisatellite program pursuant to section 221(a) unless—

(A) the Space Architect has by such date submitted a notification pursuant to subsection (b); or

(B) a report submitted by the Secretary pursuant to subsection (c) includes a recommendation not to pursue such a program.

Beginning on page 42, strike out line 15 and all that follows through page 43 line.

MURRAY (AND OTHERS) AMENDMENT NO. 4059

Mrs. MURRAY (for herself, Ms. SNOWE, Mr. KENNEDY, Mr. ROBB, Mr. LAUTENBERG, Mr. SIMON, Mr. BINGAMAN, Mr. INOUYE, Ms. MIKULSKI, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of title VII add the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out ''(a) RESTRICTION ON USE OF FUNDS.—''.

McCAIN (AND MR. GLENN) AMENDMENT NO. 4060.

Mr. MCCAIN (for himself and Mr. GLENN) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of title XXVII, add the following:

SEC. 2706. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN MILITARY CONSTRUCTION PROJECTS NOT REQUESTED BY THE ADMINISTRATION.

Notwithstanding any other provision of this division, the total amount authorized to be appropriated by this division is hereby decreased by $598,764,000.

SIMPSON (AND THOMAS) AMENDMENT NO. 4061

Mr. SIMPSON (for himself and Mr. THOMAS) proposed an amendment to the bill, S. 1745, supra; as follows:

In section 2601(1)(A), strike out ''$79,628,000'' and insert in lieu thereof ''$83,728,000''.

REID (AND BRYAN) AMENDMENT NO. 4062

Mr. REID (for himself and Mr. BRYAN) proposed an amendment to the bill, S. 1745, supra; as follows:

In the table in section 2201(a), in the amount column for the item relating to Fallon Naval Air Station, Nevada, strike out ''$14,800,000'' and insert in lieu thereof ''$20,600,000''.

Strike out the amount set forth as the total amount at the end of the table in section 2201(a) and insert in lieu thereof ''$512,852,000''.

In section 2205(a), in the matter preceding paragraph (1), strike out ''$2,040,093,000'' and insert in lieu thereof ''$2,045,893,000''.

In section 2205(a)(1), strike out ''$507,052,000'' and insert in lieu therof ''$512,852,000''.

In the table in section 2401(a), strike out the item relating to the National Security Agency, Fort Meade, Maryland.

Strike out the amount set forth as the total amount at the end of the table in section 2401(a) and insert in lieu thereof ''$502,390,000''.

In section 2406(a), in the matter preceding paragraph (1), strike out ''$3,421,366,000'' and insert in lieu thereof ''$3,396,166,000''.

In section 2406(a)(1), strike out ''$364,487,000'' and insert in lieu thereof ''$339,287,000''.

In section 2601(3)(A), strike out ''$208,484,000'' and insert in lieu thereof ''$209,884,000''.

COHEN AMENDMENT NO. 4063

Mr. KEMPTHORNE (for Mr. COHEN) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of subtitle B of title II add the following:

SEC. 223. ADVANCED SUBMARINE TECHNOLOGIES.

(a) AMOUNTS AUTHORIZED FROM NAVY RDT&E ACCOUNT.—Of the amount authorized to be appropriated by section 201(2)—

(1) $489,443,000 is available for the design of the submarine previously designated by the Navy as the New Attack Submarine; and

(2) $100,000,000 is available to address the inclusion on future nuclear attack submarines of core advanced technologies, category I advanced technologies, and category II advanced technologies, as such advanced technologies are identified by the Secretary of Defense in Appendix C of the report of the Secretary entitled ''Report on Nuclear Attack Submarine Procurement and Submarine Technology'', submitted to Congress on March 26, 1996.

(b) CERTAIN TECHNOLOGIES TO BE EMPHASIZED.—In using funds made available in accordance with subsection (a)(2), the Secretary of the Navy shall emphasize research,

development, test, and evaluation of the technologies identified by the Submarine Technology Assessment Panel (in the final report of the panel to the Assistant Secretary of the Navy for Research, Development, and Acquisition, dated March 15, 1996) as having the highest priority for initial investment.

(c) SHIPYARDS INVOLVED IN TECHNOLOGY DEVELOPMENT.—To further implement the recommendations of the Submarine Technology Assessment Panel, the Secretary of the Navy shall ensure that the shipyards involved in the construction of nuclear attack submarines are also principal participants in the process of developing advanced submarine technologies and including the technologies in future submarine designs. The Secretary shall ensure that those shipyards have access for such purpose (under procedures prescribed by the Secretary) to the Navy laboratories and the Office of Naval Intelligence and (in accordance with arrangements to be made by the Secretary) to the Defense Advanced Research Projects Agency.

(d) FUNDING FOR CONTRACTS UNDER 1996 AGREEMENT AMONG THE NAVY AND SHIPYARDS.—In addition to the purposes of which the amount authorized to appropriated by section 201(2) are available under paragraphs (1) and (2) of subsection (a), the amounts available under such paragraphs are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the ''Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB), and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine'', dated April 5, 1996, for research and development activities under that memorandum of agreement.

BYRD AMENDMENT NO. 4064

Mr. NUNN (for Mr. BYRD) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of subtitle E of title X add the following:

SEC. 1054. ANNUAL REPORT OF RESERVE FORCES POLICY BOARD.

Section 113(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraphs (1), (2), and (4) as subparagraphs (A), (B), and (C), respectively;

(3) by inserting ''(1)'' after ''(e)'';

(4) by inserting ''and'' at the end of subparagraph (B), as redesignated by paragraph (2); and

(5) by adding at the end the following:

''(2) At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense and on any other matters that the Reserve Forces Policy Board considers appropriate to include in the report.''.

GORTON (AND OTHERS) AMENDMENT NO. 4065

Mr. KEMPTHORNE (for Mr. GORTON, for himself, Mr. COHEN, and Mr. GLENN) proposed an amendment to the bill, S. 1745, supra; as follows:

After the heading for title VII insert the following:

Subtitle A—General

Strike out section 704.

Redesignate section 705 as section 704.

Redesignate section 706 as section 705.

Redesignate section 707 as section 706.

At the end of title VII add the following:

Subtitle B—Uniformed Services Treatment Facilities

SEC. 721. DEFINITIONS.

In this subtitle:

(1) The term ''administering Secretaries'' means the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services.

(2) The term ''agreement'' means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

(3) The term ''capitation payment'' means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

(4) The term ''covered beneficiary'' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(5) The term ''designated provider'' means a public or nonprofit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 603) and that, before the date of the enactment of this Act, was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

(6) The term ''enrollee'' means a covered beneficiary who enrolls with a designated provider.

(7) The term ''health care services'' means the health care services provided under the health plan known as the TRICARE PRIME option under the TRICARE program.

(8) The term ''Secretary'' means the Secretary of Defense.

(9) The term ''TRICARE program'' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

SEC. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

(a) INCLUSION IN SYSTEM.—The health care delivery system of the uniformed services shall include the designated providers.

(b) AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider, under which the designated provider will provide managed health care services to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) EFFECTIVE DATE OF AGREEMENTS.—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

(B) October 1, 1997.

(2) Notwithstanding paragraph (1), the designated provider whose service area includes Seattle, Washington, shall implement its agreement as soon as the agreement permits.

(d) TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1587) until the agreement required by this section takes effect under subsection (c).

(e) SERVICE AREA.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

(f) COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act.

SEC. 723. PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

(2) October 1, 1996.

(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.

(a) FISCAL YEAR 1997 LIMITATION.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

(b) PERMANENT LIMITATION.—For each fiscal year after fiscal year 1997, the number of

enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) RETENTION OF CURRENT ENROLLEES.—An enrollee in the managed care program of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

(d) ADDITIONAL ENROLLMENT AUTHORITY.—Other covered beneficiaries may also receive health care services from a designated provider, except that the designated provider may market such services to, and enroll, only those covered beneficiaries who—

(1) do not have other primary health insurance coverage (other than medicare coverage) covering basic primary care and inpatient and outpatient services; or

(2) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

(e) SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.—If a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

(f) INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

SEC. 725. APPLICATION OF CHAMPUS PAYMENT RULES.

(a) APPLICATION OF PAYMENT RULES.—Subject to subsection (b), the Secretary shall require a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

(b) AUTHORIZED ADJUSTMENTS.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section after consultation with the other administering Secretaries.

(d) CONFORMING AMENDMENT.—Section 1074 of title 10, United States Code, is amended by striking out subsection (d).

SEC. 726. PAYMENTS FOR SERVICES.

(a) FORM OF PAYMENT.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for services provided by a designated provider shall be full risk capitation. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

(b) LIMITATION ON TOTAL PAYMENTS.—Total capitation payments to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received their care through a military treatment facility, the TRICARE program, or the medicare program, as the case may be.

(c) ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program.

(d) ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

SEC. 727. REPEAL OF SUPERSEDED AUTHORITIES.

(a) REPEALS.—The following provisions of law are repealed:

(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c).

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d).

(3) Section 718(c) of the National Defense Authorization Act for Fiscal year 1991 (Public Law 101–510; 42 U.S.C. 248c note).

(4) Section 726 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 42 U.S.C. 248c note).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

SARBANES AMENDMENT NO. 4066

Mr. NUNN (for Mr. SARBANES) proposed an amendment to the bill, S. 1745, supra; as follows:

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

SEC. 1072. FOOD DONATION PILOT PROGRAM AT THE SERVICE ACADEMIES.

(a) PROGRAM AUTHORIZED.—The Secretaries of the military departments and the Secretary of Transportation may each carry out a food donation pilot program at the service academy under the jurisdiction of the Secretary.

(b) DONATIONS AND COLLECTIONS OF FOOD AND GROCERY PRODUCTS.—Under the pilot program, the Secretary concerned may donate to, and permit others to collect for, a nonprofit organization any food or grocery product that—

(1) is—

(A) an apparently wholesome food;

(B) an apparently fit grocery product; or

(C) a food or grocery product that is donated in accordance with section 402(e) of the National and Community Service Act of 1990 (42 U.S.C. 12672(e));

(2) is owned by the United States;

(3) is located at a service academy under the jurisdiction of the Secretary; and

(4) is excess to the requirements of the academy.

(c) PROGRAM COMMENCEMENT.—The Secretary concerned shall commence carrying out the pilot program, if at all, during fiscal year 1997.

(d) APPLICABILITY OF GOOD SAMARITAN FOOD DONATION ACT.—Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) shall apply to donations and collections of food and grocery products under the pilot program without regard to section 403 of such Act (42 U.S.C. 12673).

(e) REPORTS.—(1) Each Secretary that carries out a pilot program at a service academy under this section shall submit to Congress an interim report and a final report on the pilot program.

(2) The Secretary concerned shall submit the interim report not later than one year after the date on which the Secretary commences the pilot program at a service academy.

(3) The Secretary concerned shall submit the final report not later than 90 days after the Secretary completes the pilot program at a service academy.

(4) Each report shall include the following:

(A) A description of the conduct of the pilot program.

(B) A discussion of the experience under the pilot program.

(C) An evaluation of the extent to which section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) has been effective in protecting the United States and others from liabilities associated with actions taken under the pilot program.

(D) Any recommendations for legislation to facilitate donations or collections of excess food and grocery products of the United States or others for nonprofit organizations.

(f) DEFINITIONS.—In this section:

(1) The term ''service academy'' means each of the following:

(A) The United States Military Academy.

(B) The United States Naval Academy.

(C) The United States Air Force Academy.

(D) The United States Coast Guard Academy.

(2) The term ''Secretary concerned'' means the following:

(A) The Secretary of the Army, with respect to the United States Military Academy.

(B) The Secretary of the Navy, with respect to the United States Naval Academy.

(C) The Secretary of the Air Force, with respect to the United States Air Force Academy.

(D) The Secretary of Transportation, with respect to the United States Coast Guard Academy.

(3) The terms ''apparently fit grocery product'', ''apparently wholesome food'', ''donate'', ''food'', and ''grocery product'' have the meanings given those terms in section 402(b) of the National and Community Service Act of 1990 (42 U.S.C. 12672(b)).

WARNER AMENDMENT NO. 4067

Mr. KEMPTHORNE (for Mr. WARNER) proposed an amendment to the bill, S. 1745, supra; as follows:

At the appropriate place in title X, insert the following:

SEC. . DESIGNATION OF MEMORIAL AS NATIONAL D-DAY MEMORIAL.

(a) DESIGNATION.—The memorial to be constructed by the National D-Day Memorial Foundation in Bedford, Virginia, is hereby designated as a national memorial to be known as the ''National D-Day Memorial''. The memorial shall serve to honor the members of the Armed Forces of the United States who served in the invasion of Normandy, France, in June 1944.

(b) PUBLIC PROCLAMATION.—The President is requested and urged to issue a public proclamation acknowledging the designation of

the memorial to be constructed by the National D-Day Memorial Foundation in Bedford, Virginia, as the National D-Day Memorial.

(c) MAINTENANCE OF MEMORIAL.—All expenses for maintenance and care of the memorial shall be paid for with non-Federal funds, including funds provided by the National D-Day Memorial Foundation. The United States shall not be liable for any expense incurred for the maintenance and care of the memorial.

BYRD (AND OTHERS) AMENDMENT NO. 4068

Mr. NUNN (for Mr. BYRD, for himself, Mr. FORD, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 1745, supra; as follows:

In section 301(11), strike out ''$2,692,473,000'' and insert in lieu thereof ''$2,699,173,000''.

In section 411(a)(5), strike out ''108,594'' and insert in lieu thereof ''108,904''.

In section 412(5), strike out ''10,378'' and insert in lieu thereof ''10,403''.

In section 421, strike out ''$69,878,430,000'' in the first sentence and insert in lieu thereof ''$69,880,430,000''.

In section 201(3), strike out ''$14,788,356,000'' and insert in lieu thereof ''$14,783,356,000''.

In section 301(4), strike out ''$17,953,039,000'' and insert in lieu thereof ''$17,949,339,000''.

At the end of subtitle B of title V add the following:

SEC. 518. MODIFIED END STRENGTH AUTHORIZATION FOR MILITARY TECHNICIANS FOR THE AIR NATIONAL GUARD FOR FISCAL YEAR 1997.

Section 513(b)(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 305; 10 U.S.C. 115 note) is amended to read as follows:

''(3) Air National Guard:

''(A) For fiscal year 1996, 22,906.

''(B) For fiscal year 1997, 22,956.''.

COHEN AMENDMENT NO. 4069

Mr. KEMPTHORNE (for Mr. COHEN) proposed an amendment to the bill, S. 1745, supra; as follows:

In section 123(a), strike out paragraph (2), and insert in lieu thereof the following:

(2) In addition to the purposes for which the amount authorized to be appropriated by section 102(a)(3) is available under subparagraphs (B) and (C) of paragraph (1), the amounts available under such subparagraphs are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the ''Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB) and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine'', dated April 5, 1996, relating to design data transfer, design improvements, integrated process teams, and updated design base.

SIMON AMENDMENT NO. 4070

Mr. NUNN (for Mr. SIMON) proposed an amendment to the bill, S. 1745, supra; as follows:

On page 311, between lines 9 and 10, insert the following:

SEC. 1072. IMPROVEMENTS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) REPEAL OF TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 650), is amended under the heading ''NATIONAL SECURITY EDUCATION TRUST FUND'' by striking out the proviso.

(b) GENERAL PROGRAM REQUIREMENTS.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1902) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph (A):

''(A) awarding scholarships to undergraduate students who—

''(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A) of this title) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d) of this title); and

''(ii) pursuant to subsection (b)(2)(A) of this section, enter into an agreement to work for, and make their language skills available to, an agency or office of the Federal Government or work in the field of higher education in the area of study for which the scholarship was awarded;''; and

(2) in subparagraph (B)—

(A) in clause (i), by inserting ''relating to the national security interests of the United States'' after ''international fields''; and

(B) in clause (ii)—

(i) by striking out ''subsection (b)(2)'' and inserting in lieu thereof ''subsection (b)(2)(B)''; and

(ii) by striking out ''work for an agency or office of the Federal Government or in'' and inserting in lieu thereof ''work for, and make their language skills available to, an agency or office of the Federal Government or work in''.

(c) SERVICE AGREEMENT.—Subsection (b) of that section is amended—

(1) in the matter preceding paragraph (1), by striking out '', or of scholarships'' and all that follows through ''12 months or more,'' and inserting in lieu thereof ''or any scholarship''.

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph (2):

''(2) will—

''(A) not later than eight years after such recipient's completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

''(i) work in an agency or office of the Federal Government having national security responsibilities (as determined by the Secretary in consultation with the National Security Education Board) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

''(B) upon completion of such recipient's education under the program, and in accordance with such regulations—

''(i) work in an agency or office of the Federal Government having national security responsibilities (as so determined) and make available such recipient's foreign language skills to an agency or office of the Federal Government approved by the Secretary (in consultation with the Board), upon the request of the agency or office, for a period specified by the Secretary, which period shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

''(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no position in an agency or office of the Federal Government having national security responsibilities is available upon the completion upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and''.

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section 802 is further amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(1) by inserting after subsection (b) the following new subsection (c):

''(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of the tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.''.

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting '', including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in an agency or office of the Federal Government having national security responsibilities'' before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out ''Make recommendations'' and inserting in lieu thereof ''After taking into account the annual analyses of trends in language, international, and area studies under section 806(b)(1), make recommendations'';

(B) in subparagraph (A), by inserting ''and countries which are of importance to the national security interests of the United States'' after ''are studying''; and

(C) in subparagraph (B), by inserting ''relating to the national security interests of the United States'' after ''of this title';

(3) by redesignating paragraph (5) as paragraph (7); and

(4) by inserting after paragraph (4) the following new paragraphs:

''(5) Encourage applications for fellowships under this title from graduate students having an educational background in disciplines relating to science or technology.

''(6) Provide the Secretary on an on-going basis with a list of scholarship recipients and fellowship recipients who are available to work for, or make their language skills available to, an agency or office of the Federal Government having national security responsibilities.''.

(f) REPORT ON PROGRAM.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing the improvements to the program established

under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) that result from the amendments made by this section.

(2) The report shall also include an assessment of the contribution of the program, as so improved, in meeting the national security objectives of the United States.

COHEN AMENDMENT NO. 4071

Mr. KEMPTHORNE (for Mr. COHEN) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of section 123 add the following:

(e) NEXT ATTACK SUBMARINE AFTER NEW ATTACK SUBMARINE.—The Secretary of Defense shall modify the plan (relating to development of a program leading to production of a more capable and less expensive submarine than the New Attack Submarine) that was submitted to Congress pursuant to section 131(c) of Public Law 104–106 (110 Stat. 208) in order to provide in such plan for selection of a design for a next submarine for serial production not earlier than fiscal year 2000 (rather than fiscal year 2003, as provided in paragraph (3)(B) of such section 131(c)).

MCCAIN AMENDMENT NO. 4072

Mr. MCCAIN proposed an amendment to amendment No. 4061 proposed by Mr. SIMPSON to the bill, S. 1745, supra; as follows:

At the end of the amendment, add the following:

Notwithstanding any other provision of this Act, none of the funds authorized for construction, Phase I, of a combined support maintenance shop at Camp Guernsey, Wyoming, may be obligated until the Secretary of Defense certifies to Congress that the project is in the future years Defense plan.

SMITH (AND OTHERS) AMENDMENT NO. 4073

Mr. KEMPTHORNE (for Mr. SMITH for himself, Mr. SANTORUM, and Mr. GRAHAM) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title I add the following:

SEC. 125. MARITIME PREPOSITIONING SHIP PROGRAM ENHANCEMENT.

Section 2218(f) of title 10, United States Code, shall not apply in the case of the purchase of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

BINGAMAN (AND SMITH) AMENDMENT NO. 4074

Mr. NUNN (for Mr. BINGAMAN, for himself and Mr. SMITH) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of title VIII add the following:

SEC. 810. RESEARCH UNDER TRANSACTIONS OTHER THAN CONTRACTS AND GRANTS.

(a) CONDITIONS FOR USE OF AUTHORITY.—Subsection (e) of section 2371 of title 10, United States Code is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting ''and'' after the semicolon at the end of subparagraph (A), as so redesignated;

(3) by striking out ''; and'' at the end of subparagraph (B), as so redesignated, and inserting in lieu thereof a period;

(4) by inserting ''(1)'' after ''(e) CONDITIONS.—''; and

(5) by striking out paragraph (3) and inserting in lieu thereof the following:

''(2) A cooperative agreement containing a clause under subsection (d) or a transaction authorized under subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.''.

(b) REVISED REQUIREMENT FOR ANNUAL REPORT.—Section 2371 of such title is amended by striking out subsection (h) and inserting in lieu thereof the following:

''(h) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on Department of Defense use during such fiscal year of—

''(A) cooperative agreements authorized under section 2358 of this title that contain a clause under subsection (d); and

''(B) transactions authorized under subsection (a).

''(2) The report shall include, with respect to the cooperative agreements and other transactions covered by the report, the following:

''(A) The technology areas in which research projects were conducted under such agreements or other transactions.

''(B) The extent of the cost-sharing among Federal Government and non-Federal sources.

''(C) The extent to which the use of the cooperative agreements and other transactions—

''(i) has contributed to a broadening of the technology and industrial base available for meeting Department of Defense needs; and

''(ii) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.

''(D) The total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause described in subsection (d) that was included in the cooperative agreements and transactions, and the amount of such payments, if any, that were credited to each account established under subsection (f).''.

(c) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—Such section, as amended by subsection (b), is further amended by inserting after subsection (h) the following:

''(i) PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.—(1) Disclosure of information described in paragraph (2) is not required, and may not be compelled, under section 552 of title 5 for five years after the date on which the information is received by the Department of Defense.

''(2) Paragraph (1) applies to the following information in the records of the Department of Defense if the information was submitted to the department in a competitive or noncompetitive process having the potential for resulting in an award, to the submitters, of a cooperative agreement that includes a clause described in subsection (d) or other transaction authorized under subsection (a):

''(A) Proposals, proposal abstracts, and supporting documents.

''(B) Business plans submitted on a confidential basis.

''(C) Technical information submitted on a confidential basis.''.

''(d) DIVISION OF SECTION INTO DISTINCT PROVISIONS BY SUBJECT MATTER.—(1) Chapter 139 of title 10, United States Code, is amended—

''(A) by inserting before the last subsection of section 2371 (relating to cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980) the following:

''§ 2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980'';

''(B) by striking out ''(i) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS UNDER STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—; and

''(C) in the table of sections at the beginning of such chapter, by inserting after the item relating to section 2371 the following:

''§ 2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980.''.

''(2) Section 2358(d) of such title is amended by striking out ''section 2371'' and inserting in lieu thereof ''sections 2371 and 2371a''.

GRASSLEY (AND OTHERS) AMENDMENT NO. 4075

Mr. KEMPTHORNE (for Mr. GRASSLEY, for himself, Mrs. BOXER, and Mr. HARKIN) proposed an amendment to the bill, S. 1745, supra; as follows:

On page . between lines and , insert the following:

SEC. . REIMBURSEMENT FOR EXCESSIVE COMPENSATION OF CONTRACTOR PERSONNEL PROHIBITED.

(a) ARMED SERVICES PROCUREMENTS.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following:

''(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds $200,000.''.

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(e)(1)) is amended by adding at the end the following:

''(P) Costs of compensation (including bonuses and other incentives) paid with respect to the services (including termination of services) of any one individual to the extent that the total amount of the compensation paid in a fiscal year exceeds $200,000.''.

BOXER AMENDMENT NO. 4076

Mr. NUNN (for Mrs. BOXER) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of title VIII, insert the following new section:

SEC. . REPORTING REQUIREMENT UNDER DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

Section 816(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820) is amended by striking out ''1996'' and inserting in lieu thereof ''1998''.

MCCAIN AMENDMENT NO. 4077

Mr. KEMPTHORNE (for Mr. MCCAIN) proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of subtitle D of title III, add the following:

SEC. . AUTHORITY FOR AGREEMENTS WITH INDIAN TRIBES FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.

Section 2701(d) of title 10, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out ‘‘, or with any State or local government agency,’’ and inserting in lieu thereof ‘‘, with any State or local government agency, or with any Indian tribe,’’; and

(2) by adding at the end the following:

‘‘(3) DEFINITION.—In this subsection, the term ‘Indian tribe’ has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).’’.

NUNN AMENDMENT NO. 4078

Mr. NUNN proposed an amendment to the bill, S. 1745, supra; as follows:

In section 1006, strike out the last three lines and insert in lieu thereof the following:

‘‘(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting activities described in such subsection (e)(5), including any nonlethal, individual or small-team landmine cleaning equipment or supplies that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.’’.

(C) The cost of any equipment, services or supplies provided pursuant to (B) may not exceed $5 million each year.

KEMPTHORNE AMENDMENT NO. 4079

Mr. KEMPTHORNE proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of subtitle D of title II add the following:

SEC. 243. AMENDMENT TO UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Section 802(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note) is amended by striking out ‘‘fiscal years before the fiscal year in which the institution submits a proposal’’ and inserting in lieu thereof ‘‘most recent fiscal years for which complete statistics are available when proposals are requested’’.

LOTT AMENDMENT NO. 4080

Mr. KEMPTHORNE (for Mr. LOTT) proposed an amendment to the bill, S. 1745, supra; as follows:

Strike out section 1008, relating to the prohibition on the use of funds for Office of Naval Intelligence representation or related activities.

INHOFE (AND NICKLES) AMENDMENT NO. 4081

Mr. KEMPTHORNE (for Mr. INHOFE, for himself and Mr. NICKLES) proposed an amendment to the bill, S. 1745, supra; as follows:

Insert the following in the appropriate place:

SEC. . TRANSFER OF JURISDICTION AND LAND CONVEYANCE, FORT SILL, OKLAHOMA.

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—

(1) TRANSFER AUTHORIZED.—the Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property (including any improvements thereon) consisting of approximately 400 acres and comprising a portion of Fort Sill, Oklahoma.

(2) USE OF LAND.—The Secretary of Veterans Affairs shall use the real property transferred under paragraph (1) as a national cemetery under chapter 24 of title 38, United States Code.

(3) RETURN OF UNUSED LAND.—If the Secretary of Veterans Affairs determines that any portion of the real property transferred under paragraph (1) is not needed for use as a national cemetery, the Secretary of Veterans Affairs shall return such portion to the administrative jurisdiction of the Secretary of the Army.

(b) LEGAL DESCRIPTION.—the exact acreage and legal description of the real property to be transferred or conveyed under this section shall be determined by surveys that are satisfactory to the Secretary of the Army. The cost of such surveys shall be borne by the recipient of the real property.

MCCAIN AMENDMENT NO. 4082

Mr. KEMPTHORNE (for Mr. MCCAIN) proposed an amendment to the bill, S. 1745, supra; as follows:

On page 81, strike out line 18 and all that follows through page 86, line 2, and insert in lieu thereof the following:

SEC. 341. ESTABLISHMENT OF SEPARATE ENVIRONMENTAL RESTORATION ACCOUNTS FOR EACH MILITARY DEPARTMENT.

(a) ESTABLISHMENT.—(1) Section 2703 of title 10, United States Code, is amended to read as follows:

‘‘§ 2703. Environmental restoration accounts

‘‘(a) ESTABLISHMENT OF ACCOUNTS.—There are hereby established in the Department of Defense the following accounts:

‘‘(1) An account to be known as the ‘Defense Environmental Restoration Account’.

‘‘(2) An account to be known as the ‘Army Environmental Restoration Account’.

‘‘(3) An account to be known as the ‘Navy Environmental Restoration Account’.

‘‘(4) An account to be known as the ‘Air Force Environmental Restoration Account’.

‘‘(b) OBLIGATION OF AUTHORIZED AMOUNTS.—Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only in order to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law. Funds so authorized shall remain available until expended.

‘‘(c) BUDGET REPORTS.—In proposing the budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amounts requested for environmental restoration programs of the Department of Defense and of each of the military departments under this chapter and under any other Act.

‘‘(d) AMOUNTS RECOVERED.—The following amounts shall be credited to the appropriate environmental restoration account:

‘‘(1) Amounts recovered under CERCLA for response actions.

‘‘(2) Any other amounts recovered from a contractor, insurer, surety, or other person to reimburse the Department of Defense or a military department for any expenditure for environmental response activities.

‘‘(e) PAYMENTS OF FINES AND PENALTIES.—None of the funds appropriated to the Defense Environmental Restoration Account for fiscal years 1995 through 1999, or to any environmental restoration account of a military department for fiscal years 1997 through 1999, may be used for the payment of a fine or penalty (including any supplemental environmental project carried out as part of such penalty) imposed against the Department of Defense or a military department unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the environmental restoration account concerned and the payment of the fine or penalty has been specifically authorized by law.’’.

(2) The table of sections at the beginning of chapter 160 of title 10, United States Code, is amended by striking out the item relating to section 2703 and inserting in lieu thereof the following new item:

‘‘2703. Environmental restoration accounts.’’.

(b) REFERENCES.—Any reference to the Defense Environmental Restoration Account in any Federal law, Executive Order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the appropriate environmental restoration account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(c) CONFORMING AMENDMENT.—Section 2705(g)(1) of title 10, United State Code, is amended by striking out ‘‘the Defense Environmental Restoration Account’’ and inserting in lieu thereof ‘‘the environmental restoration account concerned’’.

(d) TREATMENT OF UNOBLIGATED BALANCES.—Any unobligated balances that remain in the Defense Environmental Restoration Account under section 2703(a) of title 10, United States Code, as of the effective date specified in subsection (e) shall be transferred on such date to the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) October 1, 1996; or

(2) the date of the enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that the hearing scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources on Thursday, June 20, 1996 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC, to review S. 1424, a bill to redesignate the Black Canyon of the Gunnison National Monument as a national park, to establish the Gunnison Gorge National Recreation Area, to establish the Curecanti National Recreation Area, to establish the Black Canyon of the Gunnison National Park Complex, has been canceled until further notice.

For further information, please contact Jim O’Toole of the subcommittee staff at (202) 224–5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 18, 1996 at 9:30 a.m. in room

SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 988, a bill to direct the Secretary of the Interior to transfer administrative jurisdiction over certain land to the Secretary of the Army to facilitate construction of a jetty and sand transfer system and S. 1805, a bill to provide for the management of Voyageurs National Park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, D.C. 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 25, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 1699, a bill to establish the National Cave and Karst Research Institute in the State of New Mexico; S. 1737, a bill to protect Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River and the Absaroka-Beartooth National Wilderness Area; and S. 1809, the ''Aleutian World War II National Historic Sites Act of 1996''.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public an addition to the agenda of the Full Committee hearing previously scheduled for Wednesday, June 26 at 9:30 a.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

In addition to receiving testimony on matters regarding the U.S. Territories, the Committee will also receive testimony on S. 1889, a bill to authorize the exchange of certain lands conveyed to the Kenai Native Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, and for other purposes.

Those wishing to testify or who wish to submit written statements with regard to S. 1889, should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Presentation of oral testimony is by Committee invitation. For further information, please contact Jo Meuse or Brian Malnak.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, June 19, 1996, to consider the committee's budget reconciliation instructions.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 19, 1996, to conduct a markup of S. 1815, the ''Securities Investment Promotion Act of 1995''.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, June 19, 1996 session of the Senate for the purpose of conducting a hearing on Salmon Recovery Research.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, June 19, 1996, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

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

COMMITTEE ON FINANCE

Mr. COATS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, June 19, 1996, beginning at 10:00 a.m. in room SD–215.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, June 19, 1996 at 9:30 a.m. to conduct a mark-up on Title III of H.R. 3286, the Adoption Promotion and Stability Act of 1996. The mark-up will be held in Room 485 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 19, 1996, to hold an executive business meeting.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, June 18, 1996 beginning at 9:00 a.m., and Wednesday, June 19, 1996, beginning at 9:30 a.m. until business is completed, to hold a hearing on Public Access to Government Information in the 21st Century, with a focus on the GPO Depository Library Program/Title 44.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COATS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 19, 1996 at 9:00 a.m. to hold an open hearing on Intelligence Matters and at 2:00 p.m. to hold a closed business meeting.

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

ADDITIONAL STATEMENTS

PROPOSED MERGER BETWEEN THE UNION PACIFIC AND SOUTHERN PACIFIC RAILROADS

• Mr. BOND. Mr. President, when Congress passed legislation last year transferring the authority to review proposed rail mergers from the former Interstate Commerce Commission to the Surface Transportation Board, a major issue of concern in the Senate was whether or not the Board should retain exclusive jurisdiction over ensuring that healthy competition is protected before any proposed merger is approved. That congressionally imposed responsibility is indeed important and its first major test will be seen soon when the Board issues its decision on the proposed merger of the Union Pacific and Southern Pacific Railroads.

Never before has such a large consolidation of control over rail traffic been

proposed and never before have so many expressed such strong reservations about the dangers to competition posed by such a merger.

The Board must discharge its responsibility to protect competition and in this case to do so, it must condition approval of the proposed merger with mandatory divestiture of the parallel lines created as a result of the merger to an independent rail competitor.

This condition is essential to approve the proposed merger. Granting trackage rights alone is not sufficient to protect competition. In reviewing this question, the Board should consider the following:

First, the proposed merger would leave two railroads in the West, the combined UP-SP and the BN-Santa Fe, with control of 90 percent of the rail traffic in the West, resulting in reduced competition, higher shipping rates, and reduced service.

Second, the proposed merger will cause many shippers to go from three carriers to two, and many more from two carriers to only one. The Department of Justice's review estimates over $6 billion in shipping traffic would be affected by this reduced competition.

Third, oddly enough, the competitive harm in this proposed merger is two times the competitive harm of the proposed Santa Fe-Southern Pacific merger proposed and rejected in the mid-1980's.

It is not surprising that numerous shipping groups have publicly opposed the merger in its present form and favor divestiture to solve the competitive problems. These groups include the Society of Plastics, the NIT League, and the Gulf States of Texas and Louisiana. The American Farm Bureau, National Grange, and National Farm Bureau are among the many agriculture groups opposed to the merger and requesting conditions other than the BNSF-CMA agreement. Divestiture of parallel tracks and facilities will result in preservation of competitive options for all shippers who would otherwise see reduction in competition from two carriers to one, and for a significant number who would go from three to two.

Mr. President, last fall I joined with the chairman of the House Small Business Committee, Congresswoman JAN MEYERS, in convening a joint session of our Small Business Committees, to hear from small shippers who have been affected by mega-mergers like this in the past and who know what the consequences of this proposed merger, if approved in its current form, will be for them in the future. They were unanimous. They know that only actual, real competition protects them from the serious consequences of being captive to a single shipper. They have come out in droves to voice their fears in their public filing to the Board. Their interests collectively must be protected.

Because of the intense interest in these parallel lines by competing carriers, divestiture would not force the applicants to sell any of these lines for less then their market value. Divestiture allows the merger to go forward and gives the UP and SP the benefits of end-to-end efficiency and the administrative-corporate consolidation that they want while protecting competition for shippers.

Unfortunately, the trackage rights solution to these serious threats to competition will not resolve the problems. Even with added access, competitors operating over lines controlled by an aggressively competitive owner are inferior to the owner of the line who uses control of access to place the competitor at a serious disadvantage. Trackage rights alone do not constitute available competition, only access to actual moving traffic does. That can be achieved only by mandatory divestiture of parallel lines.

The Departments of Justice, Transportation, and Agriculture oppose the current proposed merger due to these competitive problems. Numerous shippers groups and many of the affected States have voiced concerns as well. Mr. President, I believe Congress wants the Board to discharge its duty to protect competition. We will see this decision as the crucial test whether it will or will not.

Congress explicitly recognized divestiture as a viable condition available to the Board when it passed the ICC Termination Act creating the Surface Transportation Board. Congress specifically wrote divestiture into the new law with this need in mind. Divestiture to the highest bidder certainly promotes free-market competition. The Board clearly has this authority and should use it to protect competition.●

FINAL REPORT BY THE SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER

● Mrs. MURRAY. Mr. President, yesterday, after 13 months, 51 hearings, 159 witnesses, thousands of pages of documents, and nearly 2 million taxpayer dollars, the Special Committee To Investigate Whitewater concluded its work.

Our committee found no instance in which the President or the First Lady have acted unethically, illegally or abused their power.

Mr. President, the special committee released two varying reports yesterday: A Republican majority report and a Democratic minority report. Our committee started its work in true bipartisan fashion. Unfortunately, as the investigation repeatedly failed to produce any substantive or legitimate wrongdoing by the President, the majority veered the committee down a path of partisan politics and speculation. As a result, our bipartisan teamwork broke down. It disintegrated to a point that two separate reports are needed in order to report our findings as clearly as possible.

The biggest failing of this committee, however, was our failure to keep faith with the American people. For months, I reminded our committee of the importance of being credible and of the need to maintain the confidence of the American people. Constituents in my home State often expressed their displeasure with our committee's partisan politics. And they told me they no longer trusted our committee to find the truth in a fair and impartial manner.

Mr. President, we were charged with the mission of finding all of the facts relating to the President's relationship with Whitewater and related matters. That's what the American people wanted us to do. That is what they expected us to do. Unfortunately, the majority decided to make allegations first, and find the facts second. If the facts failed to support the allegations, the majority simply discarded the facts.

I believe, and most of my colleagues will agree, that there were few instances where the White House could have produced documents faster or answered questions more quickly. In its attempt to be careful and cautious, the White House ultimately ran into perception problems. The White House looked as if it was covering up the truth. Once all the information was gathered, we learned the White House had not acted improperly—rather in many cases it was as open and forthcoming as possible. In no way did the White House act to obstruct justice or attempt to impede this committee's investigation.

The majority granted the special committee $400,000 to extend our hearings well beyond our original February deadline. Nearly 4 months later, our committee conducted only 10 more hearings. This track record makes it very clear to me that we could have concluded our work by the original deadline, and that the majority simply intended to continue these hearings further into the Presidential election season.

Now, after finding no wrongdoing by the President in relation to the subject at hand—Whitewater and Madison Guaranty—the Majority has leaked reports that it intends to pursue perjury charges on three of the President's aides and advisers. This is a clear attempt to move attention away from the fruitless investigation by creating a new allegation. Like many of the smoking guns that amounted to no more than squirt guns, it again appears to be another effort to make news where there is no news, and to make political noise in an election year.

Our committee spent nearly $2 million to examine the facts. The Resolution Trust Corporation [RTC] spent nearly $4 million conducting an independent investigation clearing the Clintons of any wrongdoing. And the independent counsel has spent more than $26 million on its ongoing investigation. Including the House committee hearings, nearly $40 million of public money has been spent to bring all relevant information into the open.

The final reports put to rest the suicide of Vince Foster, concluded the Clinton White House did not interfere with RTC and Department of Justice investigations, and discovered then-Governor Clinton did not misuse his power to influence State regulators.

It is time for us to move beyond this political issue. It is time for Congress to address the issues that really concern the American people. When I go home people ask me what Congress has done to preserve their quality of life, what Congress has done to improve our education system, and what Congress has done to improve our health care delivery system. I can count on one hand the number of times somebody asked me about Whitewater over the past 2 years.

As a member of the Special Whitewater Committee, I took my job seriously. I understood the importance of our committee, and I stand by the minority report. Our report studies the facts very carefully, and after compiling all of the facts we made our conclusions accordingly. I urge all interested parties to read this report, and I am hopeful it completes the mission we were instructed to pursue.●

TRIBUTE TO JIM SMITH

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a Kentucky businessman whose success allowed him to give something back to Kentucky. Jim Smith, who passed away May 31, was one of western Kentucky's most successful self-made businessmen.

Mr. Smith, the youngest of eight children, dropped out of school in the 10th grade. After being involved in several construction company partnerships, he struck out on his own and turned one bulldozer into a multi-million dollar construction business. Jim Smith Construction Co. built most of the major highways in western Kentucky. He also expanded into other areas, including coal, transportation, a hotel, and a restaurant.

A close friend and business partner, David Reed, was quoted in the Paducah Sun as saying, ''Those of us who know Jim well realize immediately the void his passing will mean, not only to us personally but to all of western Kentucky.'' Former Kentucky Gov. Julian Carroll said of Mr. Smith, ''I've known him as a friend, a businessman, a citizen of the community, a Christian * * * but of all the roles that Jim filled in his life, the one that he relished the most, and agonized over the most, was being the father of four sons.'' Even though he was wealthy, Mr. Smith required his sons to work and earn their living.

Mr. Smith is survived by his wife, Sandy; four sons, Mike, Rex, Chris, and Steve; two stepchildren, Joelle Smith and Joel Weaver; three brothers, Hiram, Hugh, and Bill Smith; and three sisters, Geneva Youngblood, Imogene Riggs, and Lucille Wade. I would ask that my colleagues join me in honoring this extraordinary Kentuckian.●

HIDDEN HUMAN TOLL OF GAMBLING

● Mr. SIMON. Mr. President, in all the discussion about the problems of gambling in the United States, most of us in those discussions use statistics.

What we frequently fail to understand are the human beings involved in the addiction.

Ken Adelman, the former head of The Arms Control and Disarmament Agency and now a columnist who is nationally syndicated, recently had a column in the Washington Times that told about a cousin of his.

It tells in simple, graphic terms why we need a commission to look at this problem.

I don't know how many personal cases I have heard of since introducing the bill on the commission, but it is enough to encourage me to fight for its creation, and I hope my colleagues will have the good sense to pass the measure and create the commission.

I ask that the Washington Times column be printed in the RECORD.

The column follows:

[From the Washington Times, June 13, 1996]

HIDDEN HUMAN TOLL OF GAMBLING

(By Ken Adelman)

Stopping for a fund-raiser in Las Vegas last weekend, Bill Clinton solicited big gambling bucks, as has Bob Dole. Lost in the policy debate over state-sponsored gambling—via lotteries, casinos, horse races, whatever—is the personal dimension.

This hasn't been lost on our family, which has endured pain from my first cousin, Alby, becoming a compulsive gambler. At 15 years old, I should have sensed Alby's problem when our grandfather, Papa, took us on a trip abroad. The whole way Alby wanted to bet on whose room would have a higher number (Papa's or ours), whether our seats would be on the right or left side of the airplane, on anything really. He was—and presumably is, though I haven't seen him in years—an engaging and brilliant fellow. We never suspected the years of jail and a failed life gambling would bring.

Between prison sentences, beginning at age 16 or so, Alby would hit the track, poker tables, and sports events. No state lotteries had yet been established, so we can't blame them for our family woes. How much state-sponsored gambling, now dubbed ''gaming,'' multiplies the number of Albys in America should be a key focus of the national commission on gambling, which Congress is now debating.

''The main ambitions I ever had were fantasies,'' Alby told me in 1975, when I spent six months researching his life. He poured his mathematical genius, personality and wit into gambling. Alby won big at times—$10,000 in one day and $7,700 in one race. But those triumphs were fleeting as all winnings went back into the game. The amounts were staggering, at least to me. Alby burned through more than $1 million before turning 30. He squandered it all, as well as two marriages and a host of natural abilities.

Alby became attracted and then addicted to horse-racing while still in high school. ''When you're at the track or when you're gambling, you're in a different world,'' he mused. ''There's nothing else that matters until you walk into reality again. It's a dream world.'' Gambling became his trademark.

''When I won, I would have a lot of money in my pocket and flash it around. It was an ego trip for me.'' And a macho thing, since compulsive gambling is mostly a man's disease. Unlike alcoholism or drug addiction, only 10 percent of compulsive gamblers are women.

But women become victims. One elderly landlady in New Mexico housed Alby and a buddy when they were 16. After they skipped out without paying rent, she wrote Alby's parents, ''They were both good, likable kids.'' She missed them after Alby ''left town like something from a cannon. He said he needed to return home on account of a death of a sister.'' No sister had died. Such began a life of lies.

Though having now spent more than half his life behind bars, Alby never considered himself a criminal. He trashed common convicts, especially armed robbers: ''They're stupidest people in the world. They go to jail for 10 years for a hundred bucks when I can get $50,000 with a pen in hand rather than a gun.''

Like most compulsive gamblers, Alby abhors violence. None of his crimes involved guns, knives or physical assaults. They involved passing bad checks and schemes of every sort. Though non-violent, they still hurt others, especially family members. Alby's father bailed him out of jail and dangerous situations for several years before giving up. His grandfather lasted longer, but after Alby stole his prized stamp collection and World War I medals, he too gave up.

The burden falls too on friends and neighbors. Rummaging through family correspondence, I came across scores of sad stories. One came from the mother of a high school buddy who ''loaned'' Alby his coin collection but never got it back.''My son is a stranger to you but he is my only child and the most important person in the world to me,'' she wrote Alby's folks. ''The coins he's been saving since he was little were his only concrete asset. They are now gone.

Though sharing an addiction, compulsive gamblers differ from drug and alcohol abusers. The gambling life is one of involvement and stimuli. Drug and alcohol addicts lead a life of withdrawal and passivity.

While gambling is as old as humanity itself—archaeologists have found a 4,000-year-old lamb bone used as dice—compulsive gambling is a relatively new affliction. Upward of 10 million compulsive gamblers in America—perhaps 10 times the number of drug addicts—may be increasing in numbers now. For state and local lotteries not only furnish the opportunity, but encourage ''striking it rich'' without any effort.

Alby's tragedy may become epidemic since legalized gambling has increased 2,800 percent over the past two decades. To grasp this danger, imagine the furor if state and local governments not only legalized drug sale and use but themselves sold and advertised drugs to the general public.

As Congress debates establishing a national commission on the effects of gambling, everyone has focused on the commission's subpoena powers. More critical would be a focus on the human toll gambling takes, on tales of wasted lives, like Alby's.

INS EMPLOYMENT VERIFICATION PILOT PROJECT

● Mr. KERREY. Mr. President, at the end of May, the Immigration and Naturalization Service and a consortium of meatpacking companies announced an innovative pilot project in which the companies will voluntarily verify the employment eligibility of noncitizens who seek employment.

I commend the meatpacking industry, specifically IBP and BeefAmerica

in Nebraska, as well as companies elsewhere in recognizing that the jobs they offer are a major draw for immigrants, some of whom are not in the country legally, and for taking the initiative to help root out those who are not eligible to work. The meatpacking industry wants to hire legal workers; this industry is also well aware of how difficult a task that can be given the availability of forged documents. The Employment Verification Pilot will test, across an entire industry, a hiring system that has already demonstrated success in smaller pilot projects.

In a relatively short period of time we should expect that the word will spread: Nebraska and other States with good job opportunities will keep the welcome mat out for those authorized to work, but will shut the door to those who are not. The participating companies together employ about 56,000 workers at 48 sites in 10 States. Participation by these employers ensures that about 80 percent of the meatpacking industry will be covered.

I also commend the INS for their response to an issue of utmost importance to the country—protecting American jobs and continuing efforts to reduce the primary incentive for illegal immigration—the job magnet. I also want to laud the INS for recognizing the usefulness of a voluntary system. By participating with employers in fashioning the program, the INS has forged a partnership that will lead to success.

The process is simple. Employers who volunteer to participate can quickly verify with INS, through a computer, whether their newly hired, noncitizen employees are authorized to work. In most cases, verification will be received in minutes. Through quick verification, this project cracks down on illegal employment while protecting the rights of legal immigrant workers.

I believe this pilot project has the potential to restore American's faith in the legal immigration system and I look forward to the evaluation of the program after it has gotten off the ground. I also look forward to continue working with INS and employers to ensure that Americans jobs are protected and available for those who are in the United States legally.●

HONORING THE 150TH ANNIVERSARY OF BASEBALL

● Mr. LAUTENBERG. Mr. President, on a warm spring afternoon, on June 19, 1846, the seeds of modern baseball were planted in the fertile soil of New Jersey. On that day, one of baseball's first teams, the Knickerbockers, invited a group known as the New York City Club to join them for a game of ball. They met on the Elysian Fields of Hoboken, NJ, and played under a unique set of rules, which the Knickerbockers had recently devised. With the first pitch, the modern game of baseball was born. The new pastime quickly captured the young Nation's interest and fired its imagination. Clubs were soon modeling themselves upon the Knickerbockers, and Hoboken's Elysian Fields became one of the first great centers of baseball activity in the United States.

Over the last 150 years, the seed first planted in New Jersey became firmly rooted in the American landscape and then spread around the globe.

But although baseball is enjoyed throughout the world, it is a uniquely American game. It both mirrors and molds our national character.

It has been said that ''Whoever wants to know the hearts and minds of America had better learn baseball.'' This is undeniably true, because baseball is one of the world's most democratic games. Each team has equal opportunity to win, since no timeclock decides when the game is done. Only hard work and teamwork determine a winner. What could better reflect our national philosophy?

But baseball not only mirrors our character, it also molds it. For generations of immigrant children, their first American experience often came on the baseball diamond. During World War II, when our male baseball players joined the war effort, all-female teams were formed. Displaying exceptional talent and tenacity, these ballplayers vividly demonstrated that a woman could fill a man's shoes. In 1947, baseball set a powerful example for the Nation; when Jackie Robinson joined the Brooklyn Dodgers, professional baseball became one of the standard bearers of the desegregation movement.

For all that baseball has done, perhaps its greatest contribution is simply the bond that it forms between one generation of Americans and the next. It is a bond forged between children and parents who have spent long days together at the ballpark or on the ballfield.

As Americans, we come from diverse cultures, often with very different customs and beliefs. It is only our common experiences that bind us together as a nation. Whether playing it or watching it, baseball has been one of the few shared experiences enjoyed by all of us, a common thread which has helped stitch together the tapestry of America. So, it is no exaggeration to say that baseball is, and will always be, a part of our national identity, our national heritage, and our national greatness.

I am pleased to recognize the important role which New Jersey played in baseball's history. Too few people realize that baseball's first match game was played in Hoboken. Hopefully, the events taking place today in Hoboken, to celebrate that first game, will help spread the word. Congratulations Hoboken, and happy 150th anniversary to America's national pastime, the sport of baseball.

Mr. President, I ask that a letter from President Clinton be printed in the RECORD.

The letter follows:

THE WHITE HOUSE,
Washington, June 19, 1996.

Warm greetings to everyone gathered in Hoboken, New Jersey, to commemorate the 150th anniversary of the celebrated baseball game on Elysian Fields between the Knickerbockers and the New York Club.

Throughout its long and storied history, baseball has stirred the hearts and captured the imagination of the American people. From hot summer days on the sandlot to cool autumn nights at the World Series, baseball has passed from generation to generation as new stars rise to replace the legends of the past and new fans learn to root for the home team.

Through wars and depression, good times and bad, we have been beguiled by the sights and sounds of this graceful and timeless game. The crack of the bat on a hard-hit ball; the slap of a fastball into a catcher's mitt; the smooth precision of a well-turned double play; the thrill of a stolen base; the sight of a home run as it clears the center field fence—these are the things that have imprinted baseball in the soul of America.

I join you in celebrating this cherished national pastime and the players, managers, coaches, and fans who have made it a permanent part of American culture. Best wishes for a memorable day.

BILL CLINTON.●

TRIBUTE TO LUCILLE MAURER, FORMER STATE TREASURER OF MARYLAND

● Ms. MIKULSKI. Mr. President, the State of Maryland mourns today.

We have lost a tremendous public servant and role model in Lucille Maurer, who died Monday at the age of 73, after a long struggle with a brain tumor.

Lucy Maurer was a long time Montgomery County legislator who went on to serve as Maryland's first female treasurer. She served as treasurer for over 9 years, ending this past January. As treasurer, she was widely recognized for her effectiveness, her professionalism, her intelligence, and her commitment. Lucy also served in the House of Delegates and on several school boards.

But her public service was not limited to fiscal affairs; Lucy Maurer also committed her considerable talents and energies to those who needed them most—Maryland's children. Whether the issue was education, nutrition, or safety, Lucy wanted the promise of a better future to become a reality for every child.

Lucy was an outstanding example of all that is good about democratic politics. She was also a great friend and an inspiration to so many women—and men—who hold public office. We looked to emulate the strength, fiscal and political savvy, confidence, and can-do spirit that was so much a part of her.

She was an inspiration to the many unheralded women across Maryland who work everyday to improve their communities and make a real difference. I hope Lucy's community involvement—with groups like the PTA and the League of Women Voters—will encourage even more women to become active in community and political affairs. I can think of no legacy more important that Lucy Maurer could leave for the Maryland she loved so much.

I would like to extend my condolences to Lucy's husband, Ely Maurer, to the rest of the Maurer family, and to the colleagues and friends in Maryland and across the country who are mourning Lucy's passing. I share, and the U.S. Senate shares, your tremendous loss.●

CUBAN POLICY

Mr. SIMON. Mr. President, one of the most shortsighted policies we have anywhere is our policy toward Cuba.

The reality is, we are letting a small group dictate American policy because of domestic political interests.

There is not a single nation in the world that doesn't believe our policy toward Cuba is counterproductive.

Our aim should be to get the Government of Cuba to ameliorate their hard stands on human rights issues, and it has had the opposite effect.

Certainly, if we had followed a different course, it is hard to believe the situation could be any worse than it is right now.

Recently, the New York Times had an article by Larry Rohter titled, ''Latin American Nations Rebuke U.S. for the Embargo on Cuba.''

They are right in their criticism.

I ask that the New York Times article be printed in the CONGRESSIONAL RECORD.

The article follows:

[From the New York Times, June 6, 1996]

LATIN AMERICAN NATIONS REBUKE U.S. FOR THE EMBARGO ON CUBA

(By Larry Rohter)

PANAMA, June 5.—In a display of near unanimity, the countries of the Organization of American States, gathered here for their annual meeting, singled out the United States, criticizing the recent extension of the economic embargo against Cuba as a probable violation of international law.

The criticism came in the form of a resolution aimed at the Helms-Burton Law, which President Clinton signed into law in March.

A vote on Tuesday on the measure, which had 32 co-sponsors, ended with the United States, traditionally the organization's dominant force, as the sole dissenter.

Dismayed by the strong language of the resolution, the United States fired back with a harsh assessment of the behavior of some of its closest allies, including many members of the organization who have supported American intervention in the past in places such as Haiti and the Dominican Republic.

In a stinging speech at the gathering, which ends on Friday, the United States delegate, Harriet C. Babbitt, condemned the resolution as an act of ''diplomatic cowardice.''

''What is the message that will emerge from this assembly?'' she asked her fellow delegates. ''That the hemisphere will flex its muscles to defend and justify illegal expropriations, but remain silent while our brothers and sisters in a neighboring state remain subject to the caprices of a brutal dictator? Where is our sense of perspective?''

Cuba was ''excluded'' from the organization in 1962 as part of an American diplomatic effort to isolate Fidel Castro and the Communist Government he continues to lead.

Since then, Cuban officials and the state-controlled press have regularly ridiculed the organization as a claque of subservient puppets manipulated by the United States.

In Havana, a spokesman for the Cuban Foreign Ministry said the resolution ''was really a surprise,'' and thanked organization members for their support.

The Helms-Burton legislation tightens the 35-year-old economic embargo against Cuba by allowing American citizens to sue foreign companies that ''traffic'' in property seized from Americans and denies executives of those companies the right to enter the United States.

Congress overwhelmingly approved the bill after Cuban Air Force pilots shot down two small civilian aircraft owned by Cuban exile groups in February, killing four people.

The resolution is directed against all laws that ''obstruct international trade and investment'' or ''the free movement of persons.''

In addition, the Inter-American Juridical Committee, an independent body that advises the organization on legal matters, was asked to ''examine the validity under international law'' of Helms-Burton and to prepare a ''judgment'' as soon as possible.

Coming from a forum that has always done its best to avoid controversy, the vote could only be interpreted as a stunning defeat for the United States and a rejection of the Clinton Administration's get-tough policy toward Cuba.

But at a news conference after the rebuke, Ms. Babbitt tried to put the best face on the vote and to mend some fences. ''We have in effect agreed to disagree on this issue,'' she said. ''We share the same goal, but we disagree on the methods of attaining that goal.''

Privately, members of the American delegation said they were distressed not only with the language of the resolution but also by the manner in which it was pushed through. They also complained of being given insufficient time to consult with Washington.●

OPERATION SMILE WINS CONRAD N. HILTON HUMANITARIAN PRIZE

● Mr. WARNER. Mr. President, there are kind hearts in the world.

The Conrad N. Hilton Foundation—for the first time—is awarding a $1 million prize to a humanitarian organization committed to alleviating human suffering.

Mr. President, I rise today to congratulate Operation Smile, a Virginia-based organization dedicated to bringing smiles to the world's children. Operation Smile, an international, volunteer, medical-services organization, provides reconstructive surgery to indigent children suffering from facial and functional deformities.

I am delighted that Operation Smile was chosen by the Conrad N. Hilton Foundation.

Both Operation Smile and the Hilton Foundation fuel the spirit of volunteerism. Operation Smile, embracing the mission of all humanitarians, touches the face of humanity, literally, figuratively, and spiritually. For centuries, throughout much of the world—even in our great Nation—children born with facial deformities were sentenced to a life of private pain and public humiliation. Operation Smile was founded in 1982 by the husband-and-wife team of Dr. William P. Magee, a plastic surgeon, and Kathleen Magee, a nurse and social worker. I particularly want to commend the founders of Operation Smile, their vision and hard work have made the dreams of many youngsters come true.

The generous award by the Conrad N. Hilton Foundation will help keep this hope alive. By establishing this prize, the foundation, according to the executive director of the Hilton Prize, seeks to recognize and support all persons working hard, and often under difficult conditions, to alleviate human suffering.

Today, selfless volunteers with Operation Smile provide reconstructive surgery and related health care to children around the world. Thanks to the unwavering dedication of Operation Smile volunteers, over 18,000 children have witnessed a personal miracle and embarked on a new life.

Internationally, Operation Smile educates and trains local medical professions and creates an infrastructures for volunteer and financial support—all of which contributes to a local network of self-sufficiency.

From the State of Virginia, as well as the other 28 chapters around the country, Operation Smile reaches into schools and communities, identifying children in need of reconstructive surgery. With the unwavering support of volunteer surgeons and hospitals, Operation Smile insures that no child will suffer through a childhood made traumatic by facial disfigurement.

Mr. President, the Conrad N. Hilton Foundation could not have chosen a more worthy organization. Operation Smile deserves a standing ovation. In fact, I applaud both Operation Smile and the Conrad N. Hilton Foundation for showing the world the promise of hope and the power of smiles.●

CAPT. DONALD A. HEMPSON, JR.

● Mr. LEVIN. Mr. President, I rise to honor and congratulate Capt. Donald A. Hempson, Jr. on 27 years of dedicated service in the U.S. Navy. Today, June 19, 1996, Captain Hempson will retire from the Navy as commander of Defense Reutilization and Marketing Service [DRMS] located in Battle Creek, MI. During Captain Hempson's 3-year command, DRMS made great strides in its mandate of reutilization, transfer, and donation of excess government property. Captain Hempson successfully commanded the service under many changes brought about by ''Reinventing Government'' initiatives. His vision and drive were key to the success of DRMS during this transitional period.

DRMS reuse, transfer, and donation of government property reached an all-time high of $3.5 billion in 1995, a 21-percent growth since 1993. The DRMS Sales Program saved American taxpayers over $302 million last year, an increase of 134 percent since 1993. These money saving programs have enjoyed great success during the past 3 years,

and much of it is due to Captain Hempson's leadership.

Captain Hempson has had a long and far reaching naval career. He is qualified in nuclear submarines and has served several sea assignments as a Supply Officer. His shore assignments have included logistics, acquisition, and financial management in many different offices and commands. Captain Hempson has also been designated a Surface Warfare Supply Corps officer. His decorations include the Legion of Merit, the Meritorious Service Medal and the Navy Commendation Medal, each with one Gold Star in lieu of second award.

Captain Hempson is an immensely qualified individual who has graduated from Georgia Institute of Technology, the Wharton School of the University of Pennsylvania, Northwestern University's Kellogg Graduate School of Management, and the Brookings Institution. His extensive training has served the Defense Department well. Captain Hempson is married to Sandra R. Zayatz Hempson, and they have two children, Donald and Kelly.

I know my Senate colleagues join me in thanking Capt. Donald Hempson for his 27 years of dedicated service to our country.●

SALINE CELTIC FESTIVAL

● Mr. LEVIN. Mr. President, I rise to honor the Saline Celtic Festival which will take place on the banks of the Saline River on July 6, 1996, in Saline, MI. This festival celebrates Irish, Scottish, and Welsh cultures and will feature traditional Celtic food, music, and dance. This year's Celtic festival is especially significant because it marks the 30th anniversary of the Saline, MI—Brecon, Wales Sister City program.

On April 18, 1966, Mayor George Johnson invited the City of Brecon, Wales to become a Sister City in the People-to-People program established by President Eisenhower in 1956. The program's goal was to promote strong ties among different cultures. The Saline-Brecon union was the first to involve United States and Welsh citizens under the program.

Over the years, the relationship between the two cities has often involved the exchange of music. In 1967, Musical Youth International, during its tour of Europe, was the first official group from Saline to visit Brecon. In 1984, the mayor of Brecon asked the city of Saline to become involved in a 3-day Dixieland Jazz Festival it was planning. Saline quickly accepted the invitation and sent the Saline Big Band to Brecon, Wales. An original ''Hymn for Brecon'', written by Dil Murrell, was performed for their gracious hosts. The trip was a memorable experience for the group of 35 that traveled to Wales. They were treated with great hospitality and made many new friends at the festival. During the following years, Saline sent its high school choir and marching band—and in 1988, the Saline Big Band made a return visit to Brecon.

The residents of Brecon have also reached out to the City of Saline. The first guests from Brecon were Mayor and Mrs. Tony Elston in 1973. In 1986, while celebrating the 20th anniversary of the twinning of the cities, nearly 60 citizen ambassadors traveled from Brecon to Saline. This year will also see a large group from Brecon celebrating the Celtic Festival in Saline.

Thirty years have fostered a solid friendship between Saline and Brecon, they've learned about each other, and as Mayor Little has so aptly put it, they have become ''one community separated by a large body of water.'' I know my Senate colleagues join me in Saluting the Saline Celtic Festival and the 30th anniversary of the Saline-Brecon Sister City program.●

MEASURE PLACED ON THE CALENDAR—S. 1890

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that S. 1890, introduced earlier today by Senator FAIRCLOTH, be placed on the calendar.

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

MEASURE PLACED ON THE CALENDAR—H.R. 3562

Mr. KEMPTHORNE. Mr. President I ask unanimous consent that H.R. 3562, received from the House, be placed on the calendar.

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

MEASURE PLACED ON THE CALENDAR—H.R. 3060

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that H.R. 3060, relating to Antarctic protection, just received from the House, be placed on the calendar.

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

ORDERS FOR THURSDAY, JUNE 20, 1996

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Thursday, June 20; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then, under a previous order, resume executive session to consider the nomination of Alan Greenspan to be Chairman of the Federal Reserve Board.

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

PROGRAM

Mr. KEMPTHORNE. Mr. President, for the information of all Senators, at 9:30 a.m., Thursday, there will be 3 hours of debate time remaining on the Greenspan nomination. Under the previous order, a vote will occur on the Greenspan nomination at 2 p.m., to be followed by any votes required on the remaining nominees to the Federal Reserve System.

The Senate will also resume the DOD authorization bill during tomorrow's session. Senators can therefore expect rollcall votes throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. KEMPTHORNE. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:29 p.m., adjourned until Thursday, June 20, 1996, at 9:30 a.m.