of people disappeared Americans. Many of them are children. That is my own view.

But as that bill went along, I agreed I would not do it if I could introduce this amendment to the next piece of legislation, which is the DOD legislation right now. I hope there will be an up-or-down vote. I hope there will be strong support for it.

If colleagues want to vote against it—I do not know how you can. We ought to be willing to do an honest evaluation. I tell my colleagues, if you travel the country, you are going to see some pretty harsh circumstances. You are going to see some real harsh circumstances. I do not remember exactly, and I need to say it this way because if I am wrong I will have to correct the record, but I think in some States like Wisconsin that have been touted as great welfare reform States, and I talked to my colleague, Senator FEINGOLD, about this, and there is low unemployment so it should work well—I think, roughly speaking, two-thirds of the mothers and children now have less income than they did before the welfare bill was passed. That is not success. That is not success.

Do you all know that in every single State all across the country—and it depends upon which year, it is up to the State—there is a drop-dead date certain where families are going to be eliminated from all assistance? Shouldn't we know, before we do that, before we just toss people over the cliff—shouldn't we know what is going on? Shouldn't we have some understanding of whether or not these mothers are able to find jobs? Shouldn't we know what is going on with their children? Shouldn't we know whether there are problems with substance abuse or violence in the homes? Shouldn't we make sure we do that before we eliminate all assistance and create a new class of the disappeared, of the poorest of the poor—of the poor who are mainly children?

I have brought this amendment to the floor before, but this time around I do not want a voice vote. I want a recorded vote. If Senators are going to vote against this, I want that on the record. If they are going to vote for it, I will thank each and every one of them. Then, if there is an effort to drop this in conference committee because it is on the DOD bill, do you know what. Here is what I say: At least the Senate has gone on the record saying we are going to be intellectually honest and have an honest policy evaluation. That is all I want. That is all I want to see happen. If it gets dropped, I will be back with the amendment again, and again, and again and again—until we have this study. Until we are honest about being willing—I am sorry—until we are willing to be honest about what is now happening in the country and at least collect the data so we can then know.

I feel very strongly about this, colleagues, very strongly about this. I am going to speak on the floor of the Senate about this. I am going to do some traveling in the country. I am going to try to focus on what I consider to be really some very harsh conditions and some very harsh things that are happening to too many women and to too many children.

I also speak with some indignation. I can do this in a bipartisan way. I want us to have this evaluation. I say to the White House, to the administration—I ask unanimous consent I have 1 more minute. I actually started at 12:30, so I do not know how I could be out of time. I had a half hour.

The PRESIDING OFFICER. The official clock up here shows time expired, but without objection, 1 minute.

Mr. WELLSTONE. I thank the Chair. I don't want to get into a big argument with the Chair. I can do it in 1 minute.

I think I have heard the administration, Democratic administration, I have heard the President and Vice President talk about how we have dramatically reduced the welfare rolls with huge success. Has the dramatic reduction in the welfare rolls led to a dramatic reduction in poverty? Are these women and children more economically self-sufficient? Are they better off or are they worse off? That is what I want to know. I say that to Democrats. I say that to Republicans. We ought to have the courage to call upon the Secretary of Health and Human Services to provide us with this data. As policymakers, we need this information.

Please, Senators, support this amendment.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. BURNS. Mr. President, I ask unanimous consent that Daniel J. Stewart, a fellow in my office, be granted the privilege of the floor during the debate on the defense authorization bill.

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

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15, at which time there will be three stacked votes.

Thereupon, at 1 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

The Senate continued with the consideration of the bill.

AMENDMENT NO. 388

The PRESIDING OFFICER. Under the previous order, there are 2 minutes equally divided on the Roth amendment. Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, for 58 years, two distinguished commanders, Admiral Kimmel and General Short, have been unjustly scapegoated for the Japanese attack on Pearl Harbor. Numerous studies have made it unambiguously clear that Short and Kimmel were denied vital intelligence that was available in Washington. Investigations by military boards found Kimmel and Short had properly disposed their forces in light of the intelligence and resources they had available.

Investigations found the failure of their superiors to properly manage intelligence and to fulfill command responsibilities contributed significantly, if not predominantly, to the disaster. Yet, they alone remain singled out for responsibility. This amendment calls upon the President to correct this injustice by advancing them on the retired list, as was done for all their peers.

This initiative has received support from veterans, including Bob Dole, countless military leaders, including Admirals Moorer, Crowe, Halloway, Zumwalt, and Trost, as well as the VFW.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the managers of this bill, we vigorously oppose this amendment. Right here on this desk is perhaps the most dramatic reason not to grant the request. This represents a hearing held by a joint committee of the Senate and House of the Congress of the United States in 1946. They had before them live witnesses, all of the documents, and it is clear from this and their findings that these two officers were then and remain today accused of serious errors in judgment which contributed to perhaps the greatest disaster in this century against the people of the United States of America.

There are absolutely no new facts beyond those deduced in this record brought out by my distinguished good friend, the senior Senator from Delaware. For that reason, we oppose it.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 388. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—52

| | | |
|---|---|---|
| Abraham | Biden | Campbell |
| Akaka | Bingaman | Cleland |
| Baucus | Boxer | Cochran |
| Bayh | Breaux | Collins |
| Bennett | Bunning | Daschle |

| | | |
|---|---|---|
| DeWine | Johnson | Roth |
| Domenici | Kennedy | Sarbanes |
| Durbin | Kerry | Schumer |
| Edwards | Kyl | Shelby |
| Enzi | Landrieu | Smith (NH) |
| Feinstein | Lautenberg | Thomas |
| Grassley | Leahy | Thurmond |
| Hagel | Lincoln | Torricelli |
| Harkin | Lott | Voinovich |
| Hatch | McConnell | Wellstone |
| Helms | Mikulski | Wyden |
| Hollings | Murkowski | |
| Inouye | Rockefeller | |

NAYS—47

| | | |
|---|---|---|
| Allard | Frist | Moynihan |
| Ashcroft | Gorton | Murray |
| Bond | Graham | Nickles |
| Brownback | Gramm | Reed |
| Bryan | Grams | Reid |
| Burns | Gregg | Robb |
| Byrd | Hutchinson | Roberts |
| Chafee | Hutchison | Santorum |
| Conrad | Inhofe | Sessions |
| Coverdell | Jeffords | Smith (OR) |
| Craig | Kerrey | Snowe |
| Crapo | Kohl | Specter |
| Dodd | Levin | Stevens |
| Dorgan | Lieberman | Thompson |
| Feingold | Lugar | Warner |
| Fitzgerald | Mack | |

NOT VOTING—1

McCain

The amendment (No. 388) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 377

Mr. WARNER. Is the Senator from Virginia correct that the next vote will be on the amendment by the Senator from Kansas?

The PRESIDING OFFICER. Yes, amendment No. 377 by the Senator from Kansas.

Mr. WARNER. And the Senator from Kansas and I understand, also, that our colleague, the ranking member of the committee, likewise supports the amendment.

The PRESIDING OFFICER. There are 2 minutes of debate.

Mr. WARNER. Mr. President, noting the presence of the Senator from Kansas, the amendment by the Senator from Kansas raises a very good point; that is, at the 50th anniversary of the NATO summit, those in attendance, the 19 nations, the heads of state and government, adopted a new Strategic Concept.

The purpose of this amendment is to ensure that that Concept does not go beyond the confines of the 1949 Washington Treaty and such actions that took place in 1991 when a new Strategic Concept was drawn.

A number of us are concerned, if we read through the language, that it opens up new vistas for NATO. If that be the case, then the Senate should have that treaty before it for consideration. This is a sense of the Senate, but despite that technicality, it is a very important amendment; it is one to which the President will respond.

I understand from my distinguished colleague and ranking member, in all probability, we will receive the assurance from the President that it does not go beyond the foundations and objectives sought in the 1949 Washington Treaty.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I support this amendment. It says that the President should say to us whether or not the new Strategic Concept imposes new commitments or obligations upon us. It does not find that there are such new obligations or commitments. The President has already written to us in a letter to Senator WARNER that the Strategic Concept will not contain new commitments or obligations.

In 1991, the new Strategic Concept, which came with much new language and many new missions, was not submitted to the Senate. Indeed, much of the language is very similar in 1991 as in 1999.

In my judgment, there are no new commitments or obligations imposed by the 1999 Strategic Concept. The President could very readily certify what is required that he certify by this amendment, and I support it.

Mr. WARNER. Mr. President, I ask unanimous consent that this vote be limited to 10 minutes and the next vote following it to 10 minutes.

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

All time has expired.

Mr. KYL. Mr. President, I believe that under the order 1 minute was reserved for anybody in opposition, is that correct?

The PRESIDING OFFICER. Two minutes equally divided.

Mr. KYL. I don't think the Senator from Michigan spoke in opposition to the amendment, as I understand it. Therefore, would it not be in order for someone in opposition to take a minute?

The PRESIDING OFFICER. Yes. The Senator from Arizona is recognized for 1 minute.

Mr. KYL. Might I inquire of the Senator from Delaware—I am prepared to speak for 30 seconds or a minute.

Mr. BIDEN. If he can reserve 20 seconds for me, I would appreciate it.

Mr. KYL. I will take 30 seconds.

Mr. WARNER. Mr. President, I ask unanimous consent that both Senators be given 30 seconds.

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

Mr. KYL. Mr. President, I say to my colleagues that, as Senator LEVIN just pointed out, this is a totally unnecessary amendment, because the administration has already expressed a view that it has not gone beyond the Concepts this Senate voted for 90 to 9 when the new states were added to NATO. Those are the Strategic Concepts.

One might argue whether or not they are being applied correctly in the case of the war in Kosovo. That is another debate. But in terms of the Strategic Concepts themselves, this body voted on them, and I would hate for this body now to suggest to the other 18 countries in NATO that perhaps they should resubmit the Strategic Concepts to their legislative bodies as in the nature of a treaty so that the entire NATO agreement on Strategic Concepts would be subject to 19 separate votes of our parliamentary bodies. I don't think that would be a good idea given the fact that, as Senator LEVIN already noted, the President has already said the Strategic Concepts do not go beyond what the Senate voted for 90 to 9.

This an unnecessary amendment. I suggest my colleagues vote no.

Mr. BIDEN. Mr. President, the Strategic Concept does not rise to the level of a treaty amendment, and the Senator from Michigan has pointed that out. Therefore, it is a benign amendment, we are told, and in all probability it is. But it is unnecessary. It does mischief. It sends the wrong message. It is a bad idea, notwithstanding the fact that it has been cleaned up to the point that it is clear it does not rise to the level of a treaty requiring a treaty vote on the Strategic Concept.

But I agree with the Senator from Arizona. He painstakingly on this floor laid out in the Kyl amendment during the expansion of NATO debate exactly what we asked the President to consider in the Strategic Concept that was being negotiated with our allies. They did that. We voted 90 to 9.

This is a bad idea.

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

The legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

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

The result was announced—yeas 87, nays 12, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—87

| | | |
|---|---|---|
| Abraham | Edwards | Lincoln |
| Akaka | Enzi | Lott |
| Allard | Feingold | Lugar |
| Ashcroft | Feinstein | Mack |
| Baucus | Fitzgerald | McConnell |
| Bayh | Frist | Mikulski |
| Bennett | Gorton | Murkowski |
| Bingaman | Graham | Murray |
| Bond | Gramm | Nickles |
| Breaux | Grams | Reed |
| Brownback | Grassley | Reid |
| Bryan | Gregg | Roberts |
| Bunning | Harkin | Rockefeller |
| Burns | Hatch | Santorum |
| Byrd | Helms | Sarbanes |
| Campbell | Hollings | Schumer |
| Chafee | Hutchinson | Sessions |
| Cleland | Hutchison | Shelby |
| Cochran | Inhofe | Smith (NH) |
| Collins | Jeffords | Snowe |
| Conrad | Johnson | Stevens |
| Coverdell | Kennedy | Thomas |
| Craig | Kerrey | Thompson |
| Crapo | Kerry | Thurmond |
| Daschle | Kohl | Torricelli |
| DeWine | Landrieu | Voinovich |
| Dodd | Leahy | Warner |
| Domenici | Levin | Wellstone |
| Dorgan | Lieberman | Wyden |

NAYS—12

| | | |
|---|---|---|
| Biden | Inouye | Robb |
| Boxer | Kyl | Roth |
| Durbin | Lautenberg | Smith (OR) |
| Hagel | Moynihan | Specter |

NOT VOTING—1

McCain

The amendment (No. 377), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 382

Mr. WARNER. Mr. President, the next amendment is in the jurisdiction of the Finance Committee. Therefore, I have consulted with Chairman ROTH.

Does Senator ROTH have any comments on this?

Mr. ROTH. No comments.

Mr. WARNER. We yield back such time as we may have.

The PRESIDING OFFICER. There are 2 minutes equally divided on the amendment.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

I have been trying to get this amendment on the floor. This is simple and straightforward. This requires the Department of Health and Human Services to provide us with a report on the status of women and children who are no longer on welfare. There are 4.5 million fewer recipients. We want to know what kinds of jobs, at what wages, do people have health care coverage. This is based on disturbing reports by Family U.S.A., Catholic Organization Network, Children's Defense Fund, Conference of Mayors and, in addition, National Conference of State Legislatures.

Good public policy is good evaluation, and we ought to know what is going on in the country right now on this terribly important question that dramatically affects the lives of women and children, albeit low-income women and children. I hope to get a strong bipartisan vote. It will be a good message.

Mr. KENNEDY. Mr. President, I strongly support Senator WELLSTONE's amendment to require states to collect data on the employment, jobs, earnings, health insurance, and child care arrangements of former welfare recipients.

This information is essential. The most important indicator of welfare reform's success is not just declining welfare caseloads. It is the well-being of these low-income parents and their children after they leave the welfare system. We do not know enough about how they have fared, and states should be required to collect this information. Millions of families have left the welfare rolls, and we need to know how they are doing now. We need information on their earnings, their health care, and other vital data. The obvious question is whether former welfare recipients are doing well, or barely surviving, worse off than before.

The data we do have about former welfare recipients is not encouraging. According to a study by the Children's Defense Fund and the National Coalition on the Homeless, most former welfare recipients earn below poverty wages after leaving the welfare system. Their financial hardship is compounded by the fact that many former welfare recipients do not receive the essential services that would enable them to hold jobs and care for their children. The cost of child care can be a crushing expense to low-income families, consuming over one-quarter of their income. Yet, the Department of Health and Human Services estimates that only one in ten eligible low-income families gets the child care assistance they need.

Health insurance trends are also troubling. As of 1997, 675,000 low-income people had lost Medicaid coverage due to welfare reform. Children comprise 62 percent of this figure, and many of them were still eligible for Medicaid. We need to improve outreach to get more eligible children enrolled in Medicaid. We also need to increase enrollment in the State Children's Health Insurance Program, which offers states incentives to expand health coverage for children with family income up to 200 percent of poverty. it is estimated that 4 million uninsured children are eligible for this assistance.

In addition to problems related to child care and health care, many low-income families are not receiving Food Stamp assistance. Over the last 4 years, participation in the Food Stamp Program has dropped by one-third, from serving nearly 28 million participants to serving fewer than 19 million. But this does not mean children and families are no longer hungry. Hunger and undernutrition continue to be urgent problems. According to a Department of Agriculture study, 1 in 8 Americans—or more than 34 million people—are at risk of hunger.

The need for food assistance is underscored by he phenomenon of increasing reliance on food banks and emergency food services. Many food banks are now overwhelmed by the growing number of requests they receive for assistance. The Western Massachusetts Food Bank reports a dramatic increase in demand for emergency food services. In 1997, it assisted 75,000 people. In 1998, the number they served rose to 85,000. Massachusetts is not alone. According to a recent U.S. Conference of Mayors report, 78 percent of the 30 cities surveyed reported an increase in requests for emergency food in 1998. Sixty-one percent of the people seeking this assistance were children or their parents; 31 percent were employed.

These statistics clearly demonstrate that hunger is a major problem. Yet fewer families are now receiving Food Stamps. One of the unintended consequences of welfare reform is that low-income, working families are dropping off the Food Stamps rolls. Often, these families are going hungry or turning to food banks because they don't have adequate information about Food Stamp eligibility.

A Massachusetts study found that most people leaving welfare are not getting Food Stamp benefits, even though many are still eligible. Three months after leaving welfare, only 18 percent were receiving Food Stamps. After one year, the percentage drops to 6.5 percent. It is clear that too many eligible families are not getting the assistance they need and are entitled to.

Every state should be required to collect this kind of data. We need better information about how low-income families are faring after they leave welfare. Adequate data will enable the states to build on their successes and address their weaknesses. Ultimately, the long-term success of welfare reform will be measured state by state, person by person with this data.

I urge my colleagues to support this amendment. Ignorance is not bliss. We can't afford to ignore the need that may exist.

The PRESIDING OFFICER. The Senator's time has expired.

Is there any Senator who wishes to speak in opposition?

Mr. WARNER. Mr. President, we yield back our time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 382. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

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

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—49

| | | |
|---|---|---|
| Akaka | Edwards | Lincoln |
| Baucus | Feingold | Mikulski |
| Bayh | Feinstein | Moynihan |
| Biden | Graham | Murray |
| Bingaman | Harkin | Reed |
| Boxer | Hollings | Reid |
| Breaux | Inouye | Robb |
| Bryan | Johnson | Rockefeller |
| Byrd | Kennedy | Sarbanes |
| Campbell | Kerrey | Schumer |
| Chafee | Kerry | Snowe |
| Cleland | Kohl | Specter |
| Conrad | Landrieu | Torricelli |
| Daschle | Lautenberg | Wellstone |
| Dodd | Leahy | Wyden |
| Dorgan | Levin | |
| Durbin | Lieberman | |

NAYS—50

| | | |
|---|---|---|
| Abraham | Frist | McConnell |
| Allard | Gorton | Murkowski |
| Ashcroft | Gramm | Nickles |
| Bennett | Grams | Roberts |
| Bond | Grassley | Roth |
| Brownback | Gregg | Santorum |
| Bunning | Hagel | Sessions |
| Burns | Hatch | Shelby |
| Cochran | Helms | Smith (NH) |
| Collins | Hutchinson | Smith (OR) |
| Coverdell | Hutchison | Stevens |
| Craig | Inhofe | Thomas |
| Crapo | Jeffords | Thompson |
| DeWine | Kyl | Thurmond |
| Domenici | Lott | Voinovich |
| Enzi | Lugar | Warner |
| Fitzgerald | Mack | |

NOT VOTING—1

McCain

The amendment (No. 382) was rejected.

Mr. WARNER. I move to reconsider the vote.

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

The motion to table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

I have a colleague who is ready to go, Senator SPECTER, so I will not take much time. But I just want to make it clear to colleagues that on this vote I agreed to a time limit. I brought this amendment out to the floor. There could have been debate on the other side. Somebody could have come out here and debated me openly in public about this amendment.

I am talking about exactly what is happening with this welfare bill. I am talking about good public policy evaluation. Shouldn't we at least have the information about where these women are? Where these children are? What kind of jobs? What kind of wages? Are there adequate child care arrangements?

The Swedish sociologist Gunnar Myrdal once said: ''Ignorance is never random.'' Sometimes we don't know what we don't want to know.

I say to colleagues, given this vote, I am going to bring this amendment out on the next bill I get a chance to bring it out on. I am not going to agree to a time limit. I am going to force people to come out here on the majority side and debate me on this question, and we will have a full-fledged, substantive debate. We are talking about the lives of women and children, albeit they are poor, albeit they don't have the lobbyists, albeit they are not well connected. I am telling you, I am outraged that there wasn't the willingness and the courage to debate me on this amendment. We will have the debate with no time limits next bill that comes out here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I tried to accommodate the Senator early on on this matter. To be perfectly candid, it was a jurisdictional issue with this committee. It was not a subject with which this Senator had a great deal of familiarity. I did what I could to keep our bill moving and at the same time to accommodate my colleague. The various persons who have jurisdiction over it were notified, and that is as much as I can say.

Now, Mr. President, I ask unanimous consent that there be 90 minutes equally divided in the usual form prior to a motion to table with respect to amendment 383 and no amendments be in order prior to that vote.

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

Mr. WARNER. Mr. President, I further ask that following that vote, provided it is tabled, that Senator GRAMM of Texas be recognized to make a motion to strike and there be 2 hours equally divided in the usual form prior to a motion to table and no amendments be in order to that language proposed to be stricken prior to that vote.

Mr. LEVIN. Mr. President, reserving the right to object, the only question I have is that on the second half here, which is the one that is before us, I suggest that it read ''prior to a motion to table or a motion on adoption'' so that there is an option as to whether there is a motion to table or a vote on the amendment itself.

Mr. WARNER. Mr. President, we find no objection to that. I so amend the request.

The PRESIDING OFFICER. Is there objection to the request as amended? Without objection, it is so ordered.

Mr. WARNER. Mr. President, I see the Senator from Pennsylvania, and I yield the floor.

AMENDMENT NO. 383

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, this amendment provides that:

> None of the funds authorized or otherwise available to the Department of Defense may be obligated or expended for the deployment of ground troops from the United States Armed Forces in Kosovo, except for peacekeeping personnel, unless authorized by declaration of war or a joint resolution authorizing the use of military force.

The purpose of this amendment, obvious on its face, is to avoid having the United States drawn into a full-fledged war without authorization of the Congress. This authorization is required by the constitutional provision which states that only the Congress of the United States has the authority to declare war, and the implicit consequence from that constitutional provision that only the Congress of the United States has the authority to involve the United States in a war. The Founding Fathers entrusted that grave responsibility to the Congress because of the obvious factor that a war could not be successfully prosecuted unless it was backed by the American people. The first line of determination in a representative democracy, in a republic, is to have that determination made by the Congress of the United States.

We have seen the bitter lesson of Vietnam where a war could not be successfully prosecuted by the United States, where the public was not behind the war.

This amendment is being pressed today because there has been such a consistent erosion of the congressional authority to declare war. Korea was a war without congressional declaration. Vietnam was a war without a congressional declaration. There was the Gulf of Tonkin Resolution, which some said justified the involvement of the United States in Vietnam—military involvement, the waging of a war. But on its face, the Gulf of Tonkin Resolution was not really sufficient.

The Gulf War, authorized by a resolution of both Houses of Congress, broke that chain of the erosion of congressional authority. In January of 1991, the Senate and the House of Representatives took up the issue on the use of force. After a spirited debate on this floor, characterized by the media as historic, in a 52–47 vote, the Senate authorized the use of force. Similarly, the House of Representatives authorized the use of force so that we had the appropriate congressional declaration on that important matter.

We have seen the erosion of congressional authority on many, many instances. I shall comment this afternoon on only a few.

We have seen the missile strikes at Iraq really being acts of war. In February of 1998, I argued on the floor of the Senate that there ought not to be missile strikes without authorization by the Congress of the United States. There may be justification for the President to exercise his authority as Commander in Chief, if there is an emergency situation, but where there is time for deliberation and debate and congressional action, that ought to be undertaken.

As the circumstances worked out, missile strikes did not occur in early 1998, after the indication that the President might authorize or undertake those missile strikes.

When that again became an apparent likelihood in November of 1998, I once more urged on the Senate floor that the President not undertake acts of war with missile strikes because there was ample time for consideration. There had been considerable talk about it, and that really should have been a congressional declaration. The President then did order missile strikes in December of 1998.

As we have seen with the events in Kosovo, the President of the United States made it plain in mid-March, at a news conference which he held on March 19 and at a meeting earlier that day with Members of Congress, that he intended to proceed with airstrikes. At a meeting with Members of Congress on March 23, the President was asked by a number of Members to come to Congress, and he did. The President sent a letter to Senator DASCHLE asking for authorization by the Senate. In a context where it was apparent that the airstrikes were going to be pursued with or without congressional authorization, and with the prestige of NATO on the line and with the prestige of the United States on the line, the Senate did authorize airstrikes, specifically excluding any use of ground troops. That authorization was by a vote of 58 to 41.

The House of Representatives had, on a prior vote, authorized U.S. forces as peacekeepers, but that was not really relevant to the issue of the airstrikes. Subsequently, the House of Representatives took up the issue of airstrikes, and by a tie vote of 213–213, the House of Representatives declined to authorize the airstrikes. That was at a time when the airstrikes were already underway.

I supported the Senate vote for the authorization of airstrikes. I talked to General Wesley Clark, the Supreme NATO Commander. One of the points which he made, which was telling on this Senator, was the morale of the troops. The airstrikes were an inevitability, as the President had determined, and it seemed to me that in that context we ought to give the authorization, again, as I say, expressly reserving the issue not to have ground forces used.

So on this state of the record, with the vote by the Senate and with the tie vote by the House of Representatives, you have airstrikes which may well, under international law, be concluded to be at variance with the Constitution of the United States, to put it politely and not to articulate any doctrine of illegality, at a time when my country is involved in those airstrikes. But when we come to the issue of ground troops, which would be a major expansion and would constitute, beyond any question, the involvement of the United States in a war—although my own view is that the United States is conducting acts of war at the present time—the President ought to come to the Congress.

When the President met with a large group of Members on Wednesday, April 28, the issue of ground forces came up and the President made a commitment to those in attendance—and I was present—that he would not order ground troops into Kosovo without prior congressional authorization. He said he would honor that congressional authorization, reserving his prerogative as President to say that he didn't feel it indispensable constitutionally that he do so. However, he said that he would make that commitment, and he did make that commitment to a large number of Members of the House and Senate on April 28 of this year. He said, as a matter of good faith, that he would come to the Congress before authorizing the use of ground troops.

So, in a sense, it could be said that this amendment is duplicative. But I do believe, as a matter of adherence to the rule of law, that the commitment the President made ought to be memorialized in this defense authorization bill. I have, therefore, offered this amendment.

It is a complicated question as to the use of ground forces, whether they will ever be requested, because unanimity has to be obtained under the rules that govern NATO. Germany has already said they are opposed to the use of ground forces. But this is a matter that really ought to come back to the Congress. I am prepared—speaking for myself—to consider a Presidential request for authorization for the use of ground forces. However, before I would vote on the matter, or give my consent or vote in the affirmative, there are a great many questions I will want to have answered—questions that go to intelligence, questions that go to the specialty of the military planners. I would want to know what the likely resistance would be from the army of the former Yugoslavia. How much have our airstrikes degraded the capability of the Serbian army to defend? How many U.S. troops would be involved? I would like to know, to the extent possible, what the assessment of risk is.

When we talked about invading Japan before the dropping of the atomic bomb on Hiroshima and Nagasaki, we had estimates as to how many would be wounded and how many fatalities there would be. So while not easy to pass judgment on something that could be at least estimated or approximated, I would want to know, very importantly, how many ground troops would be supplied by others in NATO. I would want to know what the projection was for the duration of the military engagement, and what the projection was after the military engagement was over.

These are only some of the questions that ought to be addressed. In 16 minutes, at 4 o'clock, members of the administration, the Secretary of Defense, the Secretary of State, and the Chairman of the Joint Chiefs of Staff are scheduled to give another congressional briefing. Before we have a vote on a matter of this importance and this magnitude, those are some of the questions I think ought to be answered. That, in a very brief statement, constitutes the essence of the reasons why I have offered this amendment.

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

Mr. SPECTER. Yes.

Mr. DURBIN. I thank the Senator. He and I are of the same mind in terms of the authority and responsibility of Congress when it comes to a declaration of war. It is interesting to note that last year when a similar amendment was called on the defense appropriation bill, offered by a gentleman in the House, David Skaggs, only 15 Members of the Senate voted in favor of it, including the Senator from Pennsylvania, the Senator from Delaware, myself, and a handful of others. It will be interesting to see this debate now in the context of a real conflict.

I have seen a copy of this amendment, and I want to understand the full clarity and intention of the Senator. As I understand it, there are two paragraphs offered as part of this amendment. They use different language in each paragraph. I wish the Senator would clarify.

Mr. SPECTER. If I may respond to the Senator, I would be glad to respond to the questions. I thank him for his leadership in offering a similar amendment in the past. When I undertook to send this amendment to the desk, I had called the Senator from Illinois and talked to him this morning and will consider this a joint venture if he is prepared to accept that characterization.

Mr. DURBIN. Depending on the responses, I may very well be prepared to do so.

Would the Senator be kind enough to enlighten me? The first paragraph refers to the introduction of ground troops. The second paragraph refers to the deployment of ground troops. Could the Senator tell me, is there a difference in his mind in the use of those two different terms?

Mr. SPECTER. Responding directly to the question, I think there would be no difference. But I am not sure the Senator from Illinois has the precise amendment I have introduced, which has only one paragraph. I can read it quickly:

> None of the funds authorized or otherwise available to the Department of Defense may be obligated or expended for deployment of ground troops from the United States Armed Forces in Kosovo, except for peacekeeping personnel, unless authorized by a declaration of war or a joint resolution authorizing the use of military force.

Mr. DURBIN. The version I have——

Mr. WARNER. If the Senator will yield, I am holding this draft amendment. You are referring to two paragraphs, and it appears to me that the first paragraph is the title; am I correct? I find that inconsistent with what I believe was paragraph 2. The first paragraph is the title, and there is really only one paragraph in the body of the amendment.

Mr. DURBIN. I thank the Senator from Virginia. If the Senator from Pennsylvania will yield, I will confine myself to the nature of the amendment. Could the Senator tell me why reference is only made to the deployment of grounds troops from U.S. Armed Forces in Kosovo and not in Yugoslavia?

Mr. SPECTER. The amendment was drafted in its narrowest form. Perhaps it would be appropriate to modify the amendment.

Mr. DURBIN. I think it might be. I ask the Senator a second question. Would he not want to make an exception, as well, for the rescue of the NATO forces in Yugoslavia if we would perhaps have a downed flier and ground troops could be sent in for rescue, and that would not require congressional authorization. I think that would be consistent with the Senator's earlier statements about the emergency authority of the President as Commander in Chief.

Mr. SPECTER. I would be prepared to accept that exception.

Mr. DURBIN. The final question is procedural. The Senator from Pennsylvania has been here——

Mr. WARNER. Mr. President, to amend it for a downed flier—we just witnessed ground troops being caught, and they have now been released. I would be careful in the redrafting and not just to stick to a downed flier. That is just helpful advice.

Mr. SPECTER. I thank the Senator.

Mr. DURBIN. A rescue of NATO forces in Yugoslavia was the question. Last, I will ask the Senator from Pennsylvania, if this requires a joint resolution, under the rules of the Senate,

Members in a filibuster, a minority, say, 41 Senators, could stop us from ever taking action on this measure. How would the Senator from Pennsylvania respond to that? Does that, in effect, give to a minority the authority to stop the debate and a vote by the Senate and thereby tie the President's hands when it comes to committing ground troops, should we ever reach the point where that is necessary?

Mr. SPECTER. I respond to my colleague from Illinois by saying that with a declaration of war where the Senate has to join under the Constitution and there could be a filibuster requiring 60 votes, the same rule applies. To get that authorization, either by declaration of war or resolution for the use of force, we have to comply with the rules to get an affirmative vote out of the Senate. Under those rules, if somebody filibusters, it requires 60 votes. So be it. That is the rule of the Senate and that is the way you have to proceed to get the authorization from the Senate.

Mr. DURBIN. I know I am speaking on the Senator's time. I thank him for responding to those questions. I have reservations, as he does, about committing ground troops. I certainly believe, as he does, that the Congress should make that decision and not the President unilaterally. He has promised to come to us for that decision to be made. I hope Mr. Milosevic and those who follow this debate don't take any comfort in this. We are speaking only to the question of the authority of Congress, not as to any actual decision of whether we will ever commit to ground troops. I think that is the sense of the Senator from Pennsylvania. I thank him for offering the amendment, and I support this important amendment.

Mr. WARNER. Mr. President, I will speak in opposition to the amendment. But I don't wish to interfere with the presentation of the Senator. At such time, perhaps, when I could start by propounding a few questions to my colleague and friend, would he indicate when he feels he has finished his presentation of the amendment?

Mr. SPECTER. It would suit me to have the questions right now.

Mr. WARNER. I remind the Senator of the parliamentary situation. While I have given him some suggestions, if he is going to amend it, it would take unanimous consent to amend the amendment.

Mr. SPECTER. To modify the amendment?

Mr. WARNER. That is correct.

Mr. SPECTER. The yeas and nays have not been ordered.

Mr. WARNER. The time agreement has been presented under the rules. I will address the question to the Chair. I think that would be best.

The PRESIDING OFFICER. It would take unanimous consent to modify the amendment.

Mr. WARNER. Just as a friendly gesture, I advise my colleague of that.

Mr. SPECTER. Mr. President, I thank the Senator from Virginia for his friendly gesture.

Mr. WARNER. As the Senator reads the title and then the text, I have trouble following the continuity of the two. For example, first it is directing the President of the United States pursuant to the Constitution and the War Powers Resolution. I have been here 21 years. I think the Senator from Pennsylvania is just a year or two shy of that. This War Powers Resolution has never been accepted by any President, Republican or Democrat or otherwise. Am I not correct in that respect?

Mr. SPECTER. The Senator is correct.

Mr. WARNER. Therefore, we would not be precipitating in another one of those endless debates which would consume hours and hours of the time of this body if we are acting on the predicate that this President is now going to acknowledge that he, as President of the United States, is bound by what is law? I readily admit it is the law. But we have witnessed, over these 20-plus years that I have been here and over the years the Senator from Pennsylvania has been here, that no President will acknowledge that he is subservient to this act of Congress because he feels that it is unconstitutional; that the Constitution has said he is Commander in Chief and he has the right to make decisions with respect to the Armed Forces of the United States on a minute's notice. Really, this is what concerns me about this amendment, among other things.

Mr. SPECTER. If the Senator will yield so I can respond to the question.

Mr. WARNER. All right.

Mr. SPECTER. If it took hours and hours, I think those hours and hours would be well spent, at least by comparison to what the Senate does on so many matters. And we might convene a little earlier. We might adjourn a little later. We might work on Mondays and Fridays and maybe even on Saturdays. I would not be concerned about the hours which we would spend.

I think this Senator, after the 18 years and 5 months that I have been here, has given proper attention to the constitutional authority of the Congress to declare and/or involve the United States in war, or to the War Powers Act. This is a matter which first came to my attention in 1983 on the Lebanon matter when Senator Percy was chairman of the Foreign Relations Committee and I had a debate, a colloquy, about whether Korea was a war, and Senator Percy said it was. Vietnam was a war.

At that time, I undertook to draft a complex complaint trying to get the acquiescence of the President—President Reagan was in the White House at that time—which Senator Baker undertook to see if we could have a judicial determination as to the constitutionality of the War Powers Act.

It is true, as the Senator from Virginia says, that Presidents have always denied it. They have denied it in complying with it. They send over the notice called for under the act, and then they put in a disclaimer.

But I think the War Powers Act has had a profoundly beneficial effect, because Presidents have complied with it even while denying it.

But I think it is high time that Congress stood up on its hind legs and said we are not going to be involved in wars unless Congress authorizes them.

Mr. WARNER. Mr. President, perhaps when I said hours and hours, it could be days and days. But we would come out with the same result. Presidents haven't complied with the act. They have ''complied with the spirit of the act.'' I believe that is how they have acknowledged it in the correspondence with the Congress.

Mr. SPECTER. If I may respond, I think ''complied with the act''—the act requires certain notification, certain statements of the President. They make the statements which the act calls for, and then they add an addendum, ''but we do not believe we are obligated to do so.''

Mr. WARNER. Mr. President, let me ask another question of my colleague. We will soon be receiving a briefing from the Secretaries of State, Defense and the National Security Adviser and the Chairman of the Joint Chiefs. I will absent myself during that period, and the Senator from Pennsylvania will have the opportunity to control the floor. I hope there would be no unanimous consent requests in my absence. I hope that would be agreeable with my good friend, because I have asked for this meeting.

Mr. SPECTER. The Senator may be assured there will be no unanimous consent requests for any effort to do anything but to play by the Marquis of Queensberry rules.

Mr. WARNER. That is fine. I asked for this meeting and have arranged it for the Senate. So I have to go upstairs. But I point out: Suppose we were to adopt this, and supposing that during the month of August when the Senate would be in recess the President had to make a decision with regard to ground troops. Then he would have to, practically speaking, bring the Congress back to town. Would that not be correct?

Mr. SPECTER. That would be correct. That is exactly what he ought to do. Before we involve ground troops, the Congress of the United States could interrupt the recess and come back and decide this important issue.

Mr. WARNER. But the reason for introducing ground troops, whatever it may be, might require a decision of less than an hour to make on behalf of the Chief Executive, the Commander in Chief, and he would be then shackled with the necessary time of, say, maybe 48 hours in which to bring the Members of Congress back from various places throughout the United States and throughout the world. To me, that imposes on the President something that was never envisioned by the Founding Fathers. And that is why he is given the power of Commander in Chief. Our power is the power of the purse, to

which I again direct the Senator's attention in the text of the amendment. But it seems to me I find the title in conflict with the text of the amendment.

Mr. SPECTER. As I said during the course of my presentation, Mr. President, I think the Commander in Chief does have authority to act in an emergency. I made a clear-cut delineation as I presented the argument that when there is time for deliberation, as, for example, on the missile strikes in Iraq, or as, for example, on the gulf war resolution, it ought to be considered, debated and decided by the Congress.

Mr. WARNER. How do we define ''emergency?'' Where the President can act without approval by the Congress, and in other situations where he must get the approval, who makes that decision?

Mr. SPECTER. I think that our English language is capable of structuring a definition of what constitutes an emergency.

Mr. WARNER. Where is it found in this amendment?

Mr. SPECTER. I think the President has the authority to act as Commander in Chief without that kind of specification, and it is not now on the face of this amendment. However, it may be advisable to take the extra precaution, with modification offered and agreed to by unanimous consent in the presence of the Senator from Virginia, to spell that out as well, although I think unnecessarily so.

Mr. WARNER. Mr. President, I must depart and go upstairs to this meeting. But I will return as quickly as I can. I thank the Senator for his courtesy of protecting the floor in the interests of the manager of the bill.

Mr. SPECTER. I thank the Senator from Virginia.

Mr. WARNER. The Senator is aware that the Senator from Virginia will at an appropriate time move to table, and in all probability I will reserve the right to object to this amendment until the Senator from Pennsylvania seeks to amend the amendment.

The PRESIDING OFFICER. The Chair will advise the Members of the Senate that under the previous order Senator ALLARD is to be recognized for 20 minutes.

Mr. WARNER. Perhaps the Senator from Pennsylvania and the Senator from Colorado will work that out between them. I hope they can reach an accommodation.

Mr. SPECTER. Mr. President, if I may, I understand that the Senator from Virginia has articulated his views about a unanimous consent, and that is fine. Those are his rights. But it may be that there will be an additional amendment which I will file taking into account any modifications which I might want to make which might be objected to. So we can work it out in due course.

Parliamentary inquiry: Does the Senator from Colorado have the floor?

The PRESIDING OFFICER. The Senator from Colorado is to have 20 minutes at 4 o'clock under the previous order. The 20 minutes is on the amendment, not on the bill.

Mr. WARNER. Mr. President, if I might clarify the situation.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Before the Senator from Pennsylvania specifically advised me he was going to assert his rights, which he has since his amendment was the pending business of the Senate following the three votes, I put in place a modest time slot for our colleague from Colorado, such that he could address the Senate on the general provisions of the underlying bill. But then we reached a subsequent time agreement to accommodate the Senator from Pennsylvania.

It is my request, in the course of this debate, if the Senator could, within the parameters of the two unanimous consents, work out a situation where he could have about 15 minutes and then we could return to your debate?

Mr. SPECTER. Mr. President, I do not understand that. If you are asking me to give time——

Mr. WARNER. Not from your time agreement. It would be totally separate. In other words, your 90 minutes, now the subject of the second unanimous consent agreement, would be preserved. That is as it was written. But can the Senator accommodate sliding that to some point in time to allow the Senator from Colorado to have 15 minutes?

Mr. ALLARD. What is the regular order?

The PRESIDING OFFICER. The regular order is the Senator from Colorado has the floor for 20 minutes.

Mr. SPECTER. I would be delighted to accommodate the Senator from Colorado one way or the other. He can speak now and then we can go back to our time agreement on the pending amendment.

Mr. ALLARD. I have been waiting. I was here most of the morning and then waiting this afternoon for 3 hours to have an opportunity to make some general comments on this bill. I do not anticipate taking much longer. My agreement is 20 minutes, if I remember correctly.

The PRESIDING OFFICER. That is correct.

Mr. ALLARD. Maybe there would be an opportunity—I would like to get in on this meeting Senator WARNER is attending at some point in time—probably the last part of it. But I would like to have the opportunity to address this bill.

What is it the Senator from Pennsylvania is seeking, as far as the privilege of the floor?

Mr. SPECTER. Mr. President, if I may respond, I am delighted to have the Senator from Colorado use his 20 minutes, which is ordered at this time.

Mr. WARNER. With no subtraction whatsoever from the unanimous consent in place for the Senator.

Mr. SPECTER. That is the understanding the Senator had spoken to earlier.

Mr. WARNER. That is correct.

The PRESIDING OFFICER. At this point in time, the Senator from Colorado has the floor for 20 minutes. The Senator is advised, with regard to the amendment of the Senator from Pennsylvania, 25 minutes remains for the Senator from Pennsylvania and 38½ minutes, approximately, remains for the opposition.

The Senator from Colorado is recognized for 20 minutes.

Mr. ALLARD. Mr. President, today I rise in strong support of S. 1059, the National Defense Authorization Act for Fiscal Year 2000.

As the Personnel Subcommittee chairman, I take great pleasure in which Senator CLELAND, the ranking member, and the other members of the subcommittee were able to provide for our men and women in uniform. Every leader in the military tells me the same thing, without the people the tools are useless. We must take care of our people and the personnel provisions in this bill were developed in a bipartisan manner.

This bill is responsive to the manpower readiness needs of the military services; supports numerous quality of life improvements for our service men and women, their families, and the retiree community; and reflects the budget realities that we face today and will face in the future.

First, military manpower strength levels. The bill adds 92 Marine personnel over the administration's request for an active duty end strength of 1,384,889. It also recommends a reserve end strength of 874,043—745 more than the administration requested.

The bill also modifies but maintains the end-strength floors. While I do not believe that end-strength floors are a practical force management tool, I am personally concerned that the strength levels of the active and reserve forces are too low and that the Department of Defense is paying other bills by reducing personnel. Therefore, it is necessary to send a message to the administration that they cannot permit personnel levels to drop below the minimums established by the Congress.

On military personnel policy, there are a number of provisions intended to support the recruiting and retention and personnel management of the services. Among the most noteworthy, are the several provisions that permit the services to offer 2-year enlistments with bonuses and other incentives. This is a pilot program in which students in college or vocational or technical schools could enlist and remain in school for 2 years before they actually go on active duty.

Many Senators have expressed their concerns about the operational tempo of the military. That is why this bill attempts to address this problem by requiring the services to closely manage the Personnel and Deployment Tempo of military personnel. We would require a general or flag officer to approve deployments over 180 days in a

year; a four-star general or admiral to approve deployments over 200 days and would authorize a $100 per diem pay for each day a service member is deployed over 220 days. The briefings and hearings in the personnel subcommittee have found that the single most cited reason for separation is time away from home and families. At the same time, the services have not been effective in managing the Personnel and Deployment Tempo for their personnel. I am confident that the provision will focus the necessary attention on the management of this problem.

Another important provision is the expansion of Junior ROTC or JROTC programs. A number of members and the service Chiefs and personnel Chiefs told me that they believed Junior ROTC is an important program and that an expansion was not only warranted but needed. Thus we have added $39 million to expand the JROTC programs. These funds will permit the Army to add 114 new schools; the Navy to add 63 new schools; the Air Force to add 63 new schools; and the Marine Corps to exhaust their waiting list to 32 schools. This is a total of 272 new JROTC programs in our school districts across the country. I am proud to be able to support these important programs that teach responsibility, leadership, ethics, and assist in military recruiting.

In military compensation, our major recommendations are extracted from S. 4, the Soldiers', Sailors', Airmen's and Marines' Bill of Rights Act of 1999. First, this bill authorizes a 4.8-percent pay raise effective January 1, 2000 and a restructuring of the pay tables effective July 1, 2000.

Another provision includes a Thrift Savings Plan for active forces and the ready reserves and a plan to offer service members who entered the service on or after August 1, 1986, the option to receive a $30,000 bonus and remain under the ''Redux'' retirement or to change to the ''High-three'' retirement system. In order to assist the active and reserve military forces in recruiting, there are a series of bonuses and new authorities to support the ability of our recruiters to attract qualified young men and women to serve in the armed forces. There are also several new bonuses and special pays to incentivize aviators, surface warfare officers, special warfare officers, air crewmen among others to remain on active duty. Two additional provisions from S. 4 are in this bill. A special retention initiative would permit a service secretary to match the thrift savings contribution of service members in critical specialties in return for an extended service commitment. Also, thanks to the hard work of Senator MCCAIN and Senator ROBERTS, another provision authorizes a special subsistence allowance for junior enlisted personnel who qualify for food stamps.

In health care, there are several key recommendations. There is a provision that would require the Secretary of Defense to implement a number of initiatives to improve delivery of health care under TriCare. Another provision would require each Lead Agent to establish a patient advocate to assist beneficiaries in resolving problems they may encounter with TriCare.

Finally there are a number of general provisions including one to enforce the reductions in management headquarters personnel Congress directed several years ago and several to assist the Department of Defense Dependents School System to provide quality education for the children of military personnel overseas.

Before I close, as a first time Senator subcommittee chair, I express my appreciation to Senator CLELAND for his leadership and assistance throughout this year as we worked in a bipartisan manner to develop programs which enhance personnel readiness and quality of life programs. I also thank the members of the subcommittee, Senator THURMOND, Senator MCCAIN, Senator SNOWE, Senator KENNEDY, and Senator REED, and their staffs. Their hard work made our work better and helped me focus on those issues which have the greatest impact on soldiers, sailors, airmen and marines.

Mr. President, I finish by thanking Chairman WARNER for the opportunity to point out some of the highlights in the bill which the Personnel Subcommittee has oversight and to congratulate him and Senator LEVIN on the bipartisan way this bill was accomplished and ask that all Senators strongly support S. 1059.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The time is under control. If neither side yields time, time will simply run equally.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair. The Senator from Delaware is here and I will be happy to yield—how much time do the opponents have?

The PRESIDING OFFICER. The opponents of the amendment have 38 minutes and approximately 10 seconds.

Mr. LEVIN. Is that divided in some way or under the control of Senator WARNER and myself? How is that?

The PRESIDING OFFICER. The manager of the bill is designated to be in charge of the opposition.

Mr. LEVIN. I am happy to yield 5 minutes to the Senator from Delaware.

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

Mr. BIDEN. Mr. President, I will be necessarily brief.

It is not often I disagree with my friend from Pennsylvania, Senator SPECTER. I think he is right in the fundamental sense that if the President is going to send American ground forces into a war, it needs congressional authority.

Very honestly, this amendment is, in my view, flawed. First of all, it is clear that the President has to come to Congress to use ground forces and that the President has already stated—I will ask unanimous consent to print in the RECORD a copy of his letter dated April 28, 1999, to the Speaker of the House in which he says in part:

> Indeed, without regard to our differing constitutional views on the use of force, I would ask for Congressional support before introducing U.S. ground forces into Kosovo into a non-permissive environment.

I ask unanimous consent that the President's letter be printed in the RECORD.

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

THE WHITE HOUSE,
*Washington, April 28, 1999.*

Hon. J. DENNIS HASTERT,
*Speaker of the House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: I appreciate the opportunity to continue to consult closely with the Congress regarding events in Kosovo.

The unprecedented unity of the NATO Members is reflected in our agreement at the recent summit to continue and intensify the air campaign. Milosevic must not doubt the resolve of the NATO alliance to prevail. I am confident we will do so through use of air power.

However, were I to change my policy with regard to the introduction of ground forces, I can assure you that I would fully consult with the Congress. Indeed, without regard to our differing constitutional views on the use of force, I would ask for Congressional support before introducing U.S. ground forces into Kosovo into a non-permissive environment. Milosevic can have no doubt about the resolve of the United States to address the security threat to the Balkans and the humanitarian crisis in Kosovo. The refugees must be allowed to go home to a safe and secure environment.

Sincerely,

BILL CLINTON.

Mr. BIDEN. Mr. President, not only must the President, but he said he would.

This amendment is flawed in two respects. First, as a constitutional matter, I believe it is unnecessary. The Constitution already bars offensive military action by the President unless it is congressionally authorized or under his emergency powers.

The Senate resolution we adopted only authorizes the use of airpower. If Congress adopts this amendment, it seems to me we will imply the President has carte blanche to take offensive action, and anywhere else unless the Congress makes a specific statement to the contrary in advance. In short, I think it will tender an invitation to Presidents in the future to use force whenever they want unless Congress provides a specific ban in advance.

Putting that aside, however, the amendment is flawed because its exceptions are much too narrowly drawn. The amendment purports to bar the use of Armed Forces in response to an attack against Armed Forces.

For example, we have thousands of soldiers now in Albania and Macedonia.

Let's suppose the Yugoslav forces launch an attack against U.S. forces in Albania or in Macedonia. This amendment would bar the use of ground forces to respond by going into Kosovo.

The power to respond against such an attack is clearly within the power of the Commander in Chief. So, too, does the President have the power to launch a preemptive strike against an imminent attack. The U.S. forces do not have to wait until they take the first punch.

The second point I will make in this brief amount of time I am taking is that the amendment does not appear to permit the use of U.S. forces in the evacuation of Americans. Most constitutional scholars concede the President has the power to use force in emergency circumstances to protect American citizens facing an imminent and direct threat to their lives.

In sum, notwithstanding the fact that my colleague from Pennsylvania is going to amend his own amendment, it does not, in my view, appear to be necessary and it unconstitutionally restricts recognized powers of the President.

This comes from a guy—namely me—who has spent the bulk of the last 25 years arguing that the President has to have congressional authority to use force in circumstances such as this, and he does. But to bar funds in advance, before a President even attempts to use ground forces, in the face of him saying he will not use them and in the face of a letter in which he says he will not send them without seeking Congress' authority, seems to me to not only be constitutionally unnecessary but sends an absolutely devastating signal to Mr. Milosevic and others.

For example, I, for one, have been encouraging the Secretary of Defense, our National Security Adviser, and the President of the United States to get about the business of prepositioning right now the 50,000 forces they say will be needed in a permissive environment. That is an environment where there is a peace agreement. If tomorrow peace broke out in Yugoslavia, if Mr. Milosevic yielded to the demands of NATO, there would be chaos in Kosovo because there would be no force to put in place in order to ensure the agreement.

I worry that an amendment at this moment not only is unnecessary but would send a signal to suggest that we should not even be prepositioning American forces for deployment in a peaceful environment. I think it is unnecessary.

I thank the Chair for his indulgence and my colleague for the time. I oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Pennsylvania.

Mr. SPECTER. Before the distinguished Senator from Delaware leaves the floor, if I may have his attention. I say to Senator BIDEN, may I have your attention?

Mr. BIDEN. Surely.

Mr. SPECTER. The arguments which you have made stem from your stated position that the President really ought to have congressional authorization to use force. If the legislative approach is not to require him to come to Congress before the use of force, but to await his using force, then are we not really in a situation where we face the impossible predicament of seeking to cut off funds from the middle of a military operation which is untenable? Or to articulate the question more precisely: What would you suggest as a way to accomplish the constitutional principle you agree with, that only the Congress has the authority to authorize the use of force, with the current circumstances?

Mr. BIDEN. Mr. President, if I may respond, I think that is a fair question. I think I, quite frankly and bluntly, accomplished that. The way I did that—the Senator was in that same meeting. We were in the same meeting. I think it was the 28th, you said. I do not remember the exact date.

Mr. SPECTER. It was.

Mr. BIDEN. He may recall that I am the one who stood up and said: Mr. President, you do not have the authority to send in ground troops without congressional authorization. Since you have said, Mr. President, you have no intention of doing that, why don't you affirmatively send a letter to the Speaker of the House of Representatives committing that you will not do that without their authority? He said: I will. And he did. I think we accomplished that.

To now say that we are going to add to that the requirement to cut off funds, that we will cut off funds, is a very direct way of saying: We don't trust you, Mr. President. You gave your word; you put it in writing; you put your signature on it; and we still don't trust you.

I am not prepared to vote for that.

Mr. SPECTER. Mr. President, I would disagree with the statement of my colleague from Delaware that we say, ''we do not trust you, Mr. President,'' by noting that the President might change his mind. He has been known to do that. Other Presidents have, and even the Senator from Delaware and the Senator from Pennsylvania have been known to change their minds.

The other concern is that if you have it on a personal basis, in a letter, it really does not have the force of law. And we are consistently moving in the Congress to where there has been an executive order, which is a good bit more formal than the letter that the Senator from Delaware refers to, to make sure that it is governed by law as opposed to a personal commitment or what might be said.

But let me articulate a question in a different context.

Aside, hypothetically, absent a letter, what would the legislative approach be to limit a President from exercising his powers as Commander in Chief short of cutting off funds once he has already done so? It seems to me that we have a choice. We can either say in advance: You may not do it unless you have our prior approval; or say nothing once the President uses force, and then cut off the funds, which appears to me to be untenable.

Is there a third alternative?

Mr. BIDEN. Yes, Mr. President. I think there is. If I may respond.

There are several. There is a third and a fourth alternative. One of the alternatives would be, were the resolution merely to say: Mr. President, by concurrent resolution, we believe you do not have the authority to put ground troops in place without our authorization; we expected that you would request of us that authorization before you did, that would create an incredibly difficult political barrier for any President to overcome. It would not be an advance cutoff of funds.

I do not recall where we have in advance—in advance of a President taking an action—told him that we would limit the availability of funds for an action he says he has not contemplated undertaking in advance. I think it is a bad way to conduct foreign policy. I think it complicates the circumstance. It sends, at a minimum, a conflicting message. At a minimum, it sends the message to Europe, for example, and our allies, that we, the U.S. Congress, think the President is about to send American forces in when he has not said he wishes to do that.

Secondly, it says in advance, to our enemies, that the President cannot send in ground forces unless he undoes an action already taken, giving an overwhelming prejudice to the point of view that the President could never get the support to use ground forces.

I understand my friend from Pennsylvania—and I have said this before, and I mean it sincerely, there is no one in this body I respect more than him, but he has indicated that he would be amenable to a consideration of the use of ground forces, if asked. But I suspect that is not how this will be interpreted in not only Belgrade but other parts of the world. I think it will be interpreted as the Senate saying they do not want ground troops to be put in under any circumstances. That is not what he is saying. But that is, I believe, how it will be interpreted.

So let me sum up my response to the Senator's question: A, we could, in fact, say to the President: Mr. President, if you are going to use ground forces, come and ask us, with no funds cut off in terms of a resolution.

Secondly, we could say to the President: Mr. President, we have your letter in hand. We take you at your word and expect that that is what you would do, memorializing the political context in which this decision was made, which Presidents are loath to attempt to overcome.

The bottom line is, the President of the United States can in fact go ahead and disregard this as easily as he could disregard the provisions of the Constitution. If a President were going to decide that he would disregard the constitutional requirement of seeking our authority to use ground forces, I respectfully suggest he would not be at all hesitant to overcome a prohibition in an authorization bill saying no funds authorized here could be used.

He could argue that funds that have already been authorized have put force in place, with bullets in their guns, gasoline in their tanks, fuel in their aircraft; that he has the authority to move notwithstanding this prohibition.

I understand the intention of my friend from Pennsylvania. I applaud it. I think it is unnecessary in a very complex circumstance and situation in which the President of the United States has indicated he does not intend to do it anyway. And I just think it sends all the wrong messages and is unnecessary and is overly restrictive.

Mr. SPECTER. The Senator from Delaware has mentioned a third option to the two I suggested.

The third option is for us to send a resolution saying don't do it unless we authorize it, but not binding him. Saying that would certainly impose a political restraint on the President—not doing it, in the face of our requesting him not to without our prior authorization. I understand his third alternative, but I do not draw much solace from it, just as a matter of my own response.

Mr. BIDEN. If the Senator would yield, I am not suggesting——

Mr. SPECTER. My time is running out. Let me finish my statement. Then you have quite a bit of time left. Let me just finish the thought.

I do not think it goes far enough to say: We request that you not do it unless we give you prior authorization. Because that kind of a gentle suggestion—and I can understand the gentility of my colleague from Delaware—would not go very far, I think, with this President or might not go very far with the Senator from Delaware or would not predetermine what the Senator from Pennsylvania would do.

When the Senator from Delaware talks about the President flying in the face of a cutoff of funds, I think that the President would be loath to do that. I think there he might really get into the Boland amendment or challenging the Congress on the power of the purse.

The Presidents have gotten away with disregarding the congressional mandate that only Congress can declare war. They have gotten away with it for a long time. It has been eroded. Presidents feel comfortable in doing that. But if the Congress said: No funds may be used, as this amendment does—maybe it needs to be a little tighter here or there—I think the President would proceed at his peril to violate that expressed constitutional authority in Congress to control the power of the purse. I am very much interested in my colleague's response, but I hope it will be on his time.

Mr. BIDEN. Mr. President, will the Senator from Michigan yield me 2 minutes?

Mr. LEVIN. I would be happy to yield. May I inquire of the Chair how much time the opponents have?

The PRESIDING OFFICER. Thirty-two minutes 11 seconds.

Mr. LEVIN. I am happy to yield to the Senator.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. The Senator from Arizona, Mr. MCCAIN, and I had an amendment to attempt to preauthorize the use of ground forces. The Congress debated, as the Parliamentarian can tell us, in the context of the War Powers Act, having been triggered by a letter sent by the President to the Congress.

We have already spoken. We have already spoken as a Congress. We have made it clear to the President of the United States, unfortunately, in my view, that under the War Powers Act, we believe he should not at this moment be introducing ground forces because the McCain-Biden amendment was defeated, which was an affirmative attempt to give him authority in advance to use ground forces. So we have already debated this issue of ground forces in the context of the War Powers Act, which was one of the two documents cited by the Senator from Pennsylvania, the other being the U.S. Constitution. I argue we have done that.

Second, I point out that I can't imagine a modern-day President, in the face of an overwhelming or even majority congressional decision, saying you should not use force and having the political will or courage to go ahead and use it anyway. I do not think such a circumstance exists. If you think this President is likely to do that, then you have a view of his willingness to take on the Congress that exceeds that of almost anyone I know.

The idea that this President, in this context, having said so many times that he would not and does not want to use ground forces, would fly in the face of a majority of the Members of the Congress saying he should not do it without coming here, in what everyone would acknowledge would be a difficult political decision to make in any instance and difficult military decision to make, and then if, in fact, he is not immediately successful, I believe everyone in this Chamber would acknowledge that it would probably effectively bring this Presidency down. I just can't imagine that being the matter.

Let me conclude by saying, Professor Corwin is credited with having said that the Constitution merely issues an invitation to the President and the Senate does battle over who controls the foreign policy. Seldom will Presidents take action that is totally contrary to the expressed views of the Congress which risk American lives and clearly would result in American body bags coming home.

I wish he had a view different than the one I am asserting, because I think we need to have that option open and real. I am not sure it is. I am almost positive there is no reasonable prospect this President, or for that matter the last President, would have moved in the face of the Congress having already stated its views that it was not willing to give him that power in advance, which is another way of saying: Mr. President, if you want this power, come and ask us.

So I think it is unnecessary. I think it is redundant. I think it has already been spoken to as it relates to the War Powers Act. I think it is a well-intended, mistaken notion as to how we should be limiting this President's use of ground forces.

I thank the Senator from Michigan for yielding me that time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Senator from Delaware for those comments. I think it all boils down to whether the President would feel compelled by a political situation, a statement by Congress, to not send in ground troops.

I acknowledged in my opening comments that he had made that commitment, which I heard and spoke about, on April 28. But I believe we ought to be bound by the rule of law, not be dependent upon a change of mind by the President, and memorialize it in this statute. Congress ought to assert its authority to declare war and have the United States engaged in war and to do it with the force of law with this kind of an amendment, perhaps somewhat modified.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose the amendment. It would send the worst possible signal, I believe, to Milosevic at this time. A kind of ''don't worry'' signal, if you weather the storm, no matter how weakened your military is, the President isn't going to be able to go in even in a semipermissive environment in order to return the refugees, because Congress has tied his hands, tied the purse to say that only if Congress affirmatively approves the expenditure of funds, then and only then could ground forces go in, even in a semipermissive environment.

Mr. President, how much time do the opponents have?

The PRESIDING OFFICER. Twenty-seven and a half minutes.

Mr. LEVIN. I yield myself 6 minutes.

I can't think of a worse signal to send to Milosevic in the middle of a conflict than this amendment would send to him. Congressional gridlock is not unheard of around here. We have plenty of examples of Congress being unable to act. We had a recent example

in the House where the House could not even agree to support an air campaign that is presently going on, a tie vote.

Under this funding cutoff approach, that air campaign presumably would not be able to continue under a comparable resolution applying to the use of military forces.

I know this only applies to ground forces and not to an air campaign, but that vote in the House of Representatives is a wonderful example of how Milosevic, when he looked at this resolution, would say, well, gee, this would require Congress to affirmatively act, and since the House can't even get a majority to act to support an ongoing operation, I could comfortably rely, he would say to himself, on the fact that they would never authorize in advance a ground campaign, even in a semipermissive environment.

The President has been criticized for taking the possibility of ground troops off the table. The argument is that Milosevic doesn't have to worry as much about that possibility, given the position of the administration. I think we ought to want Milosevic to worry and to worry more, not less. This is a ''worry less'' amendment, not a ''worry more'' amendment. This says Congress would have to affirmatively approve ground forces in advance, even in a semipermissive environment, and it seems to me Milosevic could quite comfortably say to himself that is not a very strong likelihood.

There are a lot of practical problems with the wording of this amendment. For instance, what happens if U.S. intelligence discovered that American forces in Albania or in Macedonia were about to be attacked by Yugoslav army forces and it was determined to be necessary for U.S. ground forces to conduct a preemptive attack into Kosovo in self-defense? We are just about ready to be attacked; can we hit the attacker? Not under this amendment. You have to come to Congress first.

Our military would be told, whoops, you are about to be attacked in Albania or Macedonia, but Congress passed a law saying they have to authorize the use of ground forces. Do we want to tie the hands of our commanders that way in the middle of a conflict, to tell our commanders that even in circumstances where they think they are about to be hit that they cannot preemptively go after the attackers in Kosovo with ground forces? They have to then just take it on the chin?

And what if U.S. forces in Albania or Macedonia were attacked by Yugoslav army forces, actually attacked in Macedonia or Albania. Would counterattacking U.S. forces have to stop at the Kosovo border, thereby giving the Yugoslav army a haven from which they could conduct ground attacks across the border but not be pursued by American ground forces? The commander would have to stop at the border and come to Congress? So it is the worst kind of signal we could give in the middle of a conflict to Mr. Milosevic, and it creates burdens on our commanders that are intolerable in the middle of a conflict.

We have been advised by the Department of Defense on this amendment that ''it is so restrictive of U.S. operations and so injurious to our role in the alliance that the President's senior advisers would strongly recommend that the final bill be vetoed if this language is included in the bill.'' That is information we have just received from the Department of Defense.

Gridlock. Fifty votes in the House. Now, under this amendment, we have to affirmatively approve something. What happens if a majority of us want to approve it but we are filibustered? The Senator from Pennsylvania said, well, those are the rules.

Those are the rules. But under his amendment, it would mean that even if a majority of the Senate wanted to give approval to ground forces, a minority in the Senate could thwart that action.

I think this is the kind of tying of our hands in the middle of a conflict that would tell Milosevic this country is not serious about the NATO mission. This NATO mission is so critical in terms of the future of Europe; it is so critical in terms of the stability not only of Europe but of the North Atlantic community that for us to adopt language that in advance says you can't do something without Congress acting, knowing, as we do, how difficult it is to get Congress to act even in the middle of a conflict, would be simply a terrible result for the success of our mission.

Mr. President, I yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator may continue.

Mr. LEVIN. Mr. President, we want, I hope, to do two things. One is to tell the President, as we have, how important it is that there be consultation and that he seek support from the Congress, and he has committed to do so. But that is a very different thing from what this amendment provides. This is an advance funding cutoff, unless something happens that can be thwarted by gridlock.

We should not ever forget the likelihood of gridlock in this Congress. Even if a majority wanted to support the use of ground forces in a nonpermissive environment, a minority of the Senate could thwart that majority view. I believe the signal to Milosevic that he will be the beneficiary of gridlock, and only if gridlock can be overcome would he then have to fear the possibility of the use of ground forces, is a signal that would undermine the current mission in a very significant way.

Again, reading from the information paper the Department of Defense has shared with us this afternoon:

> The Department strongly opposes this amendment because it would unacceptably put at risk the lives of U.S. and NATO military personnel, jeopardize the success of Operation Allied Force, and inappropriately restrict the President's options as Commander in Chief.

These are now the words of the information paper shared with us by the Department:

> . . . effectively give Milosevic advance notice of ground action by NATO forces, should NATO commanders request consideration of this option.

While we have made no decision to use ground forces in a nonpermissive environment, it would be a mistake to hamstring this option with a legislative requirement for prior congressional approval. The Department says:

> This would be construed to prohibit certain intelligence or reconnaissance operations essential to a successful prosecution of Operation Allied Force. It would prohibit any preemptive attack by U.S. forces based on advance warning or suspicion of an impending attack by the Yugoslav forces. It would prohibit U.S. ground personnel from pursuing those forces, conducting hit and run, or similar attacks across international boundaries.

But the words that we should pay the most heed to in this memorandum from the Department of Defense—the words that I hope this Senate will think very carefully about before we consider adopting this amendment—are that the Department strongly opposes amendment No. 383 because it would ''unacceptably put at risk the lives of U.S. and NATO military personnel and jeopardize the success of Operation Allied Force.''

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in listening to the comments of the Senator from Michigan, every single objection and argument he has raised applies equally to the President's commitment by letter to come to the Congress before he would use ground forces.

When he says it would be the worst signal to Milosevic, the President gave that signal personally when he said it gives Milosevic advance notice. That is exactly what the President would be doing in coming to Congress. When he says there could be no intelligence or reconnaissance, that is exactly what would happen by the President's commitment. When he says it would preclude a preemptive strike, that is exactly what the President has done. When he says it puts at risk U.S. military personnel, that is precisely what the President has done.

When they talk about a veto, it is the same old threat—senior advisers threatening to veto. I think this may be a better amendment than I had originally contemplated.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, the opponents have how much time left?

The PRESIDING OFFICER. The opponents have 16 minutes 44 seconds. The proponents have 11 minutes.

Who yields time?

Mr. SPECTER. Mr. President, I yield 5 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Chair, and I thank the Senator.

Mr. President, I commend the Senator from Pennsylvania for what he is trying to do with his amendment, to protect the prerogatives of the Senate and the requirements of the War Powers Resolution with respect to the actions of our armed services abroad. Although I understand it may be modified, I think I will be able to support this amendment. I share the Senator's commitment to protecting the war powers granted to the Congress by the Founding Fathers and reaffirmed in the War Powers Resolution.

That said, I hope that, should this amendment be adopted, the conferees will make an effort to better define the term ''peacekeeping,'' for which the Senator has made an exception in his amendment. I believe that all military deployments, subject to the exceptions laid out in the War Powers Resolution including peacekeeping operations, should receive authorization of the Congress. And, since there currently is no peace to keep in Kosovo—and in fact NATO continues air strikes to this day—I hope that the Congress will define the parameters of such an exception more specifically.

Mr. President, today is May 25, 1999, and in the context of the Senator's amendment I want to take the opportunity to remind the Senate of the significance of today's date.

Exactly 62 days ago, U.S. forces, as part of a NATO force, began air strikes against the Federal Republic of Yugoslavia.

Today marks the expiration of the 60-day time period after which the President—under the provisions of the War Powers Resolution—is required to withdraw our Armed Forces from their participation in the air strikes against the Federal Republic of Yugoslavia.

Exactly 60 days ago—48 hours after the air strikes began—the President was required under section 4(a)(1) of the War Powers Resolution to submit a detailed report to the Congress regarding the actions he ordered our troops to take.

No such report has been submitted. Rather, the Congress was notified of the U.S. participation in the NATO air strikes by a letter from the President that he says is—''consistent''—with the War Powers Resolution.''

''Consistent'' or not, I do not believe that the President's letter satisfies the requirements of the War Powers Resolution. Nevertheless, in my view, the War Powers Resolution stands as the law of the land, and the President should comply with it. So it follows, then, that if the President fails to withdraw our troops by midnight tonight—and of course it is clear that they will remain in the region long after the clock strikes twelve—the President will be in violation of the provisions of the War Powers Resolution.

I find it disturbing that this important date of May 25 will come and go with no action to remove our troops from the region. Indeed, I am afraid that this Congress is ignoring the significance of this date completely. In fact, I am not sure that the significance of this date has been noted by any of my colleagues during debate on this Specter amendment.

The War Powers Resolution provides that the President shall terminate the use of our Armed Forces for the purpose outlined in the report required under section 4(a)(1) of the Act after 60 days unless one of the three things has happened:

The Congress has declared war or has enacted a specific authorization for the use of the military; the Congress has extended by law the 60-day time period; or the President is not able to withdraw the forces because of an armed attack against the United States.

In addition, the President may extend this time period by 30-days if he certifies in writing to the Congress that it is unsafe to withdraw the forces at the end of the 60 days.

Sixty days have come and gone, Mr. President, and none of these things has happened.

The Congress has not declared war, nor has it authorized this action.

The Congress has not extended the 60-day time period.

The United States has not been attacked.

The President has not certified in writing to the Congress that an additional 30 days are necessary to ensure the safe withdrawal of our troops.

As my colleagues know, I voted against the ongoing NATO air strikes against the FRY, and I am deeply troubled that U.S. participation in them continues despite the fact that Congress was divided on whether to authorize them. In addition, the resolution which this body adopted and on which the other body deadlocked was not a joint resolution that would have authorized the military action, by law.

No, Mr. President, S. Con. Res. 21 is a sense-of-the-Congress resolution that does not carry the force of law.

The Senate also considered a joint resolution offered by the Senator from Arizona [Mr. MCCAIN] which, if adopted by both Houses of Congress, would have given the President the specific statutory authorization required under the War Powers Resolution to continue the use of our Armed Forces in the action against the FRY. In fact, Mr. President, that sweeping resolution would have allowed the President to expand this participation as he saw fit. While I opposed this resolution, I am pleased that the Senate debated it and voted on it as we unequivocally were obliged to do under the War Powers Resolution.

I am afraid that the debate and votes on the participation of the United States in Kosovo both here in the Senate, as well as in the other body, reflect the fact that there is no consensus in the Congress or in the country with regard to what we have already done in Kosovo, let alone a consensus on whether to expand the U.S. mission there.

Sixty days have come and gone since the President failed to submit the required report regarding U.S. participation in the air strikes against the FRY. Despite this regrettable inaction, the War Powers Resolution clock began to tick 48 hours after the first bombs fell—the date on which the President's report under section 4(a)(1) of the Act was required to have been submitted. That's right, Mr. President, the clock begins to tick whether the President fulfills his obligation to submit the report or not. The vitality of the War Powers Resolution is unmistakable because that law states that the troops must be removed ''. . . within 60 calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1). . . .'' unless one of the actions I mentioned earlier has occurred.

As the clock draws closer to midnight today, the sixtieth day, our troops are performing admirably under hostile conditions. But time has almost run out on the President to fulfil this legal obligations under the War Powers Resolution.

Despite the fact that many in Congress oppose the current air campaign, and despite the fact that our troops will soon be participating in this campaign in violation of the War Power Resolution, members of this body last week adopted a massive spending package in support of a military action that many of them oppose. I support fully our efforts to give our men and women in the field everything they need to maximize their chances of success and to minimize the risks they face.

Still, I voted against that package, both because of my continuing concern over our unauthorized military involvement in the FRY and because of the non-emergency spending that was jammed into the so-called emergency bill.

So we are not at a critical juncture, Mr. President. The Congress has voted to fund a military mission that it has not authorized, and the President has signed this bill even though he knows, as we know, that the continued participation of our troops in this mission is in violation of the War Powers Resolution.

One way or the other, consistent with the safety of our troops, it is time for the President to comply with the War Powers Resolution by seeking—and gaining—the legal authorization of Congress to continue this war, or by withdrawing our forces.

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

Mr. SPECTER. Mr. President, I have not had an opportunity to read the letter from the President to the Speaker. It goes far short of the kind of commitment that has been represented—honestly represented. But the letter says in pertinent part: ''I can assure you

that I will fully consult with the Congress'', which doesn't amount to a whole lot. And then another line, ''I would ask for congressional support before introducing U.S. ground forces into Kosovo into a nonpermissive environment''.

The language of support here again goes far short of committing to congressional authorization such as is contained in this amendment.

I yield the floor.

I ask how much time I have left.

The PRESIDING OFFICER. Thirty-five minutes 30 seconds.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on that point, we have been conducting a meeting for almost an hour in S–407, attended by the Secretary of State, the Secretary of Defense, and the National Security Adviser to the President, Mr. Berger, and the Chairman of the Joint Chiefs. In the course of their presentations to some 40-plus Senators, in response to questions and in direct presentation, they reiterated that the President will formally come before the Congress and ask for any changes he deems necessary involving ground troops before he would implement or agree to implement with other NATO nations such a plan. That has just been stated on two occasions up in S–407. There was no equivocation. It was very clear in their declaration on behalf of the President. I acquainted them with the amendment which is now being debated on the floor of the Senate.

Earlier indications from the Secretary of Defense to me today were that should this amendment as drawn now appear in a conference report, it would be the recommendation of the Secretaries of State and Defense to veto.

I am pointing out to the Senate that again we revisit many, many times this whole war powers concept. We acknowledge that both Republican Presidents and Democrat Presidents have absolutely steadfastly refused to comply with the letter of the law, but they have complied with the spirit of the law.

In this instance, the President has indicated to the Senate in that letter—and just now in the briefings by his principal Cabinet officers—that he would formally—I use the word ''formal'' to clarify—come to the Congress and request their concurrence for any departure from his preposition. That preposition was just moments ago restated by Secretaries Cohen and Albright in response to my question, which was, question No. 1, to allow me to return to the floor with regard to any nonpermissive force being put in place, which I favor, by the way, to send a signal. They said that would not be done. The President has no intention of doing it, nor do the NATO allies. And should the President decide at some later date, for whatever reason, to begin to preposition such forces, then he would come before the Congress prior thereto and get legislative approval.

I believe very strongly that this amendment would put this bill in severe jeopardy in terms of getting it signed, and that the President and his principal advisers have in the past and again today advised the Congress that the President is prepared to deal with the spirit of this amendment and to come before the Congress and seek its formal concurrence by legislative action should he and other NATO allies in the future make a decision to depart from the present policy.

I have just been handed a modification. It is one that the Senator from Pennsylvania and I have discussed. I don't know if my colleague has had an opportunity to see it.

If there are other Senators who wish to speak, I need time within which to consider this modification. Unless other Senators seek recognition, 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. ROBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. WARNER. Mr. President, I yield to the Senator 3 or 4 minutes.

Mr. ROBB. I thank my distinguished senior colleague. One minute will be sufficient because I know the chairman of the committee is about to make a unanimous consent request.

I state to my good friend from Pennsylvania, I am very much opposed to this amendment. I cannot imagine a modification of this amendment that would cause me to be supportive. We have already debated this essential question twice.

Congress has the power to declare war. If we are concerned about consultation with the executive branch, as we speak consultation is taking place up in S–407 in a classified briefing where the Secretary of Defense, the Secretary of State, the National Security Adviser and the Chairman of the Joint Chiefs of Staff have been briefing all Senators on what is taking place, what has taken place, what will take place and have again reaffirmed the intention of the President to consult with the Congress before any change, particularly with respect to the implementation of any particular plan that might involve the commitment of ground troops, takes place.

With that, Mr. President, I ask our colleagues to look very seriously at the long-term implications. Think of the kind of message this sends to Milosevic. Think of the kind of message this sends to our 18 alliance partners, if we were to continue to try to take this type of action on the floor of the Senate.

Mr. President, I urge a rejection of this particular amendment and I yield the floor.

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

Mr. WARNER. Mr. President, I thank my colleague for that strong statement. I am certainly of the same view.

Mr. President, I ask unanimous consent that when all time is used on the pending Specter amendment, the amendment be temporarily set aside with a vote occurring on or in relation to the amendment—there will be a tabling motion.

Mr. SPECTER. Reserving the right to object, will the Senator repeat that?

Mr. WARNER. Let me repeat it in its entirety. I have not asked unanimous consent.

I ask unanimous consent that when all time is used on the pending Specter amendment, the amendment be temporarily set aside with a vote occurring on or in relation to the amendment following the debate on the Gramm amendment.

That is the time sequence. As I have indicated, I will move to table the Senator's amendment.

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

Mr. WARNER. For the information of all Senators, the Gramm amendment will be presented with a 1½-hour time agreement. Following that debate, the Senate will proceed to two stacked votes, first on the Specter amendment—and we have to reserve in here the amending of that amendment, which could be amended—to be followed by a vote on the Gramm amendment.

So we just have the sequencing of the debate, sequencing of the votes. And we will momentarily, Senator LEVIN and I—I am prepared to accept the amendment as amended. The Senator is waiting for just one Senator to get concurrence.

So we have the unanimous consent in place. I have given information to the Senate with respect to the sequencing of the Gramm amendment.

Mr. SPECTER. Reserving the right to object, I ask my colleague from Virginia to insert 2 minutes on each side to argue in advance of the vote.

Mr. WARNER. I have certainly no objection to that.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Is there objection to the request as modified? Without objection, it is so ordered.

The PRESIDING OFFICER. Do Senators yield back their time on the pending amendment? Who yields time on the pending amendment?

Mr. WARNER. Mr. President, does Senator SPECTER want to reserve his time, and I will reserve my time, and then we can proceed to the Gramm amendment and come back to Senator SPECTER's amendment? I am sure he will allow that.

Mr. SPECTER. That is agreeable. We will take up the Gramm amendment now and then come back with the time I have reserved at that time.

Mr. WARNER. And the time under the control of the Senator from Virginia, jointly shared with Senator LEVIN.

Mr. SPECTER. May the Record show I have made a request for a modification of the amendment and I will send a copy of the requested modification to the desk. I have already provided it to the Senator from Virginia and the Senator from Michigan.

The PRESIDING OFFICER. Is there objection to the modification of the time?

Mr. LEVIN. Reserving the right to object and we will have to object—

The PRESIDING OFFICER. Modifying the time?

Mr. LEVIN. The Chair just asked if there is objection to the modification.

The PRESIDING OFFICER. Modification of the time. Is there objection to the modification? Without objection, it is so ordered.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, just so everybody can figure out when we are likely to vote, how much time remains on the Specter amendment?

The PRESIDING OFFICER. The Senator from Pennsylvania has 5½ minutes, and the Senator from Virginia has 3 minutes 20 seconds.

Mr. GRAMM. Mr. President, hopefully, we can beat this 90-minute time limit and have this debate more quickly.

AMENDMENT NO. 392

(Purpose: To delete language which the Department of Justice has stated would ''. . . seriously undermine the safety and security of America's federal prisons'')

Mr. GRAMM. Mr. President, I send an amendment to the desk for myself, Senator HATCH, and Senator THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Texas (Mr. GRAMM), for himself, Mr. HATCH, and Mr. THURMOND, proposes an amendment numbered 392.

Mr. GRAMM. 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:

On page 284, strike all on line 7 through line 14 on page 286.

Mr. GRAMM. Mr. President, Senator LEVIN and I every year or two have this debate. It is well known. We have debated it before. People have voted before. In fact, 61 Members of the Senate voted with me 2 years ago to substitute a study for the Levin amendment.

Let me add, the amendment is a little different than it was then. The thrust of it is basically the same. Two years ago, the Levin amendment applied to all procurement related to the prison industry system. This year, it applies to only defense procurement. But while its focus has narrowed, its impact on the work system within our prisons remains very broad.

I remind my colleagues that we took up this issue on July 10 of 1997. There was a vote at that time, and 62 Members—61 of whom are still Members of the Senate—voted on this issue on a different day in a slightly different version. But the thrust of the issue, in terms of procurement from the Federal prison industry system, is and was basically the same.

Let me set out what I want to do in my opening statement. I want to try to explain the problem in historical context, and I want to begin with Alexis de Tocqueville. Then I want to come to the Depression, which was really fork in the road with regard to prison labor in America. I want to talk about the fork we took, the wrong fork in my opinion. I want to talk about how the Levin amendment fits into the system which has evolved since then. I want to talk about why this provision by Senator LEVIN, which Senator HATCH and Senator THURMOND and I hope to strike from the bill, is so devastating to the prison industry system in America and why that, in turn, is harmful to every taxpayer, to every victim of crime, to everyone who wants prisoners rehabilitated when they go back out on the street. In fact, there is no good argument, it seems to me, when you fully understand this issue, for the Levin amendment. I then want to talk in some detail about each of these items and then, obviously, at that point we will begin the debate.

Let me start with de Tocqueville. As many of my colleagues will remember, de Tocqueville came to America in the 1830s. He wrote a book that has become the greatest critique of America ever written—''Democracy in America.'' We forget that de Tocqueville came to America not to study democracy but to study prisons. In fact, he wrote a book on prisons, together with a fellow named Beaumont. We have forgotten Beaumont, but we remember de Tocqueville.

In his analysis of American prisons, which were very much studied in the 1830s because they were part of the most enlightened prison system in the world, de Tocqueville praised at great length the fact that we required American prisoners to work. In that period, prison labor of 12 hours a day, 6 days a week was the norm. De Tocqueville says in his analysis on American prisons:

It would be inaccurate to say that in the Philadelphia penitentiary labor is imposed. We may say with more justice that the favor of labor is granted. When we visit this penitentiary, we successively conversed with all its inmates. There was not a single one among them who did not speak of labor with a kind of gratitude and who did not express the idea that without the relief of constant occupation, life would be insufferable.

The principal characteristic of the American prison system in the age that Alexis de Tocqueville wrote that remark was that prisoners worked and they worked hard. They helped pay for the cost of incarceration by working, and they produced things. Those products were sold on the open market in many cases. So the first obligation for feeding prisoners and incarcerating prisoners was borne not by the taxpayer but by the prisoner and, as de Tocqueville argues, I think quite impressively in the book and in the quote I used, prisoners actually benefited from labor because of the extreme boredom of being incarcerated with nothing to do. This was the norm in America from the 1830s, when Alexis de Tocqueville wrote, for 100 years, until the 1930s.

What happened in the 1930s was that we passed a series of laws driven by special interests, principally labor and business, and you cannot get bigger special interests than that. These laws consisted basically of the following laws: the Hawes-Cooper Act which authorized States to ban commerce in prison-made goods within their borders; the Sumners-Ashurst Act which made it a Federal crime to transport prison-made goods across State lines; and then another provision that said not only can you not sell what prisoners produce, not only can you not transport it for sale, but if you do force prisoners to work, you have to pay them the union scale set by the local union.

Guess what the result of those three laws was. The result of those three laws was that we destroyed the greatest prison industry system that the world had ever known. We destroyed that prison system by eliminating our ability to force people in prison to work; and in doing so, force them to pay for part of the cost of their incarceration; and we eliminated our ability to collect from them part of what they would earn working in prison or what would be earned by their work to pay for restitution to victims of crime.

What was left after we destroyed the ability of American prisons to force prisoners to work was the ability of prisoners to produce things that were used by Government. As a result, we now find ourselves in a situation where we have 1,100,000 Americans in prison. They are almost all male. They are almost all of prime working age. We spend $22,000 a year keeping people in prison, which is nearly the cost of sending somebody to the University of Chicago or to Harvard, and the cost of keeping Americans in prison costs the average American taxpayer $200 a year in taxes—just to keep people in prison.

The impact of the Levin amendment—I am sure he is going to gild this lily with lots of gold around the edges—but the impact of his amendment is to take another major step in destroying prison labor in America. What his bill would do is, for all practical purposes, take away about 60 percent of the work that Federal prisoners do now.

There are, obviously, two sides to these arguments. You can argue that

when people are working in prison that there is someone else who might benefit from getting the job if the prisoner were not working. It is hard to make that argument in America today when we have the lowest unemployment rate in 30 years and when, in towns like my hometown of College Station, college students go out and relax after classes and impressment gangs come and virtually knock them in the head and drag them off to a factory. So if there ever was an argument here that we needed to take away prison work to protect American jobs, it is very hard to make that argument in May of 1999.

But here is the system we have now. We have a system called Federal Prison Industries where the Federal Government has work programs for prisoners. It pays them a very small incentive payment. It withholds about 20 percent of that payment as restitution to victims of the crimes they have committed. It produces component parts for various things used by the Government. It produces furniture, it produces some electronic components. Through this system, we have about 20,000 Federal prisoners who work.

Under this amendment, about 60 percent of that work would be taken away. Not only do I oppose this amendment, but the administration, in its Statement of Administration Policy on this defense bill, on page 3, ''Federal Prison Industries Mandatory Source Exemption,'' opposes the Levin amendment.

I have a letter here from the Attorney General. Among other things, she says:

> I am extremely concerned about this legislation because it could have a negative impact on [the Federal Prison Industries], which is the Bureau of Prisons most important, efficient, and cost-effective tool for managing inmates and for preparing them to be productive, law abiding citizens upon release from prison.

I also have a letter from the National Center for Victims of Crime. And they say, among other things:

> Dollars that go to the crime victims through the [Federal Prison Industries] program are coming out of criminal offenders' pockets—the notion that the offender must be held accountable and pay for the harm caused by crimes he [or] she committed is at the heart of jurisprudence. Crime victims often tell us that the amount of restitution an offender pays is far less important to them than the fact that their offender is paying restitution. Financial assistance from offenders has a tremendous healing and restorative power for criminal victims.

No. 1, the administration opposes the Levin amendment, supports our effort to knock it out of the bill. The Attorney General, the Director of Federal Prisons, and the National Center for Victims of Crime all oppose this amendment. They all oppose it basically for the same reason; and that is, it will end up raising the cost of incarceration. It will end up lowering the amount of restitution going to victims. It will idle prisoners, and you do not get rehabilitated sitting around in air-conditioning watching color television.

If there is anything we know about the Federal prison work system, and about the work system in States, it is that working is an important part of rehabilitation. I personally would support proposals that would force every able prisoner in America to work. I would like them to work 10 hours a day, 6 days a week, and go to school at night. But I know with the vested interest that is built up against that, that we cannot succeed in changing it today. I hope we will someday. But I do not want to destroy what we have now.

Let me talk about recidivism.

In South Carolina—and you are going to hear from the distinguished former chairman of the Armed Services Committee, Senator THURMOND, a very active member of the Judiciary Committee. In South Carolina, the probability that a person who serves in a penitentiary in South Carolina, when they will be released, will ever come back into a State or Federal penitentiary again is 17 times higher for those who did not work while they were in prison than it is for those who did work in prison. Part of the reason is that people acquire skills in working that allow them to go out into the private sector and get a job when they get out of prison.

In Florida, the probability that a person in prison, when they are released, will ever come back to prison is three times as high for people who did not work while they were in the penitentiary in Florida as it is for those who did work while they were in the penitentiary in Florida.

For Wisconsin, it is twice as high; for Kentucky, it is almost twice as high.

In the Federal system, the recidivism rate, the chances that someone will come back to Federal prison, after having been released, is 24 percent lower for those who participate in work programs. We have estimates that a 10-percent reduction in recidivism rates would lower the overall social cost of crime and incarceration by $6.1 billion.

So another strong argument against the Levin amendment is that we have hard data, not just from the Federal Government, but from many States, that indicate conclusively if people work when they are in prison, the probability that they will go out and commit another crime that will get them sent back to prison is substantially, markedly lower if they work than if they do not work.

You are going to hear Senator LEVIN argue that, well, this is not price competition. And it is not. Let's make it clear, this is not a competitive issue. I would defy anyone to pick up this defense authorization bill and hold it out as a paragon of virtue in terms of defense procurement efficiency. The defense procurement system is full of protectionism and special interests, where we give all kinds of special deals to all kinds of producers in selling things to the Defense Department.

I say competition in procurement is a good thing. I swear by it. I support it. But when you have page after page of acquisition rules that say we pay inflated prices to buy things domestically rather than buying them on the world market, it is hard to suddenly be concerned about competition in prices with regard to prison-made goods.

This is not about competition. This is about using a resource we have with 1.1 million people in prison.

Now, having said that, the GAO recently did a study of the Federal Prison Industries of 20 different products that were bought by the Defense Department. What the GAO concluded was the Federal Prison Industries prices were within the market range for virtually every product that was bought by the Defense Department. So it is true that in the strictest terms, we don't have competitive bidding on goods produced in prison, but we have market surveys. We have negotiations between the Defense Department and the prison, and we have a simulation of what the market system would look like if you had a competitive bidding system.

Also, the Department of Defense Inspector General recently completed a study of the Federal Prison Industries prices and concluded that DOD could have saved millions of dollars by buying more items from the Federal Prison Industries if it had bought more items from them rather than buying them in the open market.

Now, let me remind my colleagues—I know Senator THURMOND is here and is very busy; I want to give him an opportunity to speak—that 2 years ago, when we debated this same issue in a slightly different form with the thrust identical, I offered a substitute amendment that mandated a study be done by the Department of Defense and by the Federal Prison Industries and Department of Justice. That study has just been completed, and it was reported to the Armed Services Committee and then to Members of the Senate. I draw my colleagues' attention to page 4 of the executive summary to the conclusions that were reached in the study.

The question was what recommendations did they have as to changes we might make in current law with regard to the Defense Department buying things produced in Federal prisons. They concluded, the recommendations can be made within existing statutory authority and will not require legislative action. Department of Defense and Federal Prison Industries say they believe that implementing the recommendations will improve the efficiency and reduce the cost of procurement transactions between the two agencies. Implementation of the administrative actions should facilitate and enhance the working relationship between the two agencies.

So in short, 2 years ago when we debated this issue and we decided to study the problem that was raised by Senator LEVIN, we had that study completed jointly by the Defense Department and the Department of Justice,

the Federal Bureau of Prisons, and they have concluded that they should undertake a modernization system, but they do not need any legislative authority to do it.

I urge my colleagues to remember, if we adopt this amendment and we kill off 60 percent of the remaining prison labor in America, we are going to spend more money to incarcerate prisoners. We are going to have less money go to victims. We are going to have a higher recidivism rate as people come out of prison and commit crimes again. And the net result will be that we will have taken work that was being done in prison, and we will have put it into the private sector. But in a period when we have an acute labor shortage and in a period when we have 1.1 million people in prison, 1 percent of the labor force, it makes absolutely no sense, it is destructive of our criminal justice system to destroy the remnants of prison labor.

I remind my colleagues that when you bring Senator THURMOND, Senator HATCH and myself into an alliance with the administration, into an alliance with Janet Reno, the Attorney General, and then you have the support of victims' rights groups all over the country, that is a pretty broad coalition. What each and every one of these entities is saying is, do not kill off prison labor.

When we have 130 million Americans who go to work every day and struggle to make ends meet, I do not understand what is wrong with forcing prisoners to work. I want prisoners to work. It is good for them. It is good for the taxpayer. It is good policy, and we should not allow that system to be destroyed.

I reserve the remainder of my time, but I yield whatever time he might need to our distinguished colleague, Senator THURMOND, who today was recognized for the 75th anniversary of being commissioned an officer and a gentleman in the U.S. Army. For 75 years, three quarters of a century, Senator THURMOND has borne that commission to uphold, protect and defend the Constitution against all enemies, foreign and domestic, and whether it was on D-Day in Normandy or whether it was on the Supreme Court of South Carolina or whether it was Governor or whether it is our most distinguished Member of the Senate, STROM THURMOND is truly a man to hold against the mountain and the sky.

I yield whatever time he might need to Senator THURMOND.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I thank the able Senator from Texas, Mr. GRAMM, for the magnificent remarks he made on this important subject and also thank him for the kind remarks he made about me.

I rise in strong support of the amendment to strike section 806 of S. 1059, the Defense Authorization Act, which was added in Committee by Senator LEVIN. This provision could endanger Federal Prison Industries or UNICOR, which is the most important inmate program in the Federal Bureau of Prisons.

To protect our citizens, America is placing more and more dangerous and violent criminals in prison. Indeed, one of the main reasons crime rates in America are going down is because the number of criminals we are putting behind bars is increasing. The Bureau of Prisons has an extremely important and complex task in housing and, to the extent possible, rehabilitating these inmates. FPI is critical to this task.

Prisoners must work. Idleness and boredom in prison leads to mischief and violence. FPI keeps inmates productively occupied, which helps maintain the safety and security for staff, other inmates, and the law-abiding public outside.

Moreover, prisoners who work in FPI develop job skills and learn a work ethic. As a result, they adjust better in prison and are better prepared to become productive members of society when they leave.

Mr. President, the program works. Studies show that inmates who worked in Prison Industries are 24 percent more likely to find and hold jobs and remain crime-free after they are released. Inmates in FPI are more likely to become responsible, productive citizens.

I am very concerned that section 806, the Levin provision, could threaten this essential program. FPI may sell its products only to Federal agencies, and the Department of Defense represents almost 60 percent of its sales. Yet, the Levin provision would make it much easier for Defense purchasers not to use FPI based on a very vague and nuclear standard. Further, this provision would eliminate entirely the mandatory source preference for any Defense order under $2,500. Purchases under this amount account for 78 percent of FPI orders. Also, the amendment would exempt Defense purchases in a wide range of telecommunications or information systems under the broad name of national security. This could be very harmful to FPI's production of electronic products.

Drastic changes of this nature are not warranted, as even the Department of Defense recognizes. The DoD and BoP have just completed a joint study that we ordered in a previous Defense Authorization Bill. In a survey taken as part of the study, DoD customers generally rated FPI in the good to excellent or average ranges in all categories, including price, quality, delivery, and service. As the report states, the working relationship between FPI and DoD remains strong and vital.

The study concludes that no legislative changes are warranted in Defense purchases from FPI. It made some recommendations for improvements that are currently being implemented. We should give the study time to work.

Indeed, the Administration strongly opposes the Levin provision. The Statement of Administration Policy on S. 1059 explains that this provision ''would essentially eliminate the Federal Prison Industries mandatory source with the Defense Department. Such action could harm the FPI program which is fundamental to the security in Federal prisons.''

FPI does not have an advantage over the private sector. Although inmates make less money than other workers, FPI must deal with many hidden costs and constraints that do not apply to the private sector.

Working inmates must be closely supervised, adding to labor costs, and extensive time-consuming security procedures must be followed. For example, when inmates go to work, they must pass through a metal detector and check their tools in and out, even if they just leave for lunch.

While the private sector often specializes in certain products, FPI by law must diversity its product lines to lessen its impact on any one industry. Also, the private sector tries to keep labor costs low, while FPI intentionally keeps its factories as labor-intensive as possible. Moreover, inmate workers generally have little education and training and often have never held a steady job. Indeed, the productivity rate of an employee with the background of an average inmate has been estimated at one-fourth that of a civilian worker.

FPI is not used for every Federal purchase. In fact, it only constitutes a small minority. If a customer does not feel that FPI can meet its delivery, price, or technical requirements, then the customer can request a waiver of the mandatory source. Last year, 90 percent of waiver requests were approved, generally within four days.

Moreover, some private businesses depend on FPI for their existence. FPI purchased over $418 million in raw materials and component parts from private industry in 1998. Contracts for such purchases are awarded in nearly every state, and more than half go to small businesses.

Further, Prison Industries helps crime victims recover the money they are due. The program requires that 50 percent of all inmate wages be used for victim restitution, fines, child support, or other court-ordered payments. Last year, FPI collected nearly $2 million for this purpose.

The Levin provision falls within the jurisdiction of the Judiciary Committee and should be evaluated there. Indeed, my Judiciary Subcommittee on Criminal Justice Oversight held a hearing yesterday on Prison Industries. We discussed in detail the importance of the program and how damaging the changes we are considering in this bill could be.

FPI is a correctional program that is essential to the safe and efficient operation of our increasingly overcrowded Federal prisons. While we are putting

more and more criminals in prison, we must maintain the program that keeps them occupied and working.

Mr. BYRD addressed the Chair.

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

Mr. BYRD. Mr. President, I am authorized by Senator LEVIN to speak at this time. But I am going to ask Mr. GRAMM if he will yield me some time.

Mr. GRAMM. Mr. President, I yield 10 minutes to the distinguished Senator from West Virginia.

Mr. BYRD. I thank the Senator.

Mr. President, the distinguished ranking member, Mr. LEVIN, knew my position on this matter, but he accommodated me by suggesting that I might proceed at this time while he is away from his chair. I thank the distinguished Senator from Texas for yielding time to me.

I am strongly opposed to the inclusion of section 806 in the fiscal year 2000 Defense authorization bill. This section would substantially undermine Federal Prison Industries—the Bureau of Prisons' most important skill-developing program for inmates.

I believe that this matter should not be included in the defense authorization bill. It is a matter that is being considered by the Senate Judiciary Committee. I am advised that the Criminal Justice Oversight Subcommittee of the Senate Judiciary Committee, chaired by the senior Senator from South Carolina, Mr. THURMOND, conducted an oversight hearing on this matter on May 24—yesterday.

The Attorney General of the United States, in a letter addressed to the chairman of the Senate Judiciary Committee, has indicated that she is concerned about this legislative provision. The Attorney General's letter asserts that the legislative provision would have a negative impact on Federal Prison Industries,

> . . . which is the Bureau of Prisons' most important, efficient, and cost-effective tool for managing inmates and for preparing them to be productive, law-abiding citizens upon release from prison.

I am also advised that the administration has taken a strong position in opposition to section 806 because of the harm it would do to the FPI program, which is fundamental to the security in Federal prisons. The administration believes that to ensure Federal inmates are employed in sufficient numbers, the current mandatory source requirement should not be altered until an effective alternative program is designed and put into place.

Mr. President, in the State of West Virginia there are three Federal prisons—the Federal prison at Alderson, the Robert C. Byrd Federal Correctional Institution at Beckley, and the Robert F. Kennedy Prison at Morgantown. And each of these has an FPI operation. At these three Federal prisons alone, the Bureau of Prisons is able to keep more than 500 inmates productively occupied, and employ nearly 40 staff at no cost to the taxpayer. How about that! That sounds like a good deal to me.

Mr. President, a somewhat similar amendment was offered to the Defense Authorization Bill for Fiscal Year 1998. The Senate instead adopted a substitute amendment offered by the distinguished senior Senator from Texas (Mr. GRAMM), which required a joint study by the Department of Defense and FPI on this matter. That study has recently been completed and transmitted to the Senate Armed Services Committee. The joint study made several recommendations that could be accomplished within existing authority, without requiring legislative action.

In summary, I am opposed to section 806 to the Defense authorization bill because it is unwarranted, and not only is it unwarranted, but it would have a debilitating effect on Federal Prisons Industries. This is a matter within the jurisdiction of the Senate Judiciary Committee and should not be included in this bill.

Mr. President, I ask unanimous consent that the Statement of Administration Position on Section 806 of the Defense authorization bill be printed in the RECORD at this point.

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

STATEMENT OF ADMINISTRATION POSITION ON SECTION 806 OF THE DEFENSE AUTHORIZATION BILL (S. 1059)

FEDERAL PRISON INDUSTRIES MANDATORY SOURCE EXEMPTION

The Administration opposes Section 806 which would essentially eliminate the Federal Prison Industries (FPI) mandatory source with the Defense Department. Such action could harm the FPI program which is fundamental to the security in Federal prisons. In principle, the Administration believes that the Government should support competition for the provision of goods and services to Federal agencies. However, to ensure that Federal inmates are employed in sufficient numbers, the current mandatory source requirement should not be altered until an alternative program is designed and put in place. Finally, this provision would only address mandatory sourcing for the Defense Department, without regard to the rest of federal government.

Mr. BYRD. Mr. President, I again thank the distinguished Senator from Texas, Mr. GRAMM, and I likewise express my appreciation to the distinguished Senator from Michigan, Mr. LEVIN, for his leadership overall on this bill. He is very dedicated, very able, and he works very hard. I am proud to serve with him on the Armed Services Committee. But in this case, I regret that I have to oppose his position.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield the remainder of my 10 minutes that was yielded to me from that side to Mr. HATCH, if I may ask unanimous consent.

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

Mr. HATCH. I thank the President and I thank the Senator.

The PRESIDING OFFICER. The Senator has 4 minutes 20 seconds.

Mr. HATCH. Mr. President, I rise to speak in support of this amendment, which I am pleased to cosponsor. I congratulate Senators GRAMM, THURMOND, and BYRD for their excellent statements on this matter, and for their leadership on this issue.

This amendment strikes section 806 of the bill, a provision that would effectively eliminate the Department of Defense purchasing preference for products supplied by Federal Prison Industries (FPI), also known by its trade name of UNICOR.

FPI is the federal corporation charged by Congress with the mission of training and employing federal prison inmates.

For more than 60 years, this correctional program has provided inmates with the opportunity to learn practical work habits and skills. It has enjoyed broad, bipartisan support in Congress and from each Republican and Democrat administration. An important part of this support has been the cooperative relationship between FPI and the Department of Defense—a relationship that has helped supply our armed forces in every war since 1934.

FPI is an irreplaceable corrections program. FPI and its training programs at federal prisons across the nation have been credited with helping to lower recidivism and ensuring better job-related success for prisoners upon their release—a result that all of us applaud.

Finally, FPI is an essential tool for ensuring a safe and secure correctional environment for staff, guards, and inmates in the federal prison system. Simply put, FPI keeps inmates productively occupied. And since the limited number of FPI jobs are coveted by inmates, getting and keeping these jobs are important incentives for good behavior by inmates.

These are important considerations as the federal inmate population continues to rise. In the last ten years, the federal inmate population has more than doubled, from 51,153 in 1989 to 108,207 in 1998. As Philip Glover, President of the Council of Prison Locals, AFGE, testified before the Judiciary Committee yesterday, ''We cannot afford to simply warehouse inmates.''

Any corrections officer will tell you that the most dangerous inmate is the idle inmate. Idleness breeds frustration, and provides ample time to plan mischief—a volatile combination. Yet, despite the references to the costs imposed by FPI by my colleagues who oppose this amendment, I have heard no one suggest how the taxpayers will pay for the new prison programs and the additional prison guards that might be needed if FPI factories are forced to close.

Section 806 of this bill, which our amendment strikes, puts the FPI program at substantial risk, and would certainly result in the shuttering of some FPI factories. Section 806 exempts from the FPI mandatory source

requirement products priced below $2,500, products integral to or embedded in another product not made by FPI, or products which are components of a larger product used for military intelligence or weaponry. Together, these categories make up over 80 percent of DoD's purchases from FPI. FPI, in turn, depends on sales to the Pentagon for nearly 60 percent of its business.

Some may reasonably ask, why should there be a government procurement preference for FPI goods? The answer is simply this: when FPI was established, in perhaps an unnecessary effort ensure the program did not affect private sector jobs, FPI was barred from selling its products in the commercial market. This is still the law. Thus, under current law, FPI may sell its products and services only to the federal government. Section 806 does not alter this sales restriction, and I do not understand the Senator from Michigan to be supporting such a change.

To ensure that FPI has adequate work to keep inmates occupied, congress created a special FPI ''procurement preference,'' under which federal agencies are required to make their purchases from FPI instead of other vendors, as long as FPI can meet price, quality, and delivery requirements.

Section 806 would remove this procurement preference, as it relates to the vast majority of sales to the Department of Defense. Without this preference, FPI could be crippled. Again, FPI is not permitted to compete for sales in the private market. It may *only* sell to the federal government, and then *only* if it can meet price, quality, and delivery requirements. And even then, waivers are available.

Nothing short of the viability of Federal Prison Industries is at issue here. Under full competition for federal contracts, combined with market restrictions, FPI could not survive.

My colleagues should remember that the primary mission of FPI is not profit. The primary mission of FPI is the safe and effective incarceration and rehabilitation of federal prisoners. Needless to say, FPI operates under constraints on its efficiency no private sector manufacturer must operate under. For example:

Most private sector companies invest in the latest, most efficient technology and equipment to increase productivity and reduce labor costs. Because of its different mission, FPI frequently must make its manufacturing processes as labor-intensive as possible—in order to keep as many inmates as possible occupied.

The secure correctional environment FPI in which FPI operates requires additional inefficiencies. Tools must be carefully checked in and out before and after each shift, and at every break. Inmate workers frequently must be searched before returning to their cells. And FPI factories must shut down whenever inmate unrest or institutional disturbances occur. No private sector business operates under these competitive disadvantages.

The average federal inmate is 37 years old, has only an 8th grade education, and has never held a steady legal job. Some studies have estimated that the productivity of a worker with this profile is about one-quarter of that of the average worker in the private sector. This is another disadvantage that, by and large, private companies do not have to operate under.

Finally, FPI is required to diversify its product line to minimize the impact on any one industry. Moreover, FPI can only enter new lines of business, or expand existing lines, after an exhaustive review has been undertaken to the impact on the private sector. Again, this is a restraint that most other businesses do not have imposed on them.

All of us share the goal of ensuring that FPI does not adversely impact private business. FPI has made considerable efforts to minimize any adverse impact on the private sector. Over the past few years, it has transferred factory operations from multiple factory locations to new prisons, in order to create necessary inmate jobs without increasing FPI sales. FPI has also begun operations such as a mattress recycling factory, a laundry, a computer repair factory, and a mail bag repair factory, among others, to diversify its operations and minimize its impact on the private sector, while providing essential prison jobs.

Furthermore, there is substantial evidence that FPI actually creates a substantial number of private sector jobs. In FY 1998, thousands of vendors nationwide registered with FPI, and supplied nearly $419 million in purchases to FPI. And at the same time FPI trained and employed 20,200 federal inmates at no expense to the taxpayer in FY 1998, it also directly supported 4,600 jobs outside prison walls.

Every dollar FPI receives in revenue is recycled into the private sector. Out of each dollar, 76 cents goes to the purchase of raw materials, equipment, services, and overhead, all supplied by the private sector; 18 cents goes to salaries of FPI staff; and 6 cents goes to inmate pay, which in turn if passed along to pay victim restitution, child support, alimony, and fines. Incidentally, FPI inmates are required to apply 50 percent of their earnings to these costs.

Thus, while I have some sympathy for the intent of Senator LEVIN, who sponsored this provision in the bill, I must join Senator GRAMM in offering this amendment to strike Section 806. I would like to remind my colleagues that the Senate has addressed this matter before. Two years ago, Senator LEVIN offered a similar amendment. Mr. President, 62 members of the Senate voted instead for an amendment offered by Senator GRAMM and myself, requiring the Departments of Defense and Justice to undertake a joint study of the procurement and purchase processes governing FPI sales to the Department of Defense.

Just last month, this study was delivered to Congress. Interestingly, the report does not support the action proposed by section 806. To the contrary, the Departments of Defense and Justice jointly concluded that the report's ''recommendations can be made within existing statutory authority, and will not require legislative action.''

In fact, neither of the Departments affected by section 806 support its inclusion in this bill. The Administration's official Statement of Administration policy is equally clear, stating that ''the Administration opposes Section 806.''

In summary, either we want Federal inmates to work, or we do not. I believe that we do want inmates to work, and therefore I must oppose section 806. I say to my colleagues, if you believe in maintaining good order and discipline in prisons, or if you believe in the rehabilitation of inmates when possible, you should support this amendment.

I agree with those of my colleagues who believe that we must address the issues raised by prison industries nationwide. As we continue, appropriately, to incarcerate more serious criminals in both Federal and State prisons, productive work must be found for them. At the same time, we must ensure that jobs are not taken from law-abiding workers. Under the leadership of Senator THURMOND, the Judiciary Committee's Subcommittee on Criminal Justice Oversight yesterday held a hearing on this issue. Witnesses at that hearing urged Congress not to gut FPI without addressing the broader need for productive prison work.

FPI is a proven correctional program. It enhances the security of federal prisons, helps ensure that federal inmates work, furthers inmate rehabilitation when possible, and provides restitution to victims. Section 806 would do immense harm to this highly successful program, and I urge my colleagues to support our amendment to strike it.

I also ask unanimous consent a letter to me from the Office of the Attorney General be printed in the RECORD with the accompanying documents.

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

OFFICE OF THE ATTORNEY GENERAL,
*Washington, DC, May 25, 1999.*

Hon. ORRIN G. HATCH,
*Chairman, Committee on the Judiciary,*
*U.S. Senate, Washington, DC*

DEAR MR. CHAIRMAN: The Fiscal Year 2000 Defense Authorization bill that was recently reported out of the Armed Services Committee includes a provision regarding Department of Defense (DoD) purchases from Federal Prison Industries (FPI). We believe that the statutory changes required by this provision are premature in light of the recommendations of the congressionally mandated two-year study recently completed by the Department of Defense and FPI that explored the procurement relationship between these two agencies. For the reasons stated in the Deputy Attorney General's letter (copy attached), I am extremely concerned about

this legislation because it could have a negative impact on FPI, which is the Bureau of Prisons most important, efficient, and cost-effective tool for managing inmates and for preparing them to be productive, law abiding citizens upon release from prison.

Federal Prison Industries is first and foremost a correctional program intended to train the Federal inmate population and minimize adverse impact on the private sector business community. As such, it adheres to several statutorily mandated principles, including diversifying its product line to avoid hurting any particular industry and remaining as labor intensive as possible. These practices render FPI less competitive than private sector manufacturers. The mandatory source status (which would be effectively eliminated as a result of provision) helps ameliorate these circumstances by achieving customer contact which reduces competitive advertising costs. It also assists FPI in its efforts to partner with private sector manufacturers who are attracted to the steady work flow provided by this preference. These partnerships are essential to FPI since it cannot, on its own, produce many complicated products such as systems furniture.

This provision would alter the requirement that the Department of Defense purchase products from FPI, and it could require FPI to compete with the private sector for sales of products that are components of products not produced by FPI, are part of a national security system, or the total cost of which is less than $2,500. Even with respect to other products, DoD is no longer required to purchase from FPI, rather the Secretary of Defense must ''conduct market research'' to determine whether the FPI product is ''comparable in price, quality, and time of delivery'' to products available from the private sector before making purchases. If the Secretary concludes that the FPI product is not comparable, the purchase may be made from any source.

Purchases by the Department of Defense account for almost 60% of FPI's sales. Moreover, 78 percent of the DoD orders are for small purchases of less than $2,500, and much of the remaining 22 percent is made up of products or components of products made by other manufacturers and products used in national security systems. Accordingly, if this provision is enacted into law, the continued existence of FPI will depend in large part on its ability to compete with the private sector for the limited Department of Defense market.

A recently completed report conducted by the Department of Defense and FPI concluded that no legislative changes were warranted by the investigation of procurement transactions between these two entities. Rather, while the study, entitled ''A Study of the Procurement, Procedures, Regulations and Statutes that Govern Procurement Transactions between the Department of Defense and Federal Prison Industries,''[1] made a number of recommendations for facilitating and enhancing the working relationship between the two agencies that could be accomplished within existing statutory authority, the study recommends the FPI and DoD create a pilot program at eight DoD locations to test the effectiveness of administrative waivers for purchases of less than $2,500 where expedited delivery is required. Additionally, FPI will continue to monitor and evaluate delivery performance.

Issues surrounding FPI, such as the mandatory source status affect all agencies, not just the Department of Defense. Therefore, this issue should be reviewed in the broader context.

If you should have any questions or if we may provide further information about FPI, please feel free to contact the Department. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

JANET RENO.

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OFFICE OF THE
DEPUTY ATTORNEY GENERAL,
*Washington, DC, May 11, 1999.*

Hon. JOHN WARNER,
*Chairman, Committee on Armed Services,*
*U.S. Senate, Washington DC.*

DEAR MR. CHAIRMAN: We anticipate that an amendment will be offered to the Defense Authorization bill that would eliminate mandatory source status for Federal Prison Industries (FPI). We believe that the amendment would have a devastating impact upon FPI, a program that is critical to the safe and orderly operations of federal prisons.

FPI is the Bureau of Prisons most important, efficient, and cost-effective tool for managing inmates. It keeps inmates productively occupied and reduces inmate idleness and the violence and disruptive behavior associated with it. Thus, it is essential to the security of the Federal Prison System, its staff, inmates, and the communities in which they are located. By eliminating FPI's mandatory source status, the amendment would dramatically reduce the number of inmates FPI would be able to employ. The inmate idleness this would create would seriously undermine the safety and security of America's federal prisons.

In addition to being a tool for managing the growing inmate population,[1] FPI programs provide inmates with training and experience that develop job skills and a strong work ethic. Bureau of Prisons' research has confirmed the value of FPI as a correctional program. Findings demonstrate that inmates who work in FPI, compared to similar inmates who do not have FPI experience, have better institutional adjustment. Moreover, after release, they are more likely to be employed and significantly less likely to commit another crime. A long-term post-release employment study by the Bureau of Prisons has found that inmates who were released as long as 8 to 12 years ago and who participated in industries work or vocational training programs were 24 percent less likely to be recommitted to federal prisons than a comparison group of inmates who had no such training. Clearly, the FPI program contributes to public safety by enhancing the eventual reintegration of offenders into the community after release.

Opponents of FPI have asserted that FPI is an unfair competitor and that it is damaging the private sector. This is not accurate. Throughout its history, FPI has followed a number of practices deliberately designed to reduce its impact on the private sector, such as diversifying its product line to avoid hurting any particular industry and remaining as labor intensive as possible. Further, far from taking jobs from the private sector, FPI actually creates jobs in the private sector by purchasing over $418 million annually in supplies from the private sector.

It is important to explain why FPI's status as a mandatory source is critical to FPI's viability. The mandatory source status was established as a means of creating a steady flow of work for the employment of inmates. FPI views the mandatory source status as a method of not only maintaining this work flow but also achieving customer contact which reduces competitive advertising costs.

FPI does not abuse its mandatory source status. If a customer feels that FPI cannot meet its delivery, price, or technical requirements, the customer may request a waiver of the mandatory source. These waivers are processed quickly (an average of 4 days) and, in 1998, FPI approved over 80 percent of the requests from federal agencies for waivers.

FPI does not have the capability to produce many sophisticated products, such as systems furniture, independently. It relies on the private sector to provide space planning, design, engineering, installation and customer service. By entering into partnerships with private companies through the use of federal acquisition procedures, FPI vertically integrates the manufacturing of a company's product using inmate labor. In order to attract a private sector partner, there must be some incentive. That incentive is the mandatory source. Without the mandatory source status, FPI would be unable to attract the private sector partners necessary for it to diversify its product offerings and to offer products which are contemporary and attractive to its federal customers.

Last week, the report of a congressionally mandated study conducted by the Department of Defense (DoD) and FPI concluded that no legislative changes were warranted by the investigation of procurement transactions between these two entities. The study, entitled ''A Study of the Procurement, Procedures, Regulations and Statutes that Govern Procurement Transactions between the Department of Defense and Federal Prison Industries,'' was mandated by Section 855 of the National Defense Authorization Act for Fiscal Year 1998 (P.L. 105–85), and was released to the Senate and House Armed Services Committee last week. The report noted that some steps could be taken to improve the procurement relationship between DoD and FPI, but such steps are most appropriately accomplished within the executive branch.

FPI is a law enforcement issue more than a government supply issue because it is essential to the management of federal prisons and because FPI is operated as a correctional program, not as a for-profit business. As a result, we continue to develop pilot programs that will make FPI a more efficient and cost competitive source. We believe that the amendment would benefit from consideration by the Judiciary Committee to consider the mandatory source issue in the context of the full FPI program. Simply considering the amendment as affecting a source of goods for the federal sector would completely overlook the law enforcement significance of FPI and threaten a program that is fundamental to public safety.

We are enclosing a copy of the study report conducted by DoD and FPI for your review. If you should have any questions or if we may provide further information about FPI, please feel free to contact the Department.

Sincerely,

ERIC H. HOLDER, JR.,
*Deputy Attorney General.*

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*U.S. Senate, Washington, DC.*

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[1] This study was mandated by Section 855 of the National Defense Authorization Act for Fiscal Year 1998 (P.L. 105–85), and was released to the Senate and House Armed Services Committee several weeks ago.

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FPI is a law enforcement issue more than a government supply issue because it is essential to the management of federal prisons and because FPI is operated as a correctional program, not as a for-profit business. As a result, we continue to develop pilot programs that will make FPI a more efficient and cost competitive source. We believe that the amendment would benefit from consideration by the Judiciary Committee to consider the mandatory source issue in the context of the full FPI program. Simply considering the amendment as affecting a source of goods for the federal sector would completely overlook the law enforcement significance of FPI and threaten a program that is fundamental to public safety.

We are enclosing a copy of the study report conducted by DoD and FPI for your review. If you should have any questions or if we may provide further information about FPI, please feel free to contact the Department.

Sincerely,

ERIC H. HOLDER, Jr.,
*Deputy Attorney General.*

STATEMENT OF ADMINISTRATION POSITION ON SECTION 806 OF THE DEFENSE AUTHORIZATION BILL (S. 1059)

FEDERAL PRISON INDUSTRIES MANDATORY SOURCE EXEMPTION

The Administration opposes Section 806 which would essentially eliminate the Federal Prison Industries (FPI) mandatory source with the Defense Department. Such action could harm the FPI program which is fundamental to the security in Federal prisons. In principle, the Administration believes that the Government should support competition for the provisions goods and services to Federal agencies. However, to ensure that Federal inmates are employed in sufficient numbers, the current mandatory source requirement should not be altered until an alternative program is designed and put in place. Finally, this provision would only address mandatory sourcing for the Defense Department, without regard to the rest of federal government.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Michigan controls the remaining time.

Mr. LEVIN. Mr. President, section 806 of the defense authorization bill which is before the Senate is a commonsense provision. It was adopted by the Armed Services Committee. Basically, it says the private sector ought to be allowed to bid on items that the Department of Defense is buying, if the Department of Defense declares that it is necessary that the private sector be allowed to bid.

That may sound so obvious that people may be scratching their heads saying, well, obviously the private sector ought to be allowed to bid if the Department of Defense believes the product which is offered by the private sector is what is needed by the Department of Defense. But that is not the way it is now. The way it is now is that Federal Prison Industries can make a unilateral decision that it is going to supply the Department of Defense with a product, and the private business people out there who want to just simply compete for a product can be prohibited from doing so. That, it seems to me, is the height of unfairness in a society which has a private sector, has private businesses, has labor that is working in those private businesses, and where a Government agency says that product, produced by that private company, is a product that we want because it is a better product than FPI can give us or it is a product that can be given to us more cheaply than the prisons can give it to us.

What an extraordinary way it is to run a Government, that we have agencies in this Government that want to buy a product, be it textiles or furniture or what have you, that are told they cannot compete that product with the private sector competing; they have to buy it from Federal Prison Industries even though it costs the agency more or it is of lower quality. What an extraordinary way to be inefficient, to waste taxpayers' money, and to force agencies that are supposed to be protecting taxpayers' money to spend it on lesser quality items or on more expensive items—just because Federal Prison Industries unilaterally has decided it is going to supply the Department of Defense. That is not fair. That is not fair and we have to eliminate it.

Section 806 simply says that the Department of Defense—not Federal Prison Industries—should determine whether or not a product manufactured by Federal Prison Industries meets the needs of the Department of Defense.

The approach that is taken by Section 806 is consistent with the basic tenet of how our whole procurement system works, which is the people who buy and use products should be the ones who decide whether the quality, price, and delivery of those products meet their needs. Yet amazingly enough, the FPI, Federal Prison Industries' current rules prohibit Federal agencies from even looking at private sector products to determine whether they might be superior to what Federal Prison Industries has.

The regulations of Federal Prison Industries say:

> A contracting activity should not solicit bids, proposals, quotations or otherwise test the market for the purpose of seeking alternative sources to the Federal Prison Industries.

[1] The federal inmate population is growing at an unprecedented rate and crowding at secure institutions is already at critical levels and expected to increase in the near term.

If that is not absolutely extraordinary, that Federal Prison Industries is telling the Department of Defense, when they go and buy textiles or shoes or whatever they are buying, that they may not even test the market, seeking alternative sources to Federal Prison Industries.

They may not solicit bids, proposals, quotations, or test the market for the purpose of seeking alternative sources to Federal Prison Industries.

What kind of an upside-down situation is this? What kind of a topsy-turvy situation is it that the Department of Defense cannot even solicit a quote from somebody to supply a product if Federal Prison Industries says they may not do so? Unilaterally, the seller is telling the buyer: You can't even go out and seek other quotes or seek competition.

Boy, that sure turns the purchasing process of the Department of Defense and our other agencies right on its head.

What the Department of Defense is required to do, instead of doing what ordinary buyers do, which is to seek the best product at the best price, is to accept Federal Prison Industries' determination. Federal Prison Industries is the sole arbiter of whether its products meet the requirements of the Department of Defense.

Section 8104 of the Federal Acquisition Streamlining Act requires the Department of Defense and other agencies to conduct market research before soliciting bids or proposals for products that may be available in the commercial marketplace. They are supposed to solicit bids, but they do not do that. They are not allowed to do that. Under the FPI rules, they have to buy it from Federal Prison Industries if the Industries on their own, unilaterally, decide they are going to force the Department of Defense to buy a product.

All that the provision does is to reverse the rule which prohibits the Department of Defense from conducting market research and permits the Department of Defense to look at what private sector companies have to offer, as it would do in the case of any other procurement.

If Federal Prison Industries offers a product that is comparable in price, quality, and time of delivery to products available from the private sector, the Department would still be required to purchase that product on a sole-source basis from Federal Prison Industries. But if the DOD determines that Federal Prison Industries' product was not competitive, then it would be permitted to conduct a competition and go to another source.

That seems to me to be the least that we can do to protect the taxpayers from the misuse of Federal funds on products that fail to meet the needs of the Department of Defense.

Federal Prison Industries has repeatedly claimed that it provides quality products at a price that is competitive with current market prices. The statute, indeed, is intended to do exactly that, provided Federal Prison Industries will provide the Federal agencies products that meet their requirements and prices that do not exceed current market prices. But the FPI is unwilling to permit agencies to compare their products at prices with those available in the private sector.

Under Federal Prison Industries' current interpretation of the law, it need not offer the best product at the best price. It is sufficient for it to offer an adequate product at an adequate price and insist on its right to make the sale. When Federal Prison Industries sets the price, it then seeks to charge what it calls a market price, which means that at least some vendors in the private sector charge a higher price, and the FPI's proposed regulation specifies that the determination of what constitutes the current market price, the methodology employed to determine the current market price and the conclusion that a product of Federal Prison Industries does not exceed that price is—you got it—the sole responsibility of Federal Prison Industries.

That is the situation. They are supposed to buy at market price, but they make a determination as to whether or not, in fact, what they are forcing an agency to buy is being set at a market price.

The General Accounting Office reported in August of 1998:

> The only limit the law imposes on Federal Prison Industries' price is that it may not exceed the upper end—

Upper end—

> of the current market price range.

Moreover, the manner in which Federal Prison Industries seeks to establish the current market price range appears calculated to result in a price far higher than the Department of Defense would pay under any other circumstances. According to the proposed regulation codifying FPI's pricing policies, ''a review of commercial catalog prices will be used to establish a 'range' for current market price.''

The contrast is very sharp because when the Department of Defense buys from commercial vendors, it seeks to negotiate, and generally obtains, a steep discount from catalog prices.

FPI appears to have difficulty even matching the undiscounted catalog prices. Last August, the General Accounting Office compared Federal Prison Industries' prices for 20 representative products to private vendors' catalog prices for the same or comparable products and found that for four of these products, FPI's price was higher than the price offered by any private vendor. That is 4 out of 20. In 4 out of 20 cases, GAO found that the price FPI charged was higher than the price offered by any private vendor. For five of the remaining products, the FPI price was at the ''high end of the range.'' Those are the words of the General Accounting Office. FPI's price was at the ''high end of the range'' of prices offered by private vendors—ranking sixth, seventh, seventh, eighth, and ninth of the 10 vendors reviewed. In other words, for almost half of the FPI products reviewed, the FPI approach appeared to be to charge the highest price possible rather than the lowest price possible to the Federal consumer.

We have complaint after complaint from frustrated private sector vendors asking us: Why can't we compete? Why are we in the private sector precluded from bidding on an item?

Here is one vendor's letter:

> Federal Prison Industries bid on this item, and simply because Federal Prison Industries did, it had to be given to Federal Prison Industries. FPI won the bid at $45 per unit. My company bid $22 per unit. The way I see it, the Government just overspent my tax dollars to the tune of $1,978. Do you seriously believe that this type of procurement is cost-effective? I lost business, my tax dollars were misused because of unfair procurement practices mandated by Federal regulations. This is a prime example, and I'm certain not the only one, of how the procurement system is being misused and small businesses in this country are being excluded from competition with the full support of Federal regulations and the seeming approval of Congress. It is far past time . . . to require [FPI] to be competitive for the benefit of all taxpayers.

A third frustrated vendor, who had been driven out of business by FPI, told a House committee:

> Is it justice that Federal Prison Industries would step in and take business away from a disabled Vietnam veteran who was twice wounded fighting for our country . . . therefore effectively destroying and bankrupting that . . . business which the Veterans' Administration suggested he enter?

There is a very fundamental unfairness which exists in this system. It is one that we need to correct. The Department of Defense took a survey recently of DOD customers for Federal Prison Industries' products. The results are eye-opening. The survey provided DOD customers five categories in which to rate Federal Prison Industries' products: excellent, good, average, fair, or poor.

According to the data reported jointly by the Department of Defense and the Federal Prison Industries in April, a majority of Department of Defense customers rated FPI as average, fair, or poor in price, delivery, and as an overall supplier.

On price: 54 percent of the Department of Defense's electronics customers, 70 percent of DOD clothing and textile customers, 46 percent of DOD dorm and quarters furniture customers, 53 percent of DOD office case goods customers, 57 percent of DOD systems furniture customers rated FPI prices as average, fair, or poor.

On delivery, the same kind of figures: 50 percent of DOD electronics customers rated FPI delivery as averaged, fair, or poor; 62 percent of DOD clothing and textile customers rated FPI delivery as average, fair, or poor. That did not make any difference. FPI said it was going to sell, and once FPI made

that determination, the Department had no alternative. It does not make any difference whether the delivery is lousy, whether the price is too high, whether the overall performance is poor. It makes no difference. Forget competition. FPI said: We are going to sell. Forget fairness to a business with workers in that business. FPI said: Tough. You have to buy from us.

So the bottom line is that fully 35 percent of the Department of Defense customers indicated they have had a problem with an FPI product delivered in the last 12 months. The reason they are having problems is because there is a lack of competition.

We think, given the fact that such a small amount of money is paid to prisoners for their labor, that Federal Prison Industries could supply these products much more cheaply than the private sector. But that is not the case. The case is that the private sector very often can supply these products to our agencies more cheaply than can the prison industries. But if the Federal Prison Industries decides in its unilateral, sole, exclusive judgment that it is going to supply the Department of Defense, that is it. That is it. This is an injustice to the people who have worked hard to put together a business. It is an injustice to the people who work for those businesses.

This is one of those weird cases where you have business and labor coming together before us on the same side of an issue. The American Federation of Labor, AFL–CIO, urges that this section remain in the bill. We have the alert from the Chamber of Commerce as well. Members of the Senate, business and labor—our good friend from Texas calls those special interests, business and labor. People who have worked hard to put together a business and people who work in those businesses are not being allowed to compete. Sorry. Federal Prison Industries says you are going to buy that product. That is what they tell the DOD. You are going to buy it. You may not like the price, you may not like the delivery, you may not like the quality, but we are not going to let anybody else compete for that sale.

So that is the fundamental unfairness that this language would correct. It does not tell the Department of Defense they cannot buy it from Federal Prison Industries. It simply says that if the Department of Defense determines on price or quality that the private sector can do as well, then it—not the FPI; the Department of Defense—may compete and determine whether or not they can save the taxpayers any money.

I am going to close and then turn this over to my friend and my colleague from Michigan for his comments. But I just want to read one additional quote from the Master Chief Petty Officer of the Navy before the National Security Committee of the House a couple years ago. He said that the FPI monopoly on Government furniture contracts has undermined the Navy's ability to improve living conditions for its sailors.

Master Chief Petty Officer John Hagan said:

> Speaking frankly, the [FPI] product is inferior, costs more, and takes longer to procure. [The Federal Prison Industries] has, in my opinion, exploited their special status instead of making changes which would make them more efficient and competitive. The Navy and other Services need your support to change the law and have FPI compete with [private sector] furniture manufacturers. Without this change, we will not be serving Sailors or taxpayers in the most effective and efficient way.

Mr. President, I yield the floor. I am happy to yield time to my distinguished colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan has 24 minutes 48 seconds.

Mr. LEVIN. How much time would the Senator wish?

Mr. ABRAHAM. No more than 10 minutes.

Mr. LEVIN. I am happy to yield 10 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 10 minutes.

Mr. ABRAHAM. Thank you, Mr. President.

I suspect I will not use all of the time that I have been allotted, but I do want to speak here today in opposition to the amendment before us offered by the Senator from Texas.

Especially in light of the grave concerns that all of us share about the readiness of our Armed Forces and the significant steps that Congress took in the supplemental appropriations bill to address this problem, as well as in the budget which we passed earlier this year, I strongly believe that section 806 of the defense reauthorization bill should be retained.

This is not because I think that having Federal prisoners working is not important. To the contrary, I think it is very important. I firmly believe that the development through work, self-discipline and other virtues that enable people to lead productive lives is probably the single greatest hope for rehabilitation in a prison setting. Indeed, it is disappointing that, according to the May 20 Wall Street Journal, only 17 percent of Federal prisoners work under the current Federal Prison Industries program.

But providing for national defense is the Federal Government's paramount responsibility. Given the very serious problems we are facing with respect to our military readiness, we need to take every possible step to rectify these problems as quickly and as effectively as possible.

There is no question in my mind that the requirement that the Department of Defense contract with FPI for certain products, and giving FPI a veto over the Defense Department's going elsewhere, is an obstacle to our efforts to fix these problems. The routine, significant failure by FPI to provide goods that the Defense Department has contracted for on a timely basis—almost half of the time in 1995, and over a third of the time in 1996—is simply unacceptable. To have the Defense Department depend on FPI for over 300 different products under these circumstances is also simply unacceptable.

Finally, in this era of tight budgets, to be spending precious defense resources on FPI goods that we could be obtaining at lower prices from the private sector is also unacceptable.

We should obviously address these problems by allowing the Department of Defense to go elsewhere and to do so without getting advance permission from FPI. I am glad the Armed Services Committee, at the prompting of my colleague, the senior Senator from Michigan, Senator LEVIN, has so provided in the reauthorization bill that recently passed out of committee.

I would add that the provision adopted by the Armed Services Committee still requires the Department of Defense to give FPI the opportunity to compete for contracts for almost all products and only permits the Department of Defense to go elsewhere if it determines that the product being offered by FPI is not comparable in price, quality, and time of delivery to products available from the private sector.

The only exceptions are for national security systems, products integral to or embedded in a product not available from FPI, or products that cost less than $2,500. In those instances, under section 806, the Department of Defense does not have to seek a bid from FPI, but in all other instances DOD would continue to be required to do so.

It will be argued that we cannot follow this course without jeopardizing another important Federal policy, that of putting Federal inmates to work. But if that were really our only option, we would be facing a much harder choice, since we would arguably be having to choose between pursuing a course critical to securing tranquility abroad and a course important to securing domestic tranquility. I do not believe we are really faced with that dilemma.

Rather, I am convinced that the limits this legislation imposes on the FPI monopoly can plainly be offset by expanding other opportunities for prisoners to work. This could be done, for example, by having the FPI focus on products that we do not produce domestically and that we are now importing from abroad. Or it could be done by putting prisoners to work on functions that are currently being assigned to government entities such as recycling.

It will be argued that we should come up with the new opportunities first and then consider proposals along the lines of section 806 if the other options prove workable. I disagree. I believe we should put the needs of our national defense ahead of the needs of prisoners. I have no real question that if we do so,

we will discover that in fact we are able to devise policies that adequately address both sets of needs.

I will just close by restating what I said last year in a similar debate. None of us who are advocating a change in policy here are advocating the elimination of work requirements for Federal prisoners. But when Federal prisoners in the work they do are taking jobs away from law-abiding Americans who have never committed a crime, then I think we have to reexamine our policy.

To me, it makes sense to devise a prison work policy that does not injure law-abiding citizens. I believe that requiring the FPI to be competitive in its bidding process and not granting it a monopoly are the right way to achieve this end. That way the taxpayers are protected from paying excessively for furniture or other items that are produced by the Prison Industries, and those individuals working in the private sector in competition with the Prison Industries have a legitimate opportunity to secure government contracts. To me, that is the American way, the competitive process.

To me, if the Federal Prison Industries can't be competitive in that setting, where it has so much of a subsidy advantage to begin with, then it seems to me that the system isn't working the way it should be.

I hope that we will vote to retain in place section 806 and that, at least in the specific context of the Department of Defense, we will follow the lead that has already been laid out by Senator LEVIN in the authorization bill as it comes to the floor.

To me, that is a sensible course for us to pursue. It strikes the right balance. It by no means eliminates the work requirement for prisoners, but it does provide people who are law-abiding citizens, companies that are law-abiding companies, a chance to do business with the government in a very vital and sensitive area, specifically that of national security. To me, that is a sensible middle ground. Therefore, I hope that our colleagues will vote in opposition to this amendment.

I yield the floor.

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

Mr. WARNER. This is a matter which the Armed Services Committee considered with some care and considerable debate. It is not as if we just accepted it. There was discussion, and our former chairman spoke very strongly on behalf of the other side of the issue.

I am just astonished that we cannot seem to convince the prison group that competition would be good. It would raise the quality. That is what concerns so many of us on the committee. It would provide incentives for the Federal Prison Industries to deliver quality goods in a timely fashion and at a reasonable price. That is what this whole country is predicated on.

This is interesting. The Department of the Air Force gets 2 million plus in launchers, guided-missile launchers, fiber optic cable assemblies. People think they are doing little, simple things, crafts and so forth, but there is a lot of high-tech equipment at the Department of Defense.

Here is the Army, another guided-missile remote control; the Army, launchers, rocket and pyrotech; the Army, fiber rope, cordage; the Army, radio and TV communications equipment; the Army, antennas, wave guides and related; the Army, fiber optic cable assemblies.

I mean, these are hardly simple matters. These are very complicated systems. We simply have to have quality for the Department of Defense. This is what concerns me.

I could go on into some of the Navy engine electrical systems, all kinds of high-tech stuff listed in here. You see the office furniture, the office supplies. Here is one for some armor. In other words, we are talking about serious business for the Department of Defense. It is very serious business. We cannot be giving the strong disadvantage in the competitive world to the prisons and have them supply inferior equipment. I strongly urge Senators to vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I have a unanimous consent request. I had the good fortune of having Senator BYRD, Senator HATCH and Senator THURMOND speak on behalf of my amendment, and those are riches you don't turn down. But there have been many points made that I have not had an opportunity to respond to. If the Senator is not going to use the rest of his time, I would like about 4 minutes to respond. I ask unanimous consent that I might have it.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, I am sorry. I was discussing something with the chairman. I know that he is conscience of the time. I am wondering whether he might repeat the unanimous consent request so that we could both hear it.

Mr. GRAMM. I am sorry. I didn't hear.

Mr. LEVIN. I apologize. I was discussing something with the chairman. We didn't hear the unanimous consent request relative to time, at least I didn't.

Mr. GRAMM. I do not want to throw off the vote, but I made an opening statement. I had several other of my colleagues speak on behalf of my amendment more articulately than I was able to, and I am grateful, but I would like to have 4 minutes to sort of answer some of the points that have been made. It just turned out, because people that were for the amendment came to the floor, that they all spoke before any of those that were opposed to it had the opportunity to speak. So if it doesn't mess up our timetable, I would like to have 4 minutes to respond to some of the issues that have been raised.

Mr. WARNER. We certainly can accede to that. It is a perfectly reasonable request. I think my colleague and I will be just about ready to yield back the balance of our time. Then we will turn to the amendment by the distinguished Senator from Pennsylvania. The first order of business will be for him to amend the amendment that is at the desk. Then we will complete the debate on that, and we should meet the target of about 7:00 to have two stacked votes.

Mr. LEVIN. Reserving the right to object, how much time is left to the opponents of Senator GRAMM's amendment?

The PRESIDING OFFICER. The opponents have 12 minutes 30 seconds. The proponents' time has been exhausted.

Mr. LEVIN. How many seconds?

The PRESIDING OFFICER. Thirty seconds, 12 minutes 30 seconds.

The Senator from Texas is recognized for 4 minutes.

Mr. GRAMM. Mr. President, first of all, let me make it clear, the Defense Department does not support this amendment. The Defense Department issued a joint report with the Department of Prisons, the Federal Bureau of Prisons, outlining ways of improving the system that required no legislation. The administration, on behalf of the Defense Department and the Department of Justice, opposes the Levin provision and supports the amendment that we have offered to strike it.

The Attorney General supports our motion to strike the Levin amendment, as do many groups such as the National Center for Victims of Crime.

It is obviously a very strong argument with me to talk about, ''why not competition?'' The problem is, you have to understand the history that competition was the rule prior to the Depression. Prior to the Depression, virtually everyone in prison in America worked on average 12 hours a day, 6 days a week. But during the Depression, we passed three pieces of legislation, all of them driven by special interests, triggered by the Depression, which made it illegal for prisoners to work to sell goods in the market. There had been previous provisions so that they didn't glut the market in one area, but the problem is, now it is criminal for prisoners to work to produce anything to sell in America.

When my colleagues say why not have competition, my answer is, yes, let's have it. But you cannot have it without letting prison labor compete, and now that is prohibited all over America. The only thing left for prisoners today is to produce things that the Government uses. That is the only thing that we have not prohibited by law. As a result, we have 1.1 million prisoners and about 900,000 of them have no work to do.

If the amendment of Senator LEVIN passed, 60 percent of the prison labor at

the Federal level in America would be eliminated because there would be no work for these people to do. So this is an argument about competition that sounds great until you understand that Government, driven by the same groups that support this amendment, eliminated the ability to use prison labor to produce and sell anything.

When you are talking about the taxpayer, it sounds great. But what about the taxpayer that is spending $22,000 a year to keep somebody in prison and we are not allowing them to work? If taxpayers are working, why are they better than taxpayers? Why should they not have to work? Why can't we find things in the private sector for them to produce? If we can do that, I would support this amendment. I know that many of the people who support it would never do that.

The Defense Department is not for this amendment. They are not for the Levin amendment. They are not objecting to the provisions. In fact, they just put out a joint report saying the Defense Department supports the program with these reforms, which they can undertake without legislation.

So, basically, I believe that the system is not perfect, but it is basically a good system where prices are negotiated and the Defense Department gets 90 percent of the waivers that they seek. If they don't think the quality is right or the price is right or the delivery is right, they can ask for a waiver. In 90 percent of the cases, they get the waiver.

This is basically an amendment, I am sad to say, that would idle 60 percent of Federal prisoners. It would allow private companies to come in and take the business. But the point is, when we have full employment in America and we have a million prisoners idle, how does it make sense to prohibit them from working? I thank my colleague for giving me this time.

The PRESIDING OFFICER. Who seeks time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the language in the bill that the Senator from Texas seeks to strike makes it possible for the private sector to compete. That sounds so fundamental in our country that maybe it comes as a shock that I would even suggest that you need to have language in a bill to permit the private sector to do this. But we do.

We just want to make it legal for the private sector to offer a product to its Government, our Government, and not to have Federal Prison Industries say: Sorry, you cannot bid. It is almost bizarre to me that we would have to pass any kind of legislation for that to come about, but we do because under the current law and regulations, Federal Prison Industries has the sole, exclusive determining voice. If it says that its product is within a range in the market—maybe at the high end of that range, and they may be wrong—but once FPI says that, that is it; private business cannot compete.

In a hearing before the Senate Judiciary Committee earlier this week, the Deputy Under Secretary of Defense for Acquisition, David Oliver, described the results of the survey we referred to.

He said the following:

> I think if you looked at the study, you would see that people were generally not satisfied with Federal Prison Industries as a provider. Essentially, with regard to efficiency, timeliness, and best value, they found that Federal Prison Industries was worse than the other people they bought from.

Now, we know that the administration has decided to oppose this change, to prohibit the private sector from bidding on things that Federal Prison Industries says it wants to supply exclusively. So we understand what the Department of Defense's official position is. But I also understand what the testimony of their acquisition people is. The study shows that people were generally not satisfied with Federal Prison Industries as a provider with regard to efficiency, timeliness, and best value. They found that Federal Prison Industries was worse than the other people they bought from.

I don't believe for one minute that Federal Prison Industries is going to be able to sell anything to the Department of Defense just because they are going to have to compete. They have such a huge advantage in terms of cost and price of labor that they are going to be able to sell a huge amount. But they are going to have to compete.

If a private company can outbid them or provide the same product at a cheaper price, then the private company is going to get it. But for the Senator from Texas to say, suddenly, that wipes out all of the sales to the Department of Defense, that is a terrible indictment about what Federal Prison Industries is now doing. That would mean they can't compete on anything they are selling to the Department of Defense. That is a huge exaggeration. It is not the case.

But it is the case that now they don't have to compete when they decide that the Department of Defense must buy that missile part. If Federal Prison Industries says the Department of Defense must buy that missile part Senator WARNER referred to, that has to happen—even though a private contractor can sell a better quality at a better price. Once FPI, in its unilateral judgment, says we can supply it within a price range of what the private sector can do, that is it, no competition. DOD can't bid it out—the opposite of what we should be doing in this free enterprise society of ours.

Mr. President, I hope the language in the Senate bill will be retained and that the amendment of the Senator from Texas to strike that language will be defeated.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I join my colleague. Again, it was carefully considered by the committee. It has very fundamental objectives: competition, fairness, and to get quality.

Mr. President, I am anxious to complete this amendment. I believe the Senator from Texas has finished his presentation?

Mr. GRAMM. Yes, I have.

Mr. LEVIN. I yield back our time.

Mr. WARNER. I yield back our time.

The PRESIDING OFFICER. All time is yielded back.

AMENDMENT NO. 383

The PRESIDING OFFICER. The Senate returns to the amendment of the Senator from Pennsylvania. The Senator from Pennsylvania controls 5 minutes 30 seconds, and the Senator from Virginia controls 3 minutes 20 seconds.

Mr. WARNER. Mr. President, I note that will bring us very close, if not precisely, to the hour of 7 o'clock, at which time the managers represented to the leadership and other Senators that two back-to-back votes would commence.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment provides, simply stated, that there shall be no funds expended for ground forces in Yugoslavia, in Kosovo, unless specifically authorized by the Congress.

This amendment is designed to uphold the Constitution of the United States, which grants the exclusive authority to declare war to the Congress of the United States. Regrettably, there has been a significant erosion of this constitutional authority, as Presidents have taken over this power without having the Congress stand up. The one place where the Congress clearly has authority to determine military action is by controlling the purse strings. This amendment goes to the heart of that issue by prohibiting that spending.

It has been a lively and spirited debate. Now we will have an opportunity to say whether the Senate will seek to uphold the Constitution and whether the Senate will seek to uphold its own institutional authority—the institutional authority of the Congress to determine whether the United States should be involved in war.

A few of the problems which have been raised have been clarified. The amendment has been modified, and I ask that it formally be approved with the concurrence of the managers.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, there is no objection to the Senator sending to the desk the amendment as modified.

Mr. SPECTER. I thank the general counsel of the committee for helping me on the modification that we have worked out so that the restriction will not apply to intelligence operations, to

rescue operations, or to military emergencies.

Mr. LEVIN. Mr. President, there is no objection on this side.

Mr. THURMOND. Will the Senator from Pennsylvania add me as a cosponsor?

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator THURMOND be added as a cosponsor.

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

Mr. SPECTER. I thank the Senator from South Carolina.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 383), as modified, is as follows:

At the appropriate place in title X, insert the following:

**SEC. . LIMITATION ON DEPLOYMENT OF GROUND TROOPS IN THE FEDERAL REPUBLIC OF YUGOSLAVIA.**

(a) None of the funds authorized or otherwise available to the Department of Defense may be obligated or expended for the deployment of ground troops of the United States Armed Forces in the Federal Republic of Yugoslavia, except for peacekeeping personnel, unless authorized by a declaration of war or a joint resolution authorizing the use of military force.

(b) The prohibition in subsection (a) shall not apply to intelligence operations, or to missions to rescue United States military personnel or citizens of the United States, or otherwise meet military emergencies, in the Federal Republic of Yugoslavia.

Mr. SPECTER. Mr. President, the main argument against this amendment has been that the President has said that he would come to Congress in advance of deploying ground troops. He made that commitment in a meeting at the White House on April 28. Then he sent a letter, which is substantially equivocal, saying that he will fully consult with the Congress, and that he would ask for congressional support before introducing U.S. ground forces into Kosovo, into a nonpermissive environment.

That doesn't go far enough.

The distinguished chairman has reported that the Secretary of Defense, the Secretary of State, and the Chairman of the Joint Chiefs of Staff have confirmed that there would be congressional authorization.

That doesn't go far enough.

We are a government of laws—not a government of men. And minds may be changed. We ought to be sure we have this nailed down.

This amendment is entirely consistent with what the Senate has heretofore done—58 to 41 to authorize air strikes but no ground forces. Seventy-seven Senators voted not to grant the President authority to use whatever force he chose. To remain consistent, those 77 Senators would have to say, we are not going to allow you to use ground forces unless you come to us for approval, just as we said we will not allow you to use whatever force you choose, in effect, without coming to us for prior approval. Consistency may be the hobgoblin of small minds, but consistency and the institutional prerogatives of the Congress and the Senate call for an affirmative vote, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, how much time remains for me?

The PRESIDING OFFICER. The Senator from Pennsylvania has 50 seconds.

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

Mr. WARNER. Mr. President, the Senator from Michigan wishes to address the amendment. We are together on it in the strongest possible opposition.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, very briefly, this amendment would send the worst possible signal to Milosevic, which is don't worry, weather the storm—that even though there is going to be gridlock in the Congress, you will be the beneficiary of any gridlock and any effort that authorizes in advance the use of ground forces. This is not the message which we should be sending to Milosevic—that he would be the beneficiary of the congressional gridlock, which would almost certainly occur before any such resolutions could be passed.

I hope we will not send that signal to Milosevic. I think our troops deserve better. Our commanders deserve better.

The administration believes so strongly in this that a veto would almost certainly occur, if this provision were in, and understandably so, because the hands of our commanders in the field would be tied by this resolution. They would have to come to Congress to see whether or not the terms were met. That is not the way to fight either a war or to engage in combat.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, in the course of the afternoon, as I said to my good friend and colleague, some 40 Senators have received the benefit of a full debate with the Secretaries of State and Defense, and the President's National Security Adviser, Mr. Berger, and with the Chairman of the Joint Chiefs. Three times—twice by this Senator, one by another Senator—this very issue was posed to the national security team. They said without any equivocation whatsoever that the President would formally come to the Congress and seek legislation, not unlike what is described in this amendment prior to any change. In other words, the President of the United States is presently unchanged in the course of action that he is recommending to other leaders of the NATO nations, and the matter remains and will not be changed with reference to ground troops unless the President comes up and seeks from the Congress of the United States formal legislative action.

I say to my good friend that I think we have achieved, in essence, what he seeks. As I pointed out in my first comments this morning and, indeed, in the title to the first amendment prior to the amending by the Senator from Pennsylvania, he referred to the War Powers Act, this is precisely what this debate is—a debate over the War Powers Act. That debate has not in my 21 years in this body ever been resolved, and I doubt it is going to be resolved on this vote.

I yield the floor and yield back the time.

Mr. SPECTER. Mr. President, I reject the argument of the Senator from Virginia who wants to rely on assurances. This is a government of laws, and not men, and you get it done by this amendment.

I reject the argument of the Senator from Michigan who says it is a bad signal to Milosevic. Whatever signal goes to Milosevic from this amendment has already been sent by the assurances of the President.

It is a bad signal to America to tell the Country that the Congress is delegating its authority to involve this Nation in war to the President. We don't have the authority to delegate our constitutional authority. Our job is to analyze the facts and let the President come to us to state a case for the use of ground forces. I am prepared to listen. But, on this record, we ought to maintain the institutional authority of Congress and uphold the Constitution.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. Mr. President, does any time remain on our side?

The PRESIDING OFFICER. Yes, 10 seconds.

Mr. LEVIN. Could I use the 10 seconds?

Mr. WARNER. The Senator from Michigan can use 5, and I will use 5. Take 5.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the Department of Defense strongly opposes the amendment because it would unacceptably put at risk the lives of U.S. military personnel.

Mr. WARNER. Mr. President, a vote against this amendment is consistent with the provisions of the Constitution of the United States.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 383, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—52

| | | |
|---|---|---|
| Akaka | Harkin | McConnell |
| Baucus | Hatch | Mikulski |
| Bayh | Inouye | Moynihan |
| Biden | Kennedy | Murray |
| Bingaman | Kerrey | Reed |
| Boxer | Kerry | Reid |
| Breaux | Kohl | Robb |
| Bryan | Kyl | Rockefeller |
| Burns | Landrieu | Roth |
| Chafee | Lautenberg | Sarbanes |
| Cochran | Leahy | Schumer |
| Daschle | Levin | Sessions |
| DeWine | Lieberman | Shelby |
| Dodd | Lincoln | Smith (OR) |
| Edwards | Lott | Warner |
| Feinstein | Lugar | Wyden |
| Graham | Mack | |
| Hagel | McCain | |

NAYS—48

| | | |
|---|---|---|
| Abraham | Dorgan | Jeffords |
| Allard | Durbin | Johnson |
| Ashcroft | Enzi | Murkowski |
| Bennett | Feingold | Nickles |
| Bond | Fitzgerald | Roberts |
| Brownback | Frist | Santorum |
| Bunning | Gorton | Smith (NH) |
| Byrd | Gramm | Snowe |
| Campbell | Grams | Specter |
| Cleland | Grassley | Stevens |
| Collins | Gregg | Thomas |
| Conrad | Helms | Thompson |
| Coverdell | Hollings | Thurmond |
| Craig | Hutchinson | Torricelli |
| Crapo | Hutchison | Voinovich |
| Domenici | Inhofe | Wellstone |

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 392

Mr. WARNER. Mr. President, we yield back time on both sides.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

Mr. GRAMM. 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 amendment No. 392. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—49

| | | |
|---|---|---|
| Ashcroft | Feinstein | McConnell |
| Bennett | Fitzgerald | Murkowski |
| Biden | Gorton | Nickles |
| Bond | Graham | Roberts |
| Brownback | Grams | Rockefeller |
| Burns | Gregg | Roth |
| Byrd | Harkin | Santorum |
| Campbell | Hatch | Sessions |
| Chafee | Hollings | Shelby |
| Cochran | Hutchison | Snowe |
| Coverdell | Jeffords | Specter |
| Craig | Kerrey | Stevens |
| Crapo | Kohl | Thompson |
| DeWine | Kyl | Thurmond |
| Domenici | Lott | Voinovich |
| Dorgan | Mack | |
| Durbin | McCain | |

NAYS—51

| | | |
|---|---|---|
| Abraham | Bayh | Bryan |
| Akaka | Bingaman | Bunning |
| Allard | Boxer | Cleland |
| Baucus | Breaux | Collins |
| Conrad | Inouye | Murray |
| Daschle | Johnson | Reed |
| Dodd | Kennedy | Reid |
| Edwards | Kerry | Robb |
| Enzi | Landrieu | Sarbanes |
| Feingold | Lautenberg | Schumer |
| Frist | Leahy | Smith (NH) |
| Gramm | Levin | Smith (OR) |
| Grassley | Lieberman | Thomas |
| Hagel | Lincoln | Torricelli |
| Helms | Lugar | Warner |
| Hutchinson | Mikulski | Wellstone |
| Inhofe | Moynihan | Wyden |

The amendment (No. 392) was rejected.

Mr. GRAMM. Mr. President, I have a motion to reconsider. I enter a motion to reconsider the vote, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative assistant proceeded to call the roll.

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

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

The Senator from Virginia.

Mr. WARNER. Mr. President, to advise the Senate with regard to the important business remaining to be performed tonight, I ask unanimous consent that the Senate now proceed to an amendment to be offered by Senators MCCAIN and LEVIN re: BRAC and that there be 3½ hours of debate equally divided between the proponents and opponents.

I further ask consent that all debate time be consumed during Tuesday, May 25, except for 2 hours, to be equally divided, and to resume at 11:45 a.m. on Wednesday.

I further ask consent that the vote occur on or in relation to the BRAC amendment on Wednesday at 1:45 p.m. and no amendments be in order to the amendment prior to the 1:45 p.m. vote.

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

Mr. WARNER. Now, Mr. President, in light of this agreement, there will be no reinstitution of a vote tonight. It is not the leader's desire; I wish to make that clear.

Mr. GRAMM. My intention would be to try to have the reconsideration tomorrow.

Mr. WARNER. I thank the Senator.

Mr. LEVIN. Mr. President, I wonder whether or not we might be able to schedule an amendment earlier in the morning for Senator KERREY.

Mr. WARNER. We are working on that.

Mr. LEVIN. At 10:30; is that the effort?

Mr. WARNER. That is correct. Let me just finish this and then I think it will be clear.

Now, Mr. President, if I may continue, in light of this agreement, there will be no further votes this evening. Senators interested in the BRAC debate should remain this evening. The Senate will resume the DOD bill at 9:30 a.m. on Wednesday, and two amendments are expected to be offered prior to the 11:45 a.m. resumption of the BRAC debate. Therefore, at least one vote, if not more votes, will occur beginning at 1:45 p.m. on Wednesday.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I wonder if I could inquire of the chairman as to the two amendments he is referring to.

Mr. WARNER. One under consideration is Senator BROWNBACK's, and it relates to India and Pakistan and the current sanctions.

Mr. LEVIN. What was the other amendment?

Mr. WARNER. Senator ROBERT KERREY on strategic nuclear delivery systems.

Mr. LEVIN. And it is the hope of the chairman that both of those be debated in the morning?

Mr. WARNER. I would hope so, together with the remainder of BRAC.

Mr. LEVIN. I hope that during this evening we will be able to try to schedule timing for those amendments, if possible.

Mr. WARNER. I would be happy to——

Mr. LEVIN. I do not know the status, particularly, of the first one, but I would like to work on that this evening.

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

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 393

Mr. MCCAIN. Mr. President, on behalf of myself and Senator LEVIN, Senator BRYAN, Senator LEAHY, Senator KOHL, Senator LIEBERMAN, Senator ROBB, Senator KYL, Senator HAGEL, and Senator CHAFEE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. LEVIN, Mr. BRYAN, Mr. LEAHY, Mr. KOHL, Mr. LIEBERMAN, Mr. ROBB, Mr. KYL, Mr. HAGEL, and Mr. CHAFEE, proposes an amendment numbered 393.

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:

On page 450, below line 25, add the following:

**SEC. 2822. AUTHORITY TO CARRY OUT BASE CLOSURE ROUND COMMENCING IN 2001.**

(a) COMMISSION MATTERS.—

(1) APPOINTMENT.—Subsection (c)(1) of section 2902 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (b)—

(i) by striking ''and'' at the end of clause (ii);

(ii) by striking the period at the end of clause (iii) and inserting ''; and''; and

(iii) by adding at the end the following new clause (iv):

''(iv) by no later than May 1, 2001, in the case of members of the Commission whose

terms will expire on September 30, 2002.''; and

(B) in subparagraph (C), by striking ''or for 1995 in clause (iii) of such subparagraph'' and inserting '', for 1995 in clause (iii) of that subparagraph, or for 2001 in clause (iv) of that subparagraph''.

(2) MEETINGS.—Subsection (e) of that section is amended by striking ''and 1995'' and inserting ''1995, and 2001, and in 2002 during the period ending on September 30 of that year''.

(3) FUNDING.—Subsection (k) of that section is amended by adding at the end the following new paragraph (4):

''(4) If no funds are appropriated to the Commission by the end of the second session of the 106th Congress for the activities of the Commission that commence in 2001, the Secretary may transfer to the Commission for purposes of its activities under this part that commence in that year such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.''.

(5) TERMINATION.—Subsection (1) of that section is amended by striking ''December 31, 1995'' and inserting ''September 30, 2002''.

(b) PROCEDURES.—

(1) FORCE-STRUCTURE PLAN.—Subsection (a)(1) of section 2903 of that Act is amended by adding at the end the following: ''The Secretary shall also submit to Congress a force-structure plan for fiscal year 2002 that meets the requirements of the preceding sentence not later than March 30, 2001.''.

(2) SELECTION CRITERIA.—Subsection (b) of such section 2903 is amended—

(A) in paragraph (1), by inserting ''and by no later than March 1, 2001, for purposes of activities of the Commission under this part that commence in 2001,'' after ''December 31, 1990,''; and

(B) in paragraph (2)(A)—

(i) in the first sentence, by inserting ''and by no later than April 15, 2001, for purposes of activities of the Commission under this part that commence in 2001,'' after ''February 15, 1991,''; and

(ii) in the second sentence, by inserting '', or enacted on or before May 15, 2001, in the case of criteria published and transmitted under the preceding sentence in 2001'' after ''March 15, 1991''.

(3) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c) of such section 2903 is amended—

(A) in paragraph (1), by striking ''and March 1, 1995,'' and inserting ''March 1, 1995, and September 1, 2001,'';

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

''(4)(A) In making recommendations to the Commission under this subsection in 2001, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

''(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan and final criteria otherwise applicable to such recommendations under this section.

''(C) The recommendations made by the Secretary under this subsection in 2001 shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to an installation covered by such recommendations. The statement shall set forth the reasons for the result.''; and

(D) in paragraph (7), as so redesignated—

(i) in the first sentence, by striking ''paragraph (5)(B)'' and inserting ''paragraph (6)(B)''; and

(ii) in the second sentence, by striking ''24 hours'' and inserting ''48 hours''.

(4) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of such section 2903 is amended—

(A) in paragraph (2)(A), by inserting ''or by no later than February 1, 2002, in the case of recommendations in 2001,'' after ''pursuant to subsection (e),'';

(B) in paragraph (4), by inserting ''or after February 1, 2002, in the case of recommendations in 2001,'' after ''under this subsection.''; and

(C) in paragraph (5)(B), by inserting ''or by no later than October 15 in the case of such recommendations in 2001,'' after ''such recommendations,''.

(5) REVIEW BY PRESIDENT.—Subsection (e) of such section 2903 is amended—

(A) in paragraph (1), by inserting ''or by no later than February 15, 2002, in the case of recommendations in 2001,'' after ''under subsection (d),'';

(B) in the second sentence of paragraph (3), by inserting ''or by no later than March 15, 2002, in the case of 2001,'' after ''the year concerned,''; and

(C) in paragraph (5), by inserting ''or by April 1, 2002, in the case of recommendations in 2001,'' after ''under this part,'';

(c) CLOSURE AND REALIGNMENT OF INSTALLATIONS.—Section 2904(a) of that Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in a report in 2002 only if privatization in place is a method of closure or realignment of the installation specified in the recommendation of the Commission in the report and is determined to be the most cost effective method of implementation of the recommendation;''.

(d) RELATIONSHIP TO OTHER BASE CLOSURE AUTHORITY.—Section 2909(a) of that Act is amended by striking ''December 31, 1995,'' and inserting ''September 30, 2002,''.

(e) TECHNICAL AND CLARIFYING AMENDMENTS.—

(1) COMMENCEMENT OF PERIOD FOR NOTICE OF INTEREST IN PROPERTY FOR HOMELESS.—Section 2905(b)(7)(D)(ii)(I) of that Act is amended by striking ''that date'' and inserting ''the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV)''.

(2) OTHER CLARIFYING AMENDMENTS.—

(A) That Act is further amended by inserting ''or realignment'' after ''closure'' each place it appears in the following provisions:

(i) Section 2905(b)(3).

(ii) Section 2905(b)(4)(B)(ii).

(iii) Section 2905(b)(5).

(iv) Section 2905(b)(7)(B)(iv).

(v) Section 2905(b)(7)(N).

(vi) Section 2910(10)(B)

(B) That Act is further amended by inserting ''or realigned'' after ''closed'' each place it appears in the following provisions:

(i) Section 2905(b)(3)(C)(ii).

(ii) Section 2905(b)(3)(D).

(iii) Section 2905(b)(3)(E).

(iv) Section 2905(b)(4)(A).

(v) Section 2905(b)(5)(A).

(vi) Section 3910(9).

(vii) Section 2910(10).

(C) Section 2905(e)(1)(B) of that Act is amended by inserting '', or realigned or to be realigned,'' after ''closed or to be closed'.

Mr. MCCAIN. Mr. President, this amendment authorizes a single round of U.S. military installation realignment and base closures to occur in the year 2001.

It is an argument and a debate that we have had several times in the past few years, but obviously the argument deserves to be ventilated again. I am reminded, in considering this amendment, of a comment made by my old dear and beloved friend, Morris Udall, of my home State of Arizona, who once said after a long discussion of an issue that had been fairly well ventilated:

> Everything that could possibly be said on this issue has been said, only not everyone has said it.

I think that, again, will be the case with this base closing amendment, because we have been around this track on several occasions. But I do have to credit the imagination and inventiveness of the opponents of the base closing round because they continue to invent new reasons to oppose a round of base closings. They are charming ideas. One of them you will probably hear is that base closings don't save money. That is a very interesting and entertaining argument. I wish we had held to that argument after World War II was over, because we would still have some 150 bases in my State of Arizona, which I am sure would be a significant benefit to our economy.

Another aspect of this debate you will hear is that the issue of base closings has been politicized and, therefore, we can't have one. I think my friend, the distinguished chairman, has come up with a new and entertaining argument that every time we go through a base closing, every town, city, and State goes through a very difficult period of time. I agree with him. I certainly agree with him as he will pose that argument. But that doesn't in the slightest change the requirement that we need to close some bases.

I have to tell my friend, the chairman, it doesn't ring true to stand and lament the state of the military, our declining readiness, our lack of modernization of the force, all of the evils, the recruitment problems, and the failure to fund much-needed programs, and then not support what is clearly most needed, according to the Chairman of the Joint Chiefs of Staff and according to the Secretary of Defense—and according, really, to every objective observer of our military establishment.

Why is it that it took us a month to get Apache helicopters from Germany to Albania? Why is it that we are now hearing if we decided tomorrow to prepare for ground troops—an idea which was soundly rejected by this body—but if finally the recognition came about that we are really not winning this conflict, that Mr. Milosevic is achieving all of his objectives, and we continue to hear great reports about how we have destroyed so much of their capability, yet, the ethnic cleansing is nearing completion and Mr. Milosevic has more troops now than less, why is

it that it would take many, many weeks, if not months, to get a force in place in order to move into Kosovo to help right the atrocities that have been committed there? It is because we have not restructured our military establishment. It is that simple.

The military establishment in the cold war, very correctly, was structured for a massive conventional tank war on the plains of Europe, the central plains of Europe. That was what our military was all about, and that was the major threat to our security. And now we have a military, which we have failed to restructure, we have failed to make mobile, we have failed to become capable to move anyplace in the world—in this case rather a short distance, from Germany to Albania—and, once there, decisively impact the battlefield equation. There are many reasons for this.

There was a great article in the Wall Street Journal a few weeks ago about how the Army had plans to restructure; yet, at the end of the day, they failed to do so for various reasons—by the way, the lesson being that the military will not restructure itself. It has to be done with an active role by the Congress.

But to sit here, as we are today, with all these shortages, where all of us are lamenting the incredible problems we have; yet, we then support a base structure which cannot be justified for any logical reason, is something that I think causes us great credibility problems—first, with people who pay attention to these kinds of things, and, second, at the end of the day with the American people.

I say this with full realization and appreciation that there are bases in my home State that may be in danger of being closed. There was a base closed in the round of base closings before the last one, which, by the way, is now generating more revenue for the State of Arizona than it did while it was a functioning military base. But setting that aside, when the base was closed, of course, there was great trauma. There was great dislocation among many civilians who worked out at Williams Air Force Base. But the fact is that we have to reduce the size of our base structures or we will continue to not be able to fund the much-needed improvements that are absolutely vital to us being able to conduct a conflict or war.

Our former colleague, Secretary Cohen, says.

Nevertheless, no other reform even comes close to offering the potential savings afforded by even a single round of BRAC. There simply is no substitute for base closure and realignment.

The two additional rounds under consideration will ultimately save $20 billion and generate $3.6 billion annually,

Moreover, the Department continues to streamline the process, making it even easier for communities to dispose of base property and to create new jobs in the future.

The Chairman of the Joint Chiefs of Staff wrote:

We are writing to you to express our strong and unified support for authorization for additional rounds of base closures . . . .

* * * * *

The importance of BRAC goes beyond savings, however. BRAC is the single most effective tool available to the Services to realign their infrastructure to meet the needs of changing organizations and to respond to new ways of doing business. No other initiative can substitute for BRAC in terms of ability to reduce and reshape our infrastructure. Simply stated, our military judgment is that further base closures are absolutely necessary.

Signed by all of the members of the Joint Chiefs of Staff.

I ask unanimous consent that the letter from Secretary Cohen and the letter from the Joint Chiefs of Staff be printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
1000 DEFENSE PENTAGON,
*Washington, DC, May 11, 1999.*

Hon. CARL LEVIN,
*Ranking Member, Armed Services Committee, Washington, DC.*

DEAR CARL: As I have on many occasions, I want to convey my strong support for approval of additional rounds of Base Realignment and Closure (BRAC) authority as part of the FY 2000 Department of Defense Authorization Bill, which the Senate Armed Services Committee is marking up this week.

As you are aware, the first three rounds of BRAC have already yielded some $3.9 billion net savings in FY 1999 and will generate more than $25 billion by the year 2003. These savings have proven absolutely critical to sustaining ongoing operations and current levels of military readiness, modernization and the quality of life of our men and women in uniform. Even still, the General Accounting Office (GAO) points out that the Department of Defense continues to retain excess infrastructure, which we estimate at roughly 23 percent beyond our needs.

As you know, we are aggressively reforming the Department's business operations and support infrastructure to realize savings wherever possible. Nevertheless, no other reform even comes close to offering the potential savings afforded by even a single round of BRAC. There simply is no substitute for base closure and realignment.

The two additional rounds under consideration by the Committee will ultimately save $20 billion and generate $3.6 billion dollars annually. Both the Congressional Budget Office and the GAO affirm the reasonableness and credibility of our estimates for savings from BRAC. In exchange for property that we neither want nor need, we can direct $3.6 billion on an annual basis into weapons that give our troops a life-saving edge, into training that keeps our forces the finest in the world, and into the quality of life of military families.

I well appreciate both the difficult decision you and your colleagues now face, as well as the legitimate concerns of bases and communities potentially affected by additional rounds of BRAC. At the same time, many success stories across the nation prove that base closure and realignment can actually lead to increased economic growth. In fact, the GAO recently noted that in most post-BRAC communities incomes are actually rising faster and unemployment rates are lower than the national average. Moreover, the Department continues to streamline the process, making it even easier for communities to dispose of base property and to create new jobs in the future.

The Department's ability to properly support America's men and women in uniform today and to sustain them into the future hinge in great measure on realizing the critical savings that only BRAC can provide. As such, the Chairman and Joint Chiefs are unanimous in their support of our legislative proposals, and I most strongly solicit your support and that of your colleagues.

BILL COHEN.

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CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
*Washington, DC, May 10, 1999.*

Hon. JOHN WARNER,
*Chairman, Committee on Armed Services, Washington, DC.*

DEAR MR. CHAIRMAN: We are writing to you to express our strong and unified support for authorization for additional rounds of base closures when the Senate Armed Services Committee marks up the FY 2000 Department of Defense Authorization Bill next week.

Previous BRAC rounds are already producing savings—$3.9 billion net in 1999 and $25 billion thorugh 2003. We believe that two additional rounds of BRAC will produce even more savings—an additional $3.6 billion each year after implementation. This translates directly into the programs, forces, and budgets that support our national military strategy. Without BRAC, we will not have the maximum possible resources to field and operate future forces while protecting quality of life for our military members. We will also be less able to provide future forces with the modern equipment that is central to the plans and vision we have for transforming the force.

The Department's April 1998 report to Congress demonstrates that 23 percent excess capacity exists. The Congressional Budget Office agrees that our approach to estimating excess capacity yields a credible estimate. The General Accounting Office also agrees that DOD continues to retain excess capacity.

The importance of BRAC goes beyond savings, however. BRAC is the single most effective tool available to the Services to realign their infrastructure to meet the needs of changing organizations and to respond to new ways of doing business. No other initiative can substitute for BRAC in terms of ability to reduce and reshape infrastructure. Simply stated, our military judgment is that further base closures are absolutely necessary.

BRAC will enable us to better shape the quality of the forces protecting America in the 21st century. As you consider the 2000 budget, we ask you to support this proposal.

GENERAL HENRY H. SHELTON, USA,
*Chairman, Joint Chiefs of Staff.*
GENERAL DENNIS J. REIMER, USA,
*Chief of Staff, US Army.*
GENERAL MICHAEL E. RYAN, USAF,
*Chief of Staff, US Air Force.*
GENERAL JOSEPH W. RALSTON, USAF,
*Vice Chairman, Joint Chiefs of Staff.*
ADMIRAL JAY L. JOHNSON, USN,
*Chief of Naval Operations.*
GENERAL CHARLES C. KRULAK, USMC
*Commandant of the Marine Corps.*

Mr. MCCAIN. Mr. President, as I said at the beginning of my remarks, we have been over this many, many times. The annual net savings from previous BRAC rounds will grow from almost $4 billion this year to $5.67 billion per year by 2001. The savings are real. They are coming sooner and are greater than anticipated.

GAO recently noted that in most communities where bases were closed incomes are actually rising faster and unemployment rates are lower than the national average. Additionally, a provision in the bill allows for the no-cost transfer of property from the military to the community in areas that are affected by the closures.

Our Armed Services are carrying the burden of managing and paying for an estimated 23 percent of excess infrastructure that will cost $3.6 billion this year alone, $3.6 billion that could be spent in efforts to retrain our pilots who are getting out faster than we can train them. It could be spent on recruiting qualified men and women of which there are significant shortfalls, especially in the U.S. Navy. It could be spent on retaining the highly qualified men and women who are leaving the Armed Forces in droves. There are so many things we can do with an additional $3.6 billion. But it will probably not happen.

I want to tell my colleagues that occasionally we lose credibility around here because of some of the things we do—the pork barrel spending, for example, that seems to be on the rise rather than decreasing, if you had the chance to examine the supplemental emergency bill we just passed. That, of course, is not pleasant for me to contemplate.

But when we are fooling around with national security, when we are fooling around with our Nation's ability to defend our vital national interests in these very unsettling times, then I would argue that we bear a heavy responsibility.

This is a simple amendment—one round, year 2001. The Commission is not appointed until May 2001. So this President does not have any hand in the appointment of a base closing commission. We really need two rounds. But this is at the request of the Senator from Michigan. It will only be one round.

Savings over the next 4 years are conservatively estimated to reach $25 billion. We probably won't do it. We probably won't do it. We couldn't do it in the Armed Services Committee, the committee that is supposed to have the most knowledgeable people on national defense.

Again, there are really some of the most interesting arguments I have ever heard. We save money by not closing bases. That is an interesting argument. Again, I wish we had never closed a base after World War II, using that logic. Or perhaps we should build more bases. The fact is that this causes discomfort to towns, communities, and States around the country when a base closing commission is appointed. I agree with that. I am sorry that happens. I stack that discomfort up against the fact that we still have 11,000 enlisted men and women on food stamps.

I hope we will have the American people at least weigh in on this issue, because they understand. They get it. They get what is going on here. They get why we are not having a base closing round when we need it. They know why it is being done. It will not pass but for one simple reason; that is, strictly parochial concerns that somehow there may be some political backlash associated with the closure of a base. I find that disgraceful.

I appeal again to the better angels of our nature, and recognize that every military expert within the military establishment, both within the Government and without, says that we need to close bases. We need to have a base closing round, and we do not have to make it political.

We have put in every possible constraint to prevent there being so many. We need to do it soon. Otherwise, we will continue to suffer in our capability. We will continue to suffer in our readiness. We will continue to suffer in our modernization. But most of all, these brave young men and women who serve our country will be shortchanged because we will not have adequate funds.

I know a lot of these young people do not vote. I know a lot of them don't even get absentee ballots. Many of them are stationed far away. But I think perhaps we ought to have concern about them in how these funds can improve their lives and keep many of them in the military and keep our Nation ready to defend itself.

I yield the floor.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. REED. Mr. President, will the Senator from Arizona yield 10 minutes?

Mr. MCCAIN. Mr. President, I yield such time as he may consume to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I thank the Senator from Arizona.

Mr. President, I rise in support of this amendment that would authorize a single round of base closures during the year 2001. I commend both the Senator from Arizona and the Senator from Michigan for presenting this amendment to the Senate today.

I am well aware that we all recognize this is a very sensitive issue, because it potentially impacts the constituents of each and every one of the Members of the Senator.

My home State of Rhode Island is no exception to this. We are the proud home to a significant presence of the U.S. Navy, both at the Naval War College and the Naval Undersea Warfare Center in Newport.

We have a tradition of Naval service in Rhode Island. As in every other State, we are sensitive to the potential vulnerabilities of another round of base closures. But I, for one, recognize the imperative nature of doing this, for many of the reasons that were so well outlined by the Senator from Arizona.

We have already in the past in Rhode Island—and I suspect in other places around the country—suffered from cutbacks. In fact, before the base closing process was established back in the early 1970s, one of our major bases, Quonset Point Air Station, was closed and, indeed, we lost effectively all of the surface ships that used to regularly be stationed in Newport. The result was traumatic to my home State.

Rhode Island is the smallest State in the country. Every family in Rhode Island either had some connection to Quonset Point Air Station or knew someone who worked there. Whole families had to leave the State. Many moved down to Wilmington, NC, where there was another naval aviation center. It caused great trauma and it set our economy back tremendously. In fact, we are still trying to reestablish and regenerate that site.

But despite all of that—despite the real costs to individuals, the real costs to families—we have to do this in order to maintain a national defense that will truly be efficient and effective.

It is difficult to talk about this issue and to tell constituents that there might be another round of base closings, but it is absolutely necessary. We are maintaining a cold war military structure in terms of bases. Yet, we know we need to reform and to reorganize. We will face new threats in the century beyond with a cold war military structure.

As the Senator from Arizona said, we organized so much of our military to support a huge landforce that was designed to counterattack a threat from the former Soviet Union. That has mercifully evaporated with the demise of the Soviet Union. The new threats to our national security are different. Yet, we still have the same cold war base infrastructure which we must reform, and the only practical way to do that is to organize another round of base closings.

It is a difficult decision, but it is a decision that we must make.

The numbers speak for themselves. This is almost a mathematical equation in terms of what we must do. We are maintaining approximately 23 percent extra capacity in the Department of Defense in terms of our bases. If you look at our force structure, the troops in the field, the men and women who are actually the war-fighters who defend the Nation every day, we have reduced those numbers by 36 percent since 1989. Yet, we have only been able to reduce our infrastructure by 21 percent. There is an imbalance. We have a smaller force structure. Yet we still have much of the old real estate that we accumulated from World War II all the way through the cold war.

We already embarked on limited base reductions in previous base closing rounds. We have saved approximately

$3.9 billion to date. It is estimated that the base closing process that has already taken place will yield $25 billion by the year 2003.

Those are the significant savings. Yet, we hear lots of folks disputing the savings. I think everyone in America recognizes that when you close unnecessary bases, you save money. That is what corporate America has been doing now for the last 10 years. That is, in fact, one of the reasons why American productivity and American corporate profits are soaring and Wall Street is reflecting those results. It is because American businesses have the flexibility to close unwanted facilities, many times painfully so, to small communities.

But in the military establishment, we have denied our managers—the Secretary of Defense and the Chairman of the Joint Chiefs and his colleagues—that same type of flexibility. We have done it in a way which has retarded our ability to save billions of dollars which we need for other priorities in the Department of Defense.

Another charge was raised in this discussion about why base closings shouldn't be pursued at this moment. It said that there is no effective audit of these savings. In many respects, what we have saved, if you will, are costs that would have been incurred. They are foregone. They won't be incurred. It is difficult to audit some things you won't spend money on, but those savings are equally real.

We have a situation where we know we have saved money in previous base closing rounds—billions of dollars. And we know through estimates that we will save in this round additional money if we authorize an additional round of base closings. This is an estimate that has been agreed to by both the Congressional Budget Office and the General Accounting Office. They estimated there is excess capacity, that we can save money by another round of base closings.

There is another argument that has been raised to try to defeat the notion of a new round of base closings: That the environmental cleanup costs associated with closing bases eats up all the savings.

The reality, legally, is that the Department of Defense is responsible for these cleanup costs regardless of whether they keep the bases open or they close them. The only difference is an accounting difference. When you close a base, there is much more of an accelerated cleanup so the property can be turned over to civilian authority. In terms of the dollar responsibility, the contingent liabilities out there for cleanup of military bases remain the same, regardless of whether we have a base closing round or we just simply let these excess bases continue to operate. That, too, is not a reason to defeat the notion of a base closing round today.

As the Senator from Arizona pointed out, this is the top priority of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Service Secretaries, the uniformed heads of our military services. They all know that they need additional dollars for higher priority items than some of these bases.

Last September, the Service Chiefs came to the Senate Armed Services Committee and said they needed more resources to do the job. We were quite forthcoming. In fact, we authorized $8.3 billion over the President's budget request. Yet, when they say they equally need the closing of excess bases, we ignore their plea—equally fervent, equally important, equally necessary for the success of the Department of Defense, yet we ignore this plea.

Some of this has been a result of claims that the last base closing round was politicized. This proposal is that the process be conducted in the year 2001, which is beyond the term of this administration. I think the argument of politicization is false because whatever confidence or lack of confidence you have in this current administration, this proposal, this amendment, would carry it beyond this administration into the next administration.

Mr. WARNER. Will the Senator yield?

Mr. REED. I am happy to yield to the Senator.

Mr. WARNER. That is the problem that troubles the Senator from Virginia the most—the California and Texas experiences.

As I listened to my good friend from Arizona, he made rational positions and I agree with him; the Senator from New Jersey made rational positions.

However, the practical thing that will happen if the Congress of the United States were to enact a base closure bill—this bill—the day after the signature is affixed by the President, the work begins in the Department of Defense down at the level of the services to work up the list of communities which, in the judgment of the Army, the Navy, the Air Force and certain DOD facilities is to be boarded up, and eventually it goes to the BRAC Commission.

True, the next President would appoint that BRAC Commission. But the staff work would have been done.

The communities all across America, as my good friend from Arizona pointed out in repeating my statement, become suddenly on full alert that it could be their base. They have a long tradition in this country of embracing that base. It is not just because of economic reasons and jobs. It is also, as the Senator well knows, because of the tradition in the community.

Does the Senator realize I was the Secretary of the Navy who closed the largest naval base and destroyer base in your State? Your predecessor, Senator Pastore, brought this humble public servant, the Secretary of the Navy, down to the caucus room of the Senate of the Russell Building before more cameras than I have ever seen and grilled me for hour after hour after hour, together with the Chief of Naval Operations. That convinced me that we had to have a process called BRAC.

I say with humility I was the coauthor of the first BRAC statute, coauthor of the second BRAC statute. Then I lost confidence in BRAC because of what the Senator just said—the politicization of the process as it related to decisions in California and Texas. If we were to pass this all over America, these communities would suddenly begin to wonder: Will politics play as the bureaucrats in the Department of Defense begin their assigned task to work up those lists that slowly go to the top and eventually to the BRAC Commission?

Mr. President, that is the problem. That is a problem shared by so many of our colleagues. That was the problem that was shared by the majority of our committee, the Armed Services Committee, on which we all serve with great pride. In two instances, that committee turned down the proposal which the Senators bring before the Senate tonight. That is the process.

Mr. MCCAIN. Will the Senator yield?

Mr. REED. I yield.

Mr. MCCAIN. If the Senator doesn't like the fact that it upsets the communities but believes that we need to close bases, does the Senator have another solution?

Mr. WARNER. Yes, the solution, regrettably, I say to my good friend, is that we have to wait until the next President determines whether or not in his judgment we should have a BRAC Commission and he comes before the Congress and he requests it.

I will commit right now, no matter who wins the office of the Presidency, including, if I may say with great respect, yourself, I would be the first to sponsor a BRAC Commission under the McCain administration and I will work relentlessly to get it through the Senate.

But that would be the moment that the bureaucracy begins to work up the list of the communities.

Mr. MCCAIN. May I just say with all due respect, if I may, the amendment calls for a base closing commission to be appointed in May of 2001. The election takes place in November of the year 2000, as I seem to recollect; some 5 or 6 months later is when the commission is appointed.

The logic of the Senator from Virginia, in all due respect to my chairman, escapes me. There will be a new President of the United States, there will be a new Secretary of Defense. Obviously, the chairman doesn't trust or have confidence in the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, both of whom sent over compelling statements and letters. So if it is a new President that you want, there will be a new President.

If I get this right, what the distinguished chairman is saying is that we will just put everything on hold for a year or two until we get a new President, then we can start a process?

This amendment says there will be a new President, there will be a new Secretary of Defense, there will be a new Chairman of the Joint Chiefs of Staff, as a matter of fact, and that is what this amendment contemplates.

Mr. WARNER. Mr. President, I reply to both friends, this is a very interesting colloquy.

First, I hope my good friend would amend it that the Secretary of Defense—perhaps he could stay on and I would join at that point; I have the highest confidence in the Secretary of Defense.

Mr. MCCAIN. The Senator has a strange way of displaying that confidence if you don't agree with his primary and most important recommendation.

Mr. WARNER. But, I say to my good friend, it is not the Secretary. The work begins literally down in the bowels of that building, in which I was privileged to remain for 5½ years, down at the low level of the staff beginning to work up those lists. And that political problem that arose in California and Texas could begin to creep into those basement and lower areas in the Pentagon, begin to influence those decisions which would gravitate to the top.

Mr. LEVIN. Will the Senator from Rhode Island yield?

Mr. REED. If I can retain my time.

Mr. MCCAIN. In all due respect to my friend from Virginia, he knows where that California and Texas thing came from. It didn't come from the bowels of the Pentagon; it came from the White House. That is why, as he knows, we are saying this Commission should only convene after there is a new President of the United States.

Mr. WARNER. I agree with that. That is precisely why I object, because that same White House could begin to communicate down with those good, honest, hard-working GS–14 employees of the Department of Defense. That is where it could start.

Mr. LEVIN. If the Senator will yield, the Senator from Virginia said how much confidence he has in the Secretary of Defense. Is the Senator suggesting that the Secretary of Defense is going to stand by while some political person from somewhere reaches around him into the bowels of the Pentagon to give a signal that some base should not be considered?

It is because our good friend from Virginia did not want there to be any possibility of any political involvement by anybody that we delayed the date for the Secretary of Defense to transmit the base closure recommendations to September 1, 2002.

The new President and the new Secretary of Defense—or the current one, if he is continued—will have until September 1 to transmit the base closure recommendation. We delayed it 6 months because the Senator, in committee, said he was concerned that the preliminary work could be done now and somehow or other, unbeknownst to an honest Secretary of Defense—who I think our good friend would concede is an honest one——

Mr. WARNER. Mr. President, I do.

Mr. LEVIN. This work would begin and somehow or other it would take hold.

So we delayed the transmittal to September 1 of the year after the new President is elected, 6 months—more than that, 8 months after the new President is in office.

It seems to me at this point that the argument about politicization is now being used as an excuse not to act. We have done everything we possibly can to eliminate any possibility of that. The new President is not required to transmit names for a base closure commission. As the good Senator from Virginia knows, if the new President does not want a base closing round, he or she need not have it. That is the law. All the new President has to do is not nominate anybody.

So you have total control in the new President. You have 9 months to submit the recommendations. At this point, the politicization argument, it seems to me—talking about reaching down? I think the good Senator, my good friend, is reaching back.

Mr. MCCAIN. Could I ask my friend from Virginia, would he agree to an amendment which had the base closing round begin in the year 2002?

Mr. WARNER. Mr. President, the answer is very simple: No. Because the moment the ink is dry and this becomes law—would the Senator not agree with me that the staff work begins on this the day it becomes law? The decisions begin to be made. The communities all across America go on full alert. The communities begin to hire expensive consultants to help them in the process, to prepare their case so that community is not struck. Am I not correct? Does any one of the three wish to dispute that the work begins at the bureaucratic level, by honest, conscientious individuals——

Mr. MCCAIN. I ask my friend——

The PRESIDING OFFICER. The Chair reminds the Members of the Senate, the Senator from Rhode Island controls the time.

Mr. MCCAIN. I ask unanimous consent that we continue this colloquy and maybe, to make the sides even, the Senator from Maine would like to engage us as well.

Mr. WARNER. I would welcome the Senator from Maine. That resonant voice will reverberate through this Chamber with a reasonable approach to this.

Mr. LEVIN. May I suggest, if the Senator will yield, that the Senator needs the support and help of the Senator from Maine. But before that suggestion resonates through this Chamber, I will say just one other thing. Would the Senator accept an amendment that says no staff work can begin until January 21 of the year 2000? If we added that language in the bowels of the Pentagon, nobody——

Mr. WARNER. Or at any level.

Mr. MCCAIN. There would be no movement.

Mr. LEVIN. I want the Record to be clear, that comment came from the prime sponsor of this legislation.

That there would not be a computer keyboard touched in the bowels or any level of the Pentagon prior to January 21 of next year—would the Senator accept that amendment?

Mr. WARNER. Mr. President, in the course of the deliberation in the Armed Services Committee I came up with a phrase. I said there was no way to write into law the word ''trust.'' Therefore, my answer to my good friend is: No.

The PRESIDING OFFICER. The Senator from Rhode Island controls the time.

Mr. REED. Briefly, because I know my colleagues are eager to continue in colloquy, but in response to the chairman, most of what I think was the initiative, if you will, involved in the last base closing, came after the particular bases were identified for closing by the Commission. It was not a question where political decisions were made to close bases. I think, rather, political decisions were made to try to avoid and go around the work of the Commission. So the Commission process is, I think we would all agree, as unpolitical as you can get. The research in the bowels of the Pentagon is, I think, similarly nonpolitical. If it is not, then we have more worries than a base closing commission, if we have GS–14s doing political deeds for anyone rather than looking rationally and logically at the needs of the service and the infrastructure to support those needs.

If the administration was guilty of politicization, then shame on them. But we are running the risk of, ourselves, politicizing this process. We are running the risk of rejecting the logic.

The overwhelming conclusion I think any rational person could draw is that we have to start closing bases. The base closing mechanism is the best way to do that, and we are in a situation where, if we resist this, if we cannot find a formulation, we are going to politicize it worse than anything that is purported to have been done by the administration.

I strongly support the measure offered by the Senator from Arizona and the Senator from Michigan. We have an opportunity to align our force structure and our base structure to give resources to the Department of Defense, to support the really pressing needs of our troops, to retain them, to train them, to provide them a quality of life they deserve.

When you go out to visit troops—I know everyone here on this floor today does that frequently—what those young troops are worried about is: Do they have the best training, best equipment, and are their families well taken care of? They do not worry about whether we have a base in Oregon or a base in Texas or a base in Rhode Island. They worry about their training,

their readiness for the mission, their weapons, and whether their families are taken care of. If we listen to them, we will support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Rhode Island for the very strong and, I think, thoughtful statement. He is a much valued member of the committee. I appreciate his efforts in this area.

I do not like to belabor my old and dear friend, the former Secretary of the Navy and chairman of the committee. Our respect and friendship is mutual. It has been there for many, many years.

Mr. WARNER. Mr. President, if I may say, it will be there for an eternity.

Mr. MCCAIN. I thank my friend from Virginia.

I do have to mention one other aspect of this issue that is important, and then I know the Senator from Maine has been patiently waiting.

We do have a credibility problem here. We are asking these young people to do without. Some of them right now are in harm's way. We ask them to spend time in the middle of the desert and the middle of Bosnia under very difficult, sometimes nearly intolerable conditions. We have an Air Force that is half the size of what it was at the time of Desert Storm, and it has four times the commitments. We simply do not have a military that we can sustain under the present conditions.

If we are not willing to make a sacrifice of the possibility of a base closure in our home State, how in the world can we ask these young people to risk their lives? This is an issue of credibility. If we are going to make the kind of changes necessary to restructure the military, there are going to have to be some very tough decisions made. Base closing is just one of them. But if we cannot even make a decision to have a base closing commission, on the recommendation of every expert inside and outside the defense establishment of the United States of America, then I do not think we have any credibility in other decisions that the committee or the Senate will make.

I realize that bases are at risk. I realize there can be economic dislocation. I recommend and I recognize all those aspects of a base closing commission. But for us to tell these young men and women, whom we are asking to sacrifice and take risks, that we will not take the political risk of approving the base of the base closing commission that would convene under the tenure of the next President of the United States under the most fair and objective process that we know how to shape, then, Mr. President, we deserve neither our credibility with them nor their trust.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I rise in opposition to the amendment that has been offered by Senator MCCAIN and Senator LEVIN concerning the establishment of another Base Closing Commission process in the year 2001.

It is not a matter of when it is established. It is not a matter by whom it is appointed. I think the question is whether or not the Department of Defense and this administration has answered the questions that have been raised time and time again in the committee and on the floor of this Senate with respect to a number of issues that justify having another base closing round. Having been involved in the four previous rounds, I can tell you it raises a number of issues with respect to the efficiency and the effectiveness of base closings.

We are seeing already with our commitment in Kosovo the Defense Department cannot continue to decide which installations to downsize or close by making arbitrary comparisons to personnel reductions. Just since the hostilities began in March, we have seen the Pentagon divert a carrier battle group to the Adriatic leaving the western Pacific without a carrier for the first time in decades.

It has contributed more than 400 aircraft to the NATO campaign against Yugoslavia.

It has nearly depleted the Nation's air-launched precision missile stocks, exhausted our tanker fleet, and called up 33,000 reservists.

Now we have a situation where we are conducting a campaign regarding Kosovo and it has been revealed that the air and sea bridges required to ''swing'' forces into one major theater war to support a second conflict makes the risk of prevailing in the latter engagement too high because of the operational strains on personnel, weapons, and maintenance schedules. Yet, the Pentagon persists with the position that we must close more bases. But who is really making these assumptions about the volatile and complex nature of warfare as we approach the 21st century?

The standard the administration is putting forth is personnel reductions; that closing 36 percent of our bases is absolutely essential, if 36 percent of all our people have left the military since the peak of the cold war. But the standard must remain if we are to be truly honest about what kinds of assumptions and determinations we must make. We should be making a decision of adapting our infrastructure to the mix of security threats that we anticipate into the 21st century. I do not think that we have to project that far out to recognize what we can expect for the types of conflicts that we will be facing in the future.

As it did last year and in 1997, the administration rests its argument for more base closings primarily on the claim that facility cuts have lagged behind personnel reductions by more than 15 percent. I do not happen to think that a simple percentage can answer the types of questions that we need to determine the future of our military bases.

What systems, what airfields, and what ports do we need to sustain in light of our engagement in the Balkans and considering the fact that the Pentagon planners thought that the Nation's two simultaneous conflicts would likely occur in Asia and the Persian Gulf?

What depots can provide competition for the private sector?

What shipyards can provide the Navy with a diversified industrial base to sustain the next generation of submarines that will maneuver in our waters?

What airbases must stay active to support long-range power projection capabilities we now have with the diminished forward presence overseas?

What configuration of domestic bases does the country require to project a smaller force over long distances that we now lack because we have a diminished presence in Asia and Europe?

This fact means at a minimum the country has to stabilize a number of domestic facilities to prepare forces once deployed abroad for long-range projections from this country. How has DOD calculated the vulnerability of political uncertainties of gaining access to our Middle Eastern military assets in the event of another regional crisis?

These are the unanswered questions. These are the questions that need answers, not some isolated percentages that should determine the size and the shape of our basing network. These are the answers that we do not have.

We have discrepancies in the numbers that have been provided to us by the Department of Defense. We do not have the assessments. We do not have the matching infrastructure to the security threat. We have not made a determination with respect to the assets, and even the national defense plan indicated in its own report that it was necessary to make that determination based on a report. In fact, the panel said it strongly urges Congress and the Department to look at these issues.

They talked about if there is going to be a next round, it might be preceded by an independent, comprehensive inventory of all facilities and installations located in the United States. This review would provide the basis for a long-term installation master plan that aligns infrastructure assets with future military requirements and provides a framework for investment and reuse strategies.

We raised this issue time and time again in the committee and in the Senate over the last 2 years to those individuals who are propounding this amendment and raising the fact that we should have another base closing round. Yet, how can we make those decisions and on what basis are we making those decisions? Are they going to be arbitrary determinations? Are they going to be politicized?

I know people argue: Oh, this is a depoliticized process in the Base Closing

Commission procedure. I argue to the contrary. Having been through this procedure on four different occasions since 1988, I can tell you we just moved politics from one venue to another.

I think we have to very carefully consider whether or not we want to initiate another base closing round for the future, absent the kinds of decisions and determinations that need to be made in order to make a reasonable decision.

Even in the Department's own report in April of 1998, it exposed the apparent base closure savings as a frustrating mystery rather than a confirmed fact. To its credit, the Department actually admitted in its own study that there was no audit trail for tracking the end use of each dollar saved through the BRAC process. They admitted in their own report that they did not have a procedure for determining the actual savings that they projected from the base closing rounds and how they were used, so that we could not correlate the savings and whether or not they were used for any purpose or, in fact, were there any savings.

So now the Department of Defense has said: Yes, there are savings from the four previous base closing rounds; and, yes, we are using them for readiness and modernization; and that is what we will do in the future. But they never established a process that we could document those savings that ostensibly occurred in the four previous rounds, and that they were invested in modernization and in the readiness accounts. The fact is, it never happened.

The General Accounting Office, in fact, recommended, in their 1997 report, and, in fact, documented what the DOD report said, that there is no process by which to track the savings which the Department of Defense claims occurred as a result of the base closings over the last 10 years. So we have no way of knowing if, in fact, we have realized real savings.

The Department claims that over the last four rounds there were savings of $21 billion, $22 billion. Yet, in their 1999 report, they admitted that the cost of closing bases was $22.5 billion. Their savings, in their 1999 report, from the four previous rounds is $21 billion. So they have $1.5 billion more than the estimated savings through 2015. So that is what we are talking about here. The Department of Defense is spending more to close these bases than they are actually saving. They have had more costs as a result of environmental remediation. In fact, they project to spend $3 billion more.

They said they would realize $3 billion from the first base closing round, to give you an example, from the sale of the property to the private sector, when in fact they only realized $65 million. That gives you an idea of the discrepancy that has occurred from their projected savings to the actual revenue that was realized through their sale process.

So that is the problem we have. We have been given promises by the Department of Defense that we will have the savings, and yet these savings have not really materialized. So we do not have a picture of what we need for the future in terms of domestic bases because we have closed so many abroad as well as at home.

Because we do not have the presence in other countries, it is all the more important that we have the necessary domestic bases to do the kinds of things we have to do, as we have seen in Kosovo.

It is interesting that back in 1991, when we went through a base closing round, we had Loring Air Force Base up in northern Maine. It was a B–52 base. We were told at the time B–52s were going to go out. They were old. They were aging. They were going to be rapidly removed from the defense program.

What are we seeing? B–52s are being used in Kosovo. No, we do not have the base in northern Maine that is closest to Europe, to the Middle East, to the former Soviet Union, to Africa. We are having to launch those B–52s from other bases that are not as close to Europe. So that is the problem we are seeing, because of the miscalculations and the underestimation of what we might need for the future. It has not been the kind of documentation that I happen to think is necessary.

In fact, it was interesting to hear—when talking about B–52s—what a former Air Force Secretary said a few weeks ago, that the current crises are proving the enormous value of the Nation's long-range bomber force of B–52s. That is what it is all about.

So what we were told in 1991: No; they are going to be out of commission because they are simply too old, we find is not the case.

So I think we have to be very circumspect about how we want to proceed. That is why I think we have to be reticent about initiating any base closing process for the future until we get the kinds of answers that are necessary to justify proceeding with any additional base closing rounds.

We have had the miscalculations of the costs in the Balkans. In fact, that is why there is such great pressure within the Pentagon to try to find additional savings, because we have spent so much money in Bosnia. When we were only supposed to spend $2 billion, we are now beyond $10 billion. We will probably spend $10 billion in Kosovo by the end of this fiscal year. That has placed granted, inordinate pressures on the defense budget.

But as QDR said, and even the Pentagon has admitted, there are many ways, in which to achieve their savings. They could follow up on the management reforms that have been proposed by the Department of Defense through technology upgrades. They could obviously require the services to determine their budget priorities. We can obviously look even at the deployment in Bosnia, which has far exceeded the original estimates, as I said earlier.

So those are the kinds of challenges we face in the future. I think we have to be very, very cautious about suggesting that somehow we should close more bases—subject to another arbitrary process, subject to more arbitrary percentages—without the kind of analysis that I think is necessary to make those kinds of decisions.

We have to be very selective. We have to make decisions for the future in terms of what interests are at stake, what we can anticipate for the future, because it seems that we are going to have more contingency operations like the ones we are confronting now in the Balkans. Therefore, we will have to look at what we have currently within the continental United States. It is important to be able to launch these missions, simply because we cannot depend on a presence in foreign countries.

So I hope Members of the Senate will vote against the amendment which has been offered by the Senator from Arizona about initiating another base closing round, because we have raised these questions before. We have asked the Department: Please document what bases you are talking about. What bases do you need? What bases don't you need? Why don't you need them? How does that comport with the anticipated security threats for the future?

Of course, finally, the Department claims that they have made enormous savings from the previous base closing rounds, but now we find that the cost of closing those bases—of which more than 152 were either realigned or closed—was greater than the savings that have been realized to date and into the future.

So I think we have an obligation and, indeed, a responsibility to evaluate what has happened. I think it is also interesting that the Department of Defense has not responded to the General Accounting Office or to the National Defense Plan in terms of coming up with an analysis of what is actually necessary for our domestic military infrastructure, and then, secondly, setting up a mechanism by which we can evaluate whether or not savings have, indeed, been realized as a result of the four previous base closing rounds, because on the basis of what we have currently from the Pentagon, they cannot suggest in any way that they have made any savings. If anything, it has cost them more money.

Then when you look at what we are facing in Kosovo, what we can project in the future for additional asymmetric threats, we may want to be very careful about closing down any more bases in this country without knowing whether or not they are going to be necessary for the future, because once you lose that infrastructure, it is very difficult to recoup.

So I hope the Senate will reject this amendment.

I yield the floor.

POSITION ON LANDRIEU-SPECTER AMENDMENT NO. 384

Mr. FEINGOLD. Mr. President, had I been present for the vote on the

Landrieu-Specter amendment No. 384 to the FY 2000 Defense Authorization, S. 1059, bill regarding the need for vigorous prosecution of war crimes and crimes against humanity in the former Yugoslavia, I would have voted in favor of the amendment. My vote would not have changed the outcome of the vote on the amendment which passed by a vote of 90–0.

I was unable to reach the Capitol in time for the vote because of air travel delays due to weather conditions. I am disappointed that, though I and other Members notified the Senate leadership about our travel difficulties hours before the vote began, they were unwilling to reschedule the time of the vote.

## AVAILABILITY OF CLASSIFIED ANNEX

Mr. SHELBY. Mr. President, I ask unanimous consent to have printed in the RECORD a letter to the Honorable TRENT LOTT dated May 17, 1999, signed by myself and Senator KERREY.

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

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
*Washington, DC, May 17, 1999.*

Hon. TRENT LOTT,
*U.S. Senate, Washington, DC.*

DEAR SENATOR: The Select Committee on Intelligence has reported a bill (S. 1009) authorizing appropriations for U.S. intelligence activities for fiscal year 2000. The Committee cannot disclose the details of its budgetary recommendations in its public report (Senate Report 106–48), because our intelligence activities are classified. The Committee has prepared, however, a classified annex to the report which describes the full scope and intent of the Committee's actions.

In accordance with the provisions of Section 8(c)(2) of Senate Resolution 400 of the 94th Congress, the classified annex is available to any member of the Senate and can be reviewed in room SH–211. If you wish to do so, please have your staff contact the Committee's Director of Security, Mr. James Wolfe, at 224–1751 to arrange a time for such review.

Sincerely,

RICHARD C. SHELBY,
*Chairman.*
J. ROBERT KERREY,
*Vice Chairman.*

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, May 24, 1999, the federal debt stood at $5,597,942,875,397.10 (Five trillion, five hundred ninety-seven billion, nine hundred forty-two million, eight hundred seventy-five thousand, three hundred ninety-seven dollars and ten cents).

Five years ago, May 24, 1994, the federal debt stood at $4,591,881,000,000 (Four trillion, five hundred ninety-one billion, eight hundred eighty-one million).

Ten years ago, May 24, 1989, the federal debt stood at $2,781,133,000,000 (Two trillion, seven hundred eighty-one billion, one hundred thirty-three million).

Fifteen years ago, May 24, 1984, the federal debt stood at $1,489,236,000,000 (One trillion, four hundred eighty-nine billion, two hundred thirty-six million).

Twenty-five years ago, May 24, 1974, the federal debt stood at $471,902,000,000 (Four hundred seventy-one billion, nine hundred two million) which reflects a debt increase of more than $5 trillion—$5,126,040,875,397.10 (Five trillion, one hundred twenty-six billion, forty million, eight hundred seventy-five thousand, three hundred ninety-seven dollars and ten cents) during the past 25 years.

## HONORING ROBERT SUTTER

Mr. BIDEN. Mr. President, I want to take this opportunity today to salute a distinguished servant of the legislative branch of the U.S. Congress in the field of foreign affairs. In June 1999, Dr. Robert Sutter will leave the Congressional Research Service after 22 highly productive years as a source of expertise on China and the Asia-Pacific region. Dr. Sutter is resigning from his current position as a Senior Specialist in Asia and International Politics in the Foreign Affairs, Defense, and Trade Division of CRS to become the National Intelligence Officer for East Asia, a critical intelligence community assignment.

Since 1977, when he first came to work at CRS as a China specialist, Dr. Sutter has provided Members of Congress and their staffs with authoritative, in-depth analysis and policy options covering a broad range of foreign policy issues involving China, East Asia, and the Pacific. It should be a matter of pride to this body to know that Dr. Sutter is well known both here and in the Asia-Pacific region as one of the most authoritative and productive American Asia hands.

In his government career to date of over 30 years, Dr. Sutter has held a variety of analytical and supervisory positions including service with the Foreign Broadcast Information Service and temporary details with the Senate Foreign Relations Committee, the Central Intelligence Agency, and the Department of State. It is in service to Congress, however, specifically with the Congressional Research Service, that Dr. Sutter has spent most of his distinguished career. I want to make a few comments that illustrate the strengths and great contributions of both the institution and the man himself.

The first point to make concerns one of the great institutional strengths that CRS offers to the congressional clients it serves, and which Dr. Sutter's tenure and contributions here epitomize perfectly: institutional memory. Dr. Sutter's first published report at CRS was entitled U.S.-PRC Normalization Arguments and Alternatives. Published first as a CRS Report for general congressional use, on August 3, 1977, it soon became a Committee Print of the House International Relations Committee's Subcommittee on Asian and Pacific Affairs. The report and subsequent Committee Print addressed a number of highly controversial issues arising out of President Carter's decision to normalize relations with China. Congressional concern about the consequences of derecognition of the Republic of China, and dissatisfaction with the terms of the agreement negotiated with the People's Republic of China, directly led to the landmark Taiwan Relations Act, which still governs our policy decisions today, and which continues in 1999 to be a factor in debates in this very chamber.

Besides Bob Sutter, only 48 Members of Congress serving today, in the 106th Congress, were here in 1977 and 1978 to witness these initial steps of U.S.-China relations. In the more than 20 years since then, both U.S.-China relations and the U.S. Congress itself have undergone tremendous change, both for the better and for worse. Bob Sutter has been an active participant in congressional deliberations on China policy, and in the U.S. national debate over these issues, from normalization of relations, to the Tiananmen Square crackdown, to the recent tragic bombing of the Chinese Embassy in Belgrade. Dr. Sutter's two decades of service spanned the tenures for four U.S. presidents and some ten Congresses. Despite several shifts of party control in the Senate, and one in the House, Dr. Sutter continued to deliver timely, accurate, objective, and non-partisan analysis. The institutional memory represented by CRS analysts, which Dr. Sutter so perfectly exemplifies, is of incalculable value to the work of the Congress.

The second point I want to make concerns Dr. Sutter himself. He has, for one thing, consistently demonstrated an astonishing capacity for work. In 1974 Dr. Sutter received his Ph.D. in History and East Asian Languages from Harvard University, writing his Ph.D. thesis while maintaining a full-time job. Routinely, he has been one of—perhaps the most in terms of sheer output of written work—productive analysts in CRS. In the last 5 years alone, Dr. Sutter has been called on for advice from Members of Congress and their staffs nearly 6,000 times—an average of 1,140 times each year. He has regularly maintained six or more ongoing, continually updated products, and his output of CRS written reports for Congress totals at least 90 since late 1987 alone. As is evident in these products, he excels at providing accurate, succinct, and well-organized analysis of congressional policy choices and their likely consequences. His work always reflects up to date knowledge of issues, usually based on personal research in East Asia and/or close contact with the U.S. private and official community of Asian analysts and scholars.

Even more to the point, Dr. Sutter has always understood the powers and special needs of Congress, including its legislative and oversight responsibilities, and our obligation to represent