

SENATE—Wednesday, September 25, 1991

(Legislative day of Thursday, September 19, 1991)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

**** ye shall know the truth, and the truth shall make you free.—John 8:32.*

Eternal God, true and righteous in all Your ways, forgive us when we subordinate truth to expediency or convenience, and help us all to realize that error is destructive, truth is redemptive.

We pray today for the press and media. Thank You for their hard work, the risks they often take, and the availability of their product every minute of every day. Thank You for a free press. We accept the policy of adversarial journalism—but deliver them from preoccupation with digging for dirt. We thank You for their zeal to inform, and we pray that You will save them from sacrificing truth for bylines and facts for opinion.

Gracious Father, forgive us for our too easy, unfair criticism of the fourth estate. Help them to be aware of their responsibility and opportunity to influence leadership and people in constructive ways for a better world. Grant them grace to comprehend their enormous power for good or evil—to heal alienation or to create it. Grant that truth will be their motivation, not personal vendettas. Encourage and guide them in their indispensable role for a strong and free America.

In His name who is Truth incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 25, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Missouri is recognized.

SUPPORT FOR CLARENCE THOMAS

Mr. DANFORTH. Mr. President, I am pleased to note that yesterday at least four Members of the Senate announced their intention to vote in favor of the nomination of Clarence Thomas for the U.S. Supreme Court. On the Republican side, Senator GORTON and Senator KASSEBAUM both came to the floor of the Senate and announced their intended vote for Judge Thomas. On the Democratic side, in their home States, Senator SAM NUNN, of Georgia, and Senator HARRY REID, of Nevada, both stated their intention to vote for Judge Thomas.

It is good news, indeed, that support in the Senate is building for such an admirable and well qualified nominee for the U.S. Supreme Court. I look forward to later in the week when the Judiciary Committee is expected to vote on the nomination and then, hopefully in a week or so, the issue will come onto the floor of the Senate and we will have the opportunity at that time to vote on the Thomas confirmation.

CIVIL RIGHTS LEGISLATION

Mr. DANFORTH. Mr. President, on a different subject, yesterday seven Republican Members of the Senate introduced S. 1745, which is the most recent and final version of the proposed civil rights legislation.

We are ready for floor action on that bill. We have spent a year-and-a-half making every effort to come to an accommodation with the President on the civil rights issue. Obviously, it would be better to have White House approval for the bill than White House

opposition to the bill. I regret to say that despite herculean efforts to reach an accommodation with the White House, that effort has failed.

We introduced on June 4 a package of bills that were designed to be balanced and to split the difference between where the White House was last year and where Congress was last year. Then we entered into lengthy negotiations and made 22 different changes in the legislation to accommodate the administration. All of that failed. So we really have no alternative now but to go to the floor of the Senate, hopefully in the near future, to pass a bill. Unfortunately, it will almost certainly come to the question of whether or not we have the votes to override a Presidential veto.

I want to state to the Senate that the major issue before us is a very profound issue and a philosophical issue. We have been hearing lawyers talk for so long that it is easy to mistake the civil rights question as being merely a matter of wording or something that can be solved by fine tuning the phraseology of legislation. I wish that were the case, Mr. President. Believe me, if that were the case, we would have solved this problem a year ago.

But the difference is not simply verbiage and the difference is not simply legalistic. It is a narrow difference but a very deep difference. And it has to do with whether an employer can use selection criteria, that is hiring or promotion criteria, which have the practical effect of screening women or minorities from jobs but which have no relationship to the ability of an employee to do the job.

This is an issue that has already been resolved. It was resolved by the U.S. Supreme Court in 1971 in the case called Griggs versus the Duke Power Company. That case, unfortunately, was overruled by the Supreme Court in 1989 which put us in our present quandry.

Last year, the Congress overwhelmingly passed the Americans With Disabilities Act, and the President in a Rose Garden ceremony with much fanfare signed the ADA into law. The Americans with Disabilities Act provides, among other things, that selection criteria which have the effect of screening out the disabled must be related to the ability of an employee to perform the job. That is precisely the same issue that will be before the Senate as early as next week. Should the same standard which applies to the disabled apply to blacks and women and

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

Hispanics and other minorities? Or should a tougher standard, as far as the disadvantaged groups are concerned, apply to women and minorities than apply to the disabled?

We decided in the Americans with Disabilities Act, for example, that height and weight requirements which screen out the disabled cannot be used if those people are able to perform the job. How can we argue that the same standards should not apply to blacks or to women? Why should it be right to screen out women from job opportunities when under the ADA, an employer cannot screen out disabled people? That is the issue before us.

Mr. President, I want to state finally that this is not a quota issue. Unfortunately, the White House in its statement yesterday used the word "quota" three times in four lines of print to describe the bill. I had hoped to avoid a contentious battle on the floor of the Senate because I think race politics is not only bad for my political party, I believe it is bad for the country. We have been unable to do that. I am sorry that yet again this word "quota" is being bandied about wrongly as a way to try to characterize this legislation.

Mr. PRESSLER addressed the Chair. The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

JUDGE CLARENCE THOMAS

Mr. PRESSLER. Mr. President, I rise today to state that I shall vote to confirm the nomination of Judge Clarence Thomas to serve on the U.S. Supreme Court. I have known Clarence Thomas since the time he worked for Senator DANFORTH. In fact, my wife and he have been friends since those days, and I feel that I know him. I respect him and admire him.

The conformation of Supreme Court nominees has become a political football. The way the Senate does its work on these confirmation hearings greatly troubles me. Public witch hunts are conducted to find some little flaw in the nominee's background that can be blown out of proportion. No such flaw was found in Judge Thomas' background.

It has been my philosophy that a President, generally speaking, deserves to have his judicial nominees confirmed. I stood in this Chamber when Jimmy Carter was President and announced I would vote to confirm Abner Mikva for the Court of Appeals. We had a great battle over his confirmation. He is now a Court of Appeals judge. During his confirmation, the battle was over his stand on certain issues. At that time, the Democrats were in control of the White House and of the Senate. The Republicans wanted to ask him certain questions about gun control. Judge Mikva said he would have to weigh the issues of each case and make his decision. I voted for him be-

cause I felt the President of the United States deserved his man, barring some ethical problem.

It is my general philosophy that the people of the United States elect the President with the understanding that he is going to appoint judges sharing his philosophy. Our system works to provide our people with a balance in government. Presently, they have elected a Democratic Congress and a Republican President. Over time, they swing back and forth.

Arthur Schlesinger has written about this swing back and forth between the two parties that occurs periodically in American political history. Somehow we are blessed, we are lucky enough to have a system that provides for changes in popular sentiment. I have just returned from a trip to some of the Republics of the Soviet Union and other countries where they do not have a political system where the people are lucky enough, wise enough, or blessed enough by the Almighty to have this swing back and forth to accommodate change in popular sentiment.

In any event, soon we will vote on the nomination of Judge Clarence Thomas. I shall vote for him. I do not know if he is going to be as conservative a judge as everybody says. In fact, he may serve 30 years and turn out to be a liberal judge before he is done.

Hugo Black, who was a former member of the Ku Klux Klan, had a fairly conservative voting record in this Chamber. I remember sitting in a class at Harvard law school and one of the professors, having seen Justice Black on television the night before with the Constitution in his hands, said what a great Justice Hugo Black would be. He said he liked a liberal interpretation—what we call liberal nowadays; it used to be conservative—of the Constitution. He noted what a great transition Judge Black had made from his days as a member of the Ku Klux Klan to the present.

There are no analogies here. My point is once a judge gets on the bench, he is there for life and he might rule any number of ways. I think we should be careful not to characterize judges so closely on a philosophical basis. I hope that Members of the Senate would not vote against him on a philosophical or partisan basis. I believe Supreme Court nominations are too important for that.

Mr. President, I shall vote with pride to confirm the nomination of Judge Clarence Thomas to serve as an Associate Justice on the Supreme Court of the United States. I yield the floor.

Mr. DIXON. Mr. President, I understand that morning business concludes at 10 a.m. May I have unanimous consent to proceed in morning business for a brief period of time that will not be in excess of 10 minutes.

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

NOMINATION OF CLARENCE THOMAS

Mr. DIXON. Mr. President, may I first say that I congratulate my friend, the senior Senator from South Dakota, on his remarks.

While I have not yet announced and will not announce what I intend to do in respect to the Clarence Thomas confirmation vote in the Senate, I think my colleague is correct in observing that what a Justice may do on the Supreme Court is not really known to us. I would think that Judge Thomas' testimony indicates he is not the dedicated conservative some may suspect.

I really do share the view of my friend from South Dakota that should Mr. Thomas be confirmed for a position on the U.S. Supreme Court, he might surprise a good many people in the administration with respect to a good many of the decisions he will render. I predicate some of that upon the information I have received evaluating this judge by Chief Justice Abner Mikva, who is an old friend of mine that I served with in the Illinois legislature and the Congress, who has indicated to me in private conversations that he believes this judge has a broader view than some in the administration might suspect.

I thank my friend from South Dakota.

(The remarks of Mr. DIXON pertaining to the submission of Senate Resolution 184 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. DIXON. Mr. President, I yield back my time.

AM RADIO STEREO STANDARDS

Mr. PRESSLER. Mr. President, recently I introduced S. 1101, the AM Radio Improvement Act. This legislation would direct the Federal Communications Commission [FCC] to initiate a rulemaking for the adoption of AM stereo radio transmission equipment standards. Many radio broadcasters, equipment producers, the top radio industry commentators, and I believe that such action by the FCC is long overdue.

While the technology for stations to broadcast in AM stereo exists, not many broadcasters do so. With the current recession, many broadcasters cannot afford to invest in the necessary AM stereo technology in the absence of a national standard.

The FCC decided in 1981 not to choose a standard AM stereo system. Their assumption was that the marketplace would quickly make that decision. The market, however, has failed to decide between competing systems. This has

left consumers, equipment producers, and broadcasters in limbo. It is important for the FCC to prevent further confusion in this area by taking action now.

Earlier this summer, Japan abandoned its policy of allowing the marketplace to decide on one system and adopted a national AM stereo radio transmission equipment standard. Japan joins Canada, Australia, Mexico, and Brazil in having adopted a national AM stereo standard. In addition, the United Kingdom currently is conducting its own government standards testing. It is time for America to take similar action.

I would like to bring to the attention of our colleagues an article and editorial that recently appeared in the radio industry's most respected journal, *Radio World*. In their lead editorial, the *Radio World* editors state quite simply that—

(Broadcasters) are looking to the FCC for an official statement. It's time the U.S. joined the ranks of the other nations that have backed a single standard. AM Stereo may not save the band, but without a national standard, broadcasters are seeing a potential enhancement of the AM service slip through their fingers.

I ask unanimous consent that these articles be placed in the RECORD.

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

[From *Radio World*, July 24, 1991]

NEW AM STEREO BILL INTRODUCED
(By John Gatski)

WASHINGTON.—Citing a need to boost AM quality in rural areas such as his home state of South Dakota, Sen. Larry Pressler (R-S.D.) has proposed a bill that would require the FCC to select an AM stereo standard.

If approved, the bill would require the FCC to initiate a rulemaking to select an AM stereo standard within 60 days. The Commission would then have to enact the standard within 180 days.

Although the bill does not specify either Motorola's C-QUAM or Leonard Kahn's ISB system, Pressler's recent statement on the bill indicated that C-QUAM is the strongest contender for selection as a standard.

The C-QUAM system is used by the majority of those U.S. stations that broadcast in AM stereo. Pressler also pointed to Japan's recent selection of C-QUAM as an example of the Motorola system's popularity.

DO AS JAPAN DOES

"One only needs to look at Japan to understand how much this legislation is needed here. The Post Ministry of Japan decided to abandon its policy of allowing the marketplace to settle on one system and adopt . . . Motorola's C-QUAM. This decision will provide uniform AM stereo throughout Japan. America needs to act now to avoid falling further behind in the development of AM stereo."

In 1981, the FCC declined to select an AM stereo standard, believing that it was better left to the marketplace. According to industry analysts, the marketplace has not been kind to AM stereo for several reasons, including the FCC's hands-off policy, the band's inferior fidelity when compared to FM, and lack of AM stereo receivers. Today,

only 30 percent of AMs are broadcasting in stereo.

Pressler put heavy emphasis on the FCC's decision to let an AM stereo standard emerge from the marketplace. "The inability of the market to decide between competing systems has left consumers, equipment producers and broadcasters in limbo," he said. "It is important for the FCC to prevent further confusion in this area by taking action now."

The senator stressed that rural states such as South Dakota have numerous AMs, and these stations stick with the band because of its greater transmission distance.

"The thousands of farmers and ranchers in rural South Dakota, many of whom are without AM stereo, want to receive better quality sound. AM stereo is the solution because it can broadcast greater distances than FM stereo."

At a meeting with members of the press June 21, FCC Chairman Al Sikes disagreed with the notion that the lack of a standard has left AM stereo at a standstill in the U.S. He maintained that broadcasters and receiver manufacturers have already demonstrated a preference for one system over the other.

Sikes said that if he had been on the Commission when AM stereo was first being considered, he "would have moved to set a standard," acknowledging that the FCC's inaction may have "set back the cause of AM stereo." However, he added that reopening the issue "would be to raise a question where no question today exists."

HERE WE GO AGAIN

The Pressler bill was introduced with little fanfare and discussion (the NAB declined to even comment on the matter). Legislation has been introduced in the past to require an AM stereo standard, but such bills have usually gotten lost among other, higher-profile legislation.

One bill, introduced by Rep. Matthew Rinaldo in 1989 would have required AM stereo in FM stereo-equipped receivers; but again, the bill did not specify which system should be the standard.

A spokesman for Rinaldo's office said the bill has not been resurrected in Congress because stereo is likely to be addressed in the FCC's pending AM improvement package.

The Commission's AM action will take into account a multitude of problems that AM has faced in recent years, not just lack of a stereo standard, according to the FCC.

Those problems include band crowding—which has led to narrower receiver bandwidths and poorer sound quality—as well as continuing problems with electrical interference and a public perception that the band is inherently inferior to FM.

Some AM stations in Pressler's home state said even if a standard is selected, it may be a long time before they benefit from a move to stereo.

Acknowledging the better quality of AM stereo, Jim Lowe, GM at KSOO in Sioux Falls, South Dakota, tempered his optimism with economic reality. He said stations still have to purchase stereo equipment, taking a large bite out of a station that may be barely surviving.

The overall economic health of AMs is not as good as FMs, according to NAB surveys. Fewer of them turn a profit, and are therefore less likely than their FM counterparts to invest in new equipment immediately.

Lowe also pointed out that in rural, less affluent areas such as South Dakota, AM listeners are less likely to plunk down extra money for an AM stereo-equipped receiver or drive an expensive car that has one.

AM stereo equipment manufacturers, who were not overtly optimistic because similar legislation has been introduced before, said they would like to see the U.S. finally adopt a standard.

"We are the only country (that has taken a position on AM stereo) to take a free market approach, and we wonder why it has failed," Broadcast Electronics' Manager of Product Management Bill Harland said.

[From *Radio World*, July 24, 1991]

EMBRACING AM STEREO

AM stereo has a new champion in Congress, whose efforts may finally force the FCC to take an official stand on the technology.

South Dakota Senator Larry Pressler recently introduced a bill that would require the FCC to select an AM stereo standard within 180 days of approval of the legislation.

Pressler's reasoning for proposing the bill is simple: For his constituents, the AM band is a vital link with the world beyond their farms, and improved sound quality in AM is still significant to them.

While that point is not lost on FCC Chairman Al Sikes, his off-the-cuff remarks about AM stereo have shown that he feels an FCC-approved standard is unnecessary.

According to Sikes—who as administrator of the National Telecommunications and Information Administration decreed that AM stereo already had a "de facto" standard—manufacturers and broadcasters have stated their preference for one of the two competing systems.

True, most of those broadcasters willing to go out on a limb to support a new technology have chosen Motorola's C-QUAM over Kahn's ISB system. But those pioneers represent a mere handful of the total number of AM broadcaster.

The remaining stations are not fence-sitting because they see no benefit in AM stereo. To the contrary, many more would probably adopt the technology if they were certain that the direction they chose was federally mandated.

The fact is, implementing an AM stereo system is a costly proposition for broadcasters who are already suffering from declining revenues; without a standard, the financial risk may seem too great.

As for receiver manufacturers, it is true that a few companies have introduced AM stereo radios, most of which decode only the C-QUAM system. But these firms will not spend the promotional dollars needed to launch an effective marketing campaign for a technology that still has a vocal competitor on the sidelines.

Broadcasters are still interested in AM stereo. But it will take more than a minority to make AM stereo a success, and the majority are looking to the FCC for an official statement.

It's time the U.S. joined the ranks of the other nations that have backed a single standard. AM stereo may not save the band, but without a national standard, broadcasters are seeing a potential enhancement of the AM service slip through their fingers.

THE KRALICEKS' BUFFALO

Mr. PRESSLER. Mr. President, for some months now I have been engaged in an effort to have our Food and Drug Administration adjust its rules to permit wider commercial distribution of buffalo meat. In this regard, I noticed two recent newspaper articles from the

Yankton Press & Dakotan and the Sioux City Journal which discuss the increasing interest in buffalo.

On a personal note, the articles also profile the Kralicek families near Yankton, SD. Let me say, Mr. President, I have sat at Dorothy Kralicek's kitchen table and feasted on meals that included her now famous buffalo dishes, along with healthy quantities of her homegrown corn, potatoes, jams, and breads. I can attest to the delicious taste of buffalo meat dishes, and I will trust the scientists' assurances that buffalo meat is healthy and nutritious.

I would like to commend the Kraliceks for these fine articles. Don and Dorothy, Frank and Jolene, and their families are excellent representatives of the honest, hardworking and good people of South Dakota. I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Yankton Daily Press & Dakotan, Sept. 21, 1991]

KRALICEK RAISES BUFFALO TO ENJOY

(By Sue Ivey)

UTICA.—With buffalo meat becoming the "new" health food of the '90s, there's lots of good reasons to raise the animals.

They are low in cholesterol and low in fat. Buffalo burger sells anywhere from \$2 a pound to \$7 a pound—depending on the area of the country—and steaks have sold as high as \$25 per pound, said Kim Dowling, administrative director of the National Buffalo Association based in Ft. Pierre. Packing plants and their customers cannot seem to get enough.

But Donald Kralicek's reasons aren't quite so business-like.

"We used to go out to the (Black) Hills and see them out there. I kind of liked them," he said.

He likes it when a bus full of senior citizens stops on the road to watch the herd grazing, when area school children come to his home northwest of Yankton for a visit, and when the animals race across the field.

"Especially in the spring. Man, they'll take off and they'll really go," he said.

As a boy, Kralicek used to drive a wagon pulled by mules on occasion and he enjoys having unusual animals around. He has Belgian horses, burros, Shetland ponies, turkeys, geese, his buffalo and more.

Kralicek began thinking about buying buffalo about six years ago. Two years later he went to an exotic animal sale in Chamberlain and brought home a few.

Now Kralicek and his son, Frank, have about 25 buffalo.

In early spring, right on the farm they butcher a few two-year-old bulls for their families to use and then sell the rest to R.C. Western Meats in Rapid City.

"They (the packing plant) butcher one day a week and still can't get enough," he said.

Kralicek said buffalo have their advantages. The animals eat less feed and the only vaccination needed is for Brucellosis.

Buffalo are curious animals and not as docile as cattle, however, he said. They de-horn the heifers for easier handling.

"They're a little hard to handle when they have babies. They are very protective," he said.

Only once did one of the beasts charge at him. A barbed wire fence stopped the bull, but Kralicek hid behind a tree outside the fence just in case, he said.

"They'd take you if you go out there and try to fool with them," said his son, Frank.

Each year the Kraliceks buy calves at the Custer State Park sale in late November. It's one of several trips out west each year.

This year, Kralicek will be heading out Highway 18, across the southern tier of South Dakota counties, just as he has several times a year since 1956. This year he'll be going for the Sept. 30 fall roundup at Custer State Park, just for fun.

The United States has approximately 112,000 buffalo or American Bison, according to Dowling. In South Dakota, the association membership includes 27 producers raising the animals for slaughter or as breeding stock, she said.

[From the Sioux City Journal, Sept. 19, 1991]

THEY GIVE THEM HOME WHERE BUFFALO ROAM

(By Loretta Sorensen)

YANKTON, SD.—The sight of a buffalo herd roaming the range northwest of Yankton might not have been unusual 100 years ago. Today, however, that scene is anything but usual.

But Jolene Kralicek says she believes neighbors and passersby have finally become accustomed to the sight of 25 cows, bulls and calves her husband, Frank, and inlaws, Don and Dorothy Kralicek, have built up over the last eight years.

"At first I think they were worried that they might have (the buffalo) visiting," she says with a laugh. "But now that they've been here awhile, I think they're more comfortable with it."

Frank says some people have expressed the idea that they're glad to see the buffalo around because they were facing extinction. A few, he says, even consider the idea of raising some of their own.

"One neighbor said if he had the place to keep them he'd have them around just to watch. He thinks they're fascinating," Frank says.

When Don purchased his first-heifers in 1983 at an exotic animal sale in Chamberlain, S.D., he says he did it "just for a hobby."

"I always saw them out at the (Black) Hills and I liked them. The heifers we brought from Chamberlain were small, they'd come up to the gate and the (grand) kids fed them hay," he says.

In 1984, Don bought a cow and a bull from Ralph Mahoney in Mitchell, S.D., who has a sizable herd of two to three hundred. He started raising his own calves, Frank purchased some buffalo, and both men kept all their heifer calves and have continued to breed and build up their herd.

A lot of people, Don says, believe buffalo are wild and hard to raise. Although the cows are very protective of new calves, they really aren't much different than any other breed of cow, he says.

"They say if they get started going over fences, you'll have trouble keeping them in. We had trouble with one who got out a few times. He ended up in the freezer."

The purchase price of a buffalo is considerably higher than a cow, but the Kraliceks enjoy the meat and butcher a couple of them every year.

"We butcher some and sell the bulls to the packing plant. There's not much fat in the meat, it's low in cholesterol. If you didn't know it was buffalo when you eat it, you'd think it was beef," Don says.

Don's wife, Dorothy, says there's very little waste when a buffalo is butchered because no tallow is discarded and the bones are small.

"The neck is really good eating. You would think it would be all bones, but it isn't," she says.

"The hump," Jolene adds, "is nothing. There's no meat there. When you cook (ground buffalo) in a skillet, you have to add oil or it will crumble and stick to the pan."

Although buffalo cows will not breed until they're two years old and will not produce a calf until they're three, their natural hardiness proves to be an advantage at calving time.

"They don't calve 'til late May or the first part of June. We don't vaccinate for anything but bangs," Frank says. "We dehorn the cows. They're easier to handle and when they're in close quarters in pens during the winter they won't horn each other."

"The calves always look runty when they're born; they look like they're sick," Jolene says. "They're all hunched up and the long hair makes them look scruffy. Then in a couple of weeks they look good."

The Kraliceks say they have respect for the buffalo, but have never found themselves in a lifethreatening position with a charging animal.

"(Our son) Frankie took pictures one year, just before (an older cow) calved. The noise of the camera must have agitated her and she charged the fence and we ran away from the fence. One other time a cow followed us when we took some friends out in a pickup to see the buffalo. (Our friends) were pretty shook, but the cow was really just letting us know that we were intruding on her territory," Jolene says.

Don says he's been asked about raising the buffalo and sold a few calves to people who wanted to start their own herd. Basically, he says, they're easy to take care of.

"We run them with the cattle. They don't mix, though. The buffalo are in one spot and the cows in the other. If you feed them in the bunk, the buffalo will take over. That's their feed," he says.

"Some of our friends in town, when they get company they bring them out to see the buffalo. A lot of people stop on the road to watch them. The senior citizens come out, too. A lot of people know we have them and they drive out and take a look."

"Sometimes the buffalo will come out to the fence. They're curious; they want to know what's going on," Don says.

The Kraliceks say they will probably continue to add to the size of their buffalo herd. Some breeders west of the Missouri River are expanding and someday the buffalo may be more popular as a domestic animal, they say.

COL. GEORGE G. JACUNSKI

Mr. INOUE. Mr. President, on September 30, 1991, Col. George G. Jacunski will retire from active service with the U.S. Army. His retirement will take place at Fort Shafter, Hawaii, a short distance from Schofield Barracks, HI, where he began his military career over 27 years ago.

Colonel Jacunski is presently assigned as the staff judge advocate of U.S. Army Pacific, a command whose jurisdiction includes Alaska, the Pacific and Indian Oceans, and extends to the east coast of Africa. Colonel

Jacunski acts as general counsel for the command and supervises seven subordinate legal offices. He principally deals with international, environmental, fiscal and administrative law matters, and has been responsible for development of a highly successful intergovernmental relations program which advocates Pacific military issues in the Congress, with State government and with the governments of associated Pacific nations.

Colonel Jacunski was born at West Point, NY, and was raised in Gainesville, FL. He received his bachelor of science degree from the U.S. Military Academy, and his juris doctor from the University of Florida. He is admitted to practice in both Florida and Hawaii.

Following graduation from West Point, Colonel Jacunski was assigned as an infantry officer with the 25th Infantry Division in Hawaii and served in combat in the Republic of Vietnam.

After law school and a year of post-graduate legal work, Colonel Jacunski returned to Hawaii and served in a variety of legal positions to include chief prosecutor for U.S. Army Hawaii. Subsequent assignments were as legislative counsel in the Office of the Secretary of the Army, deputy counsel for Army forces in Japan, deputy counsel for the U.S. Military Academy, and legislative counsel and director of Senate affairs in the Office of the Secretary of Defense.

Colonel Jacunski is airborne and ranger qualified and has received numerous awards and decorations to include the Combat Infantryman's Badge, the Defense Superior Service Medal, and the Bronze Star.

Colonel Jacunski, in his three tours in Hawaii and especially during the last 4 years, has made a significant contribution to the State both as the focal point for governmental affairs and in his service to the community. Colonel Jacunski is a member of the Government Affairs Council of the Hawaii Chamber of Commerce, the Hawaii Law Enforcement Officials Association, and the West Honolulu Rotary Club, and was a delegate to the Governor's Congress on Hawaii's International Role. He lives on St. Louis Heights in Kaimuki, HI.

Mr. President, I am pleased to note Colonel Jacunski's contributions to the Army and to his country. I wish him well on whatever road he chooses to follow in the future.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,384th day that Terry Anderson has been held captive in Lebanon. And I ask unanimous consent that the New York Times article reporting the release of Briton Jack Mann be printed in the RECORD at this point.

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

[From the New York Times, Sept. 25, 1991]

BRITISH HOSTAGE, 77, FREED IN LEBANON

(By Ihsan A. Hijazi)

BEIRUT, LEBANON, September 24.—Pro-Iranian kidnappers released a British hostage here today, the fourth Western captive to be released in Lebanon in the last six weeks.

Security officials in Beirut said that the freed hostage, Jack Mann, was handed over to Syrian security officers in Beirut, and that they drove him to Damascus to be handed over to British officials there.

[From Damascus, The Associated Press reported that Mr. Mann, 77 years old, appeared gaunt and tired at the brief ceremony in which he was handed over to British Embassy officials. Mr. Mann said that he was chained and forbidden to talk during much of his "dreadful" captivity.]

Within minutes of the Briton's release, Hussein Musawi, a member of the 11-man executive of the Party of God, announced that an American hostage would be freed within a month. Sheik Musawi said the American, whom he did not name, would be let go regardless of whether Israel granted the kidnappers' main demand, the release of Lebanese prisoners.

LINKED TO DEAL WITH ISRAEL

The Party of God is widely thought to be an umbrella for underground factions holding the remaining Western hostages—five Americans, two Germans, one Briton and one Italian. The kidnappers had linked their hostages' freedom to the release of an estimated 300 Lebanese inmates at a prison in Al Khiyam inside the Israeli-controlled strip of southern Lebanon that it calls its "security zone." The 300 are held on charges of engaging in violent activity against Israel.

Mr. Mann, a retired airline pilot who ran an English-style pub called the Pickwick Club in Beirut, was kidnapped in West Beirut on May 12, 1989, by a group called itself the Cell of Armed Struggle, but his release was announced in the name of another of the kidnappers' groups, the Revolutionary Justice Organization.

In a statement, the group ignored an earlier insistence that Israel release 20 Arab prisoners first, and said it had acted because efforts by the United Nations Security General, Javier Pérez de Cuéllar, were making progress. It did not elaborate.

Mr. Pérez de Cuéllar has been involved in contacts for arranging a swap of Western hostages in Lebanon and Lebanese prisoners held by Israel. Israel has demanded that the exchange also include an accounting of six Israeli servicemen missing in Lebanon over the past nine years.

SHOT DOWN SIX TIMES

Mr. Mann, a World War II fighter pilot and Battle of Britain veteran who was shot down six times, had lived in Lebanon with his wife, Sunny, for more than 40 years, working as a pilot for the Lebanese national carrier, Middle East Airlines, until he retired in the 1960's to manage a pub in a Beirut hotel.

His kidnappers had kept total silence about Mr. Mann until earlier this month, with the Revolutionary Justice Organization releasing a photograph of him. The Revolutionary Justice Organization also claims to be holding an American hostage, Joseph Cicciopio, who was acting comptroller of the American University of Beirut when he was abducted five years ago. Security officials here said that Mr. Cicciopio, who was kid-

napped in September 1986, was most likely to be freed next.

A security official credited Iranian pressure for bringing about Mr. Mann's freedom. "Teheran must have twisted R.J.O.'s arm to let the elderly Briton out," the official said.

The security officials here said they believed the process for ending the hostage drama was in full swing. Two long-held Western hostages, John McCarthy and Edward Austin Tracy, were released last month, as was a Frenchman, Jérôme Leyraud, who was held for only three days.

Security officials said that they expected that Terry A. Anderson, the American who is the longest-held of the Western hostages, and Terry Waite, an envoy of the Church of England, will be the last to be released.

Rounding out the list of nine Westerners believed held hostage in Lebanon are the Americans Thomas Sutherland, Alann Steen and Jesse Turner, the Germans Heinrich Strübig and Thomas Kemptner, and the Italian Alberto Molinari.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1992

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 2521, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

The Senate resumed consideration of the bill.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INOUE. Mr. President, pursuant to clearance by both sides of the Senate, I ask unanimous consent that with the exception of, first, an amendment on page 4, line 5; second, the amendment on page 33, line 23 through 1990/1991 on line 25; the amendment on page 34, line 2 through line 10; the amendment on page 43, line 1; the amendment on page 43 line 2 through line 25 on page 44; the amendment on page 100, line 4 through line 9; the amendment on page 146, line 10 through line 23; the amendment on page 171, line 24 through line 9 on page 172; the amendment on page 63, line 4 through line 19; and the amendment on page 130, line 16 through line 22; that the committee amend-

ments be agreed to en bloc; that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by agreeing to this request.

The PRESIDING OFFICER. Is there objection? Without objection, all of the committee amendments with exception of those listed by the Senator will be considered and agreed to en bloc.

The committee amendments were considered and agreed to en bloc except:

The amendment on page 4, line 5; second, the amendment on page 33, line 23 through 1990/1991 on line 25; the amendment on page 34, line 2 through line 10; the amendment on page 43, line 1; the amendment on page 43 line 2 through line 25, on page 44; the amendment on page 100, line 4 through line 9; the amendment on page 146, line 10 through line 23; the amendment on page 171, line 24 through line 9 on page 172; the amendment on page 63, line 4 through line 19; and the amendment on page 130, line 16 through line 22.

EXCEPTED COMMITTEE AMENDMENT PAGE 4,
LINE 5

Mr. INOUE. Thank you, Mr. President. As the Senate is aware, Tuesday last, we laid down the bill, and I believe we are ready to offer amendments. Is that the pending business?

The PRESIDING OFFICER. The Senator is correct. The first excepted committee amendment will be the first order of business.

The clerk will report.

The assistant legislative clerk read as follows:

On page 4, line 5, strike "\$18,905,500,000," and insert in lieu thereof "\$18,838,800,000."

AMENDMENT NO. 1193

(Purpose: To reduce the amount provided for the B-2 aircraft program, to reduce the amount provided for the rail garrison MX missile program, and to reduce the total amount provided for the Strategic Defense Initiative and the Theater Missile Defense Initiative)

Mr. SASSER. Mr. President, I have an amendment that I wish to send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for himself, Mr. BYRD, Mr. LEAHY, and Mr. JOHNSTON, proposes an amendment numbered 1193, to the committee amendment on page 4, line 5.

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

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

The amendment is as follows:

At the end of the committee amendment on page 4, line 5, insert the following new section:

SEC. . (a) Notwithstanding any other provision of this Act, the total amount appropriated by title III under the heading "AIR-

CRAFT PROCUREMENT, AIR FORCE" is the amount provided under that heading minus \$1,010,000,000.

(b) Notwithstanding any other provision of this Act, the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE" is the amount provided under that heading minus \$225,000,000.

(c)(1) Notwithstanding any other provision of this Act, the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE" is the amount provided under that heading minus \$225,000,000.

(c)(1) Notwithstanding any other provision of this Act, the total amount appropriated by title IV under the headings "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" and "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES" is the total amount provided under those headings minus \$1,100,000,000.

(2) Of the total amount appropriated by title IV under such headings after the reduction required by paragraph (1), not more than \$3,500,000,000 may be expended for the Strategic Defense Initiative and the Theater Missile Defense Initiative.

Mr. SASSER. Mr. President, I offer this amendment to the fiscal year 1992 Defense appropriations bill, one which I think acknowledges both our responsibility to the budget agreement, that becomes more demanding as time goes on, and the opportunity we now have to bring our defense budget into line with the security needs posed by what the President has defined as the new world order.

Mr. President, I want to also, before getting into a discussion of this amendment, pay tribute to the splendid work that has been done on the Defense appropriations bill this year by the distinguished chairman of the Defense Appropriations Committee, our colleague, Senator INOUE of Hawaii.

This is an enormous bill which requires a great deal of time and expertise, which the distinguished chairman has exhibited in full measure in bringing this bill to the floor.

I want to express my appreciation to Senator INOUE and his fine staff and also to the distinguished ranking member, Senator STEVENS, for the efforts that he has made to bring this really very complex piece of legislation to the floor for consideration by the full Senate today.

Mr. President, a detailed letter describing the amendment which I am offering has gone out to every Senator. The subject is somewhat technical, but I think the core message should be very clear. We will not reach the \$490 billion in deficit reduction that we agreed to, and that we promised the American people, in our budget summit without making some additional cuts in the coming years, cuts in both the defense and domestic sides of the ledger.

This may be a revelation to some observers. It is certainly contrary to the mythology of the budget summit that says we are on automatic pilot for the

next 5 years. We are not. I have done my best to alert our colleagues, with statements on the floor of the Senate, to the problem that we had when we were considering the defense authorization bill, indicating at that time that we were going to have a serious problem in the outyears if we continued to fund all of the so-called big ticket items that start out slowly but build up very rapidly in the outyears with regard to outlays.

I also made a similar statement on the floor of this body when we were considering the space station and also the super collider. I did so in an effort to alert our colleagues that we were heading for a train wreck on the domestic side as well—if we continued to fund these very expensive projects that start out with a modest fiscal requirement but that build up in a geometric ratio in the outyears to the point where these projects, taken with the defense procurement items, simply push us over the top and beyond the caps of the budget summit agreement.

In the area of discretionary spending, the most difficult decisions lie before us. They have not yet been made. Let me stress here that this problem was understood, I think, by all of us who participated in the summit negotiations. We knew we were going to have to get additional savings in the outyears, and we all understood that was going to be extraordinarily difficult.

The Congressional Budget Office recently confirmed just how difficult it will be. The fiscal 1994 and 1995 caps on discretionary spending—which includes defense, international, and domestic discretionary—will require substantial cuts below the path that we are following right now. In other words, we are staring straight at a massive savings gap beginning modestly in fiscal year 1993 but totaling some \$54 billion by fiscal year 1995—a gap between where we are supposed to be at the end of the budget agreement in 1995 and where our current policy is leading us.

Let me try to present this issue graphically and with as much clarity as I can bring to it. I have attempted to compress the rather technical concepts involved into a few, I hope, relatively simple charts. The numbers that we use on these charts are the most up to date available. They incorporate all of the adjustments for non-policy-related changes that are mandated under the budget agreement.

Our first chart here, Mr. President, indicates that, starting as early as next fiscal year, 1993, we will fall short of the discretionary savings we are committed to, and this will build to some \$54 billion by fiscal years 1993 through 1995.

The calculations assume the President's defense budget for 1992 through 1995 and they assume a simple inflation growth level for domestic and international spending. There is no real

growth included in this chart for either domestic spending or for discretionary spending. The resulting savings gap must be filled in either with cuts in defense, real cuts in domestic discretionary, or some combination of the two.

Mr. President, the chart shows the discretionary caps in the yellow here. The red indicates the savings gulf that we will encounter if we continue on the policy that we are presently embarked upon. We see that a relatively modest shortfall of slightly over \$9 billion occurs in fiscal 1993 and continues to build in 1994 and 1995 for a total of \$54 billion below the savings that were promised in the budget summit agreement.

Mr. President, chart 2 is simply the numerical counterpart of chart 1. It also shows in a numerical fashion the problems that we face year by year in terms of outlays. In fiscal year 1992, we see that current policy has us at \$534.5 billion, hitting the caps on discretionary spending of \$534.5 billion right on the nose. It is something I think we are to be commended for.

The distinguished chairman of the full Appropriations Committee is here. He, working with his subcommittee chairmen, I think has done a marvelous job at having us hit these particular caps right on target.

We find in 1993 that, if we follow the present policy that we are embarked upon—a policy that limits domestic discretionary spending to only inflation growth, no real growth, and follows the President's spending pattern for defense—we find that we are exceeding the caps in 1993 by \$9.4 billion. Continuing current policy as it presently is, we find that the gap grows in the outyears. By 1994, current policy is exceeding the discretionary caps by \$19.8 billion. In 1995, the growth continues and we exceed the caps by \$24.8 billion, for a total of \$54 billion.

Now bear in mind, Mr. President, with regard to domestic discretionary spending, there are no real increases here. This simply allows domestic discretionary spending to keep up with inflation. It does have defense spending coming down in real terms following the proposal that was advanced by the President and it allows growth in international spending only to keep up with inflation.

I might say that I think these first two charts indicate the depth of the hole that we are digging ourselves into if we do not begin this year to make appropriations decisions for the future, decisions that will lead us toward the outyear goals set by the budget agreement. Which, I think, brings to mind one of the real problems that we have here in this Chamber, in the other Chamber, and probably a problem that haunts every legislative body in this country; that is, the difficulty of a leg-

islative body in doing long-term planning.

But here I think it is absolutely imperative that we do some long-term planning if we are to avoid the fiscal train wreck that we will be seeing coming down the line.

In my view, our best and only acceptable chance to close the savings gap is to begin right now to cut the big-ticket items—items that cost enormous sums, sometimes growing well above the rate of inflation, but which spend out very slowly at the outset in the near term. It should be evident to all of us that big-ticket programs are on a collision course with our budget agreement. If we simply wait for this train wreck to occur, we are going to face, I think, very unacceptable and very unpalatable choices in the future. If we keep buying year after year these large ticket items, we radically limit our ability to make rational, sensible, policy decisions in the future. We lock ourselves into almost an autopilot glide path that makes it exceedingly difficult to deviate from in the out-years.

Mr. President, we must remember in the final and most demanding 2 years of the agreement, big-ticket spending will compete directly with funding for priorities that everybody in this body believes in, priorities like education, priorities like the environment, priorities like the infrastructure, priorities like scientific research, priorities like investing in some of the emerging democracies that we hear the administration talking about. In truth, when the walls come down after 1993, big-ticket defense spending in those years will compete with the personnel accounts and operation and maintenance accounts in the defense budget itself.

For those who lament the fact that we do not want to go to a hollow military, I would say that if we continue down the line of some of these large procurement programs, we are preparing the field for a so-called hollow military in the outyears when we have to make the savings in operation and maintenance accounts or personnel accounts. If we fail to begin today to make a downpayment on the savings that are required tomorrow, this body will be reduced to cutting programs that generate savings very quickly.

No matter what mix of additional cuts we agree to, they are going to include cuts of the kind that we have rejected, indeed that we recoiled from, in the past. As I said earlier, cuts in defense personnel, cuts in training, and cuts in our already strained and starved domestic discretionary investments. We can prevent this scenario entirely if we start preparing now for the years when the caps are going to be the tightest.

This amendment asks of the defense accounts less than half, less than half of the savings required from the discre-

tionary budget in the last 2 years of the agreement, \$9.6 billion of the \$45 billion needed to close the savings gap, all of which would go directly to deficit reduction.

Now specifically, this amendment would halt B-2 production at 15 airplanes. It would provide the strategic defense initiative with \$3.5 billion, a \$600 million increase over last year's level. It would cancel the R&D funding for the MX rail garrison, a program I am advised is scheduled to be mothballed shortly after completion of the testing program. These measures would produce budget authority savings of \$2.3 billion in 1992 and nearly \$25 billion between 1992 and 1995.

Now, let me demonstrate to my colleagues how modest these proposed cuts really are in the overall view of our defense budget.

When you view these cuts that are being proposed here in the context of the larger procurement picture, they are only a sliver, not a piece, but only a sliver of a very large procurement pie.

According to the General Accounting Office, the Pentagon is currently pursuing over 100 major weapons acquisition programs that carry a total price tag of half a trillion dollars. Now that sounds remarkable. Some would say it sounds unfathomable considering the world that we are presently living in.

To satisfy my own curiosity, I selected just nine of these big-ticket programs and simply added them up. The third chart that I have here shows quite plainly that these nine systems alone carry procurement costs totaling at least \$367.5 billion.

The estimates for 1992 are from the Senate reported defense appropriations bill and those for 1993 and beyond are from the President's own fiscal year 1992 budget.

As you can see, we will spend \$20.6 billion in 1992 for these nine systems. They consist of a light helicopter, \$500 million; aircraft experimental, for which we spend nothing in 1992 but will spend \$71.7 billion beyond 1995; a DDG-51 destroyer, \$4.2 billion in 1992; SSN-21 submarine, \$2.4 billion in 1992; ATF, advanced tactical fighter, \$1.6 billion in 1992; the B-1 bomber, \$4.8 billion; C-17 transport, \$2.2 billion; MX rail garrison, \$300 million, SDI tactical missile initiative, \$4.6, a total of \$20.6 billion in 1992.

But the problem we get into is in the period 1992-95, spending for these systems totals \$97.6 billion. In the out-years, it totals \$269.9 billion. One system alone, the advanced tactical fighter, is expected to cost nearly \$90 billion, making it the most expensive procurement program in our history. And the actual cost could well exceed that amount.

Now the fact is, a compelling argument can be made for reducing our investment in each of the systems on

this chart. But I want to make it clear that the systems that are targeted by my amendment—the B-2, the SDI, the rail MX—were not selected at random. They were selected because in prior years this body has exhibited some reservations about these particular systems. And I think those are reservations that could be well taken.

Opponents of the systems argue that these systems no longer have merit. I would say we simply have to begin somewhere and I am proposing we begin here because these three systems have not enjoyed overwhelming support in this body. Some would say that all three are anachronisms, they are cold war relics that we keep trying to readapt to a world that will no longer have need for them. We continue to spend mind-boggling sums, and it just does not make fiscal sense in the final analysis.

I am not going to argue the respective merits of the B-2 and the SDI at this particular time, or the rail mobile MX. Those have been argued in times past by others who are more knowledgeable than this Senator about these particular systems. But clearly, spending on the magnitude of the B-2 and SDI will crowd out other strategic and domestic investments across the board—investments that we need to make right now in roads and bridges and health and education and crime prevention; investments in military personnel and investments in keeping the operation and maintenance budgets up in our Defense Department. Make no mistake, opting to buy expensive cold war systems will require a real sacrifice on the part of the American people and will have a real and negative influence on the quality of life in this country.

Perhaps in the darkest days of the cold war we had no choice but to make that sacrifice. But today I would submit there is no threat in the world that justifies that. No less an authority than the President of the United States has said that changes in the Soviet Union offer "an opportunity for a vastly restructured national security posture." So says the President of the United States.

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

Mr. SASSER. Let me finish my statement and then I will be pleased to yield.

Secretary of Defense Cheney himself has added, "There just isn't any way that the Soviets are going to be able to insulate their military-industrial complex from the collapse of the economy."

Given the changes in the past year, given the changes even in the past few weeks, I think the absurdity of continuing with some of these systems speaks for itself in light of the desperate needs we have here in this country, even if we did not have the fiscal

problems of this budget agreement which I am bringing before the body today. To the administration's credit, the collapse of the Warsaw Pact caused Secretary Cheney to produce a defense plan that reduces our force structure by 20 percent between 1990 and 1995. But now that is a 2-year-old event that produced that defense plan. Changes have occurred that are as dramatic, perhaps even more dramatic than those that occurred 2 years ago. Meanwhile, the administration seems to be saying that the collapse of the Soviet Union should produce no deficit cuts, no reevaluation.

Mr. President, I disagree.

But in the final analysis what this amendment is all about is an appeal to fiscal responsibility. It is not, I emphasize, an effort to take a pound a flesh out of defense. It is not an attempt to cull a peace dividend from defense and then turn around and spend it on domestic programs.

We are facing a very real problem with respect to the tightness of the caps on discretionary spending. That is the case that I bring to my colleagues today. And any solution to this problem must maintain a balanced military force that is capable of defending our Nation, and a solution must protect our existing level of investment in our own country and our own people from further erosion.

If we fail to begin now to rein in the rapidly expanding big ticket programs, we are going to face essentially two choices. In the outyears we can try to make massive cuts in military personnel and domestic investment. I frankly think that is a choice that my colleagues would shrink from. I can assure you that this Senator would not want to be faced with that kind of draconian decision. Or we can simply say the budget agreement did not amount to anything, go ahead and break the caps and open the floodgates on our deficits once more. I do not think this body wants to do that either.

I believe neither of these alternatives is acceptable and I think we have a responsible approach that we can take right here, and that is to make some modest cuts in the defense budget on some programs that are controversial and on some programs that our colleagues have expressed substantial reservations in past years.

Mr. President, I ask that the majority leader, Mr. MITCHELL, be added as an original cosponsor of the amendment.

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

Mr. SASSER. And, Mr. President, I offer this amendment on behalf of myself, the distinguished chairman of the Appropriations Committee, Mr. BYRD, the Senator from Vermont, Mr. LEAHY, and the distinguished chairman of the Energy Committee, Mr. JOHNSTON, the Senator from New Jersey, Mr. BRAD-

LEY, the Senator from Illinois, Mr. SIMON, and also, Mr. President, the majority leader, Mr. MITCHELL, who I had just asked be made a cosponsor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, I just ask if the Senator would answer a couple of questions. I do not want to get in front of the Senator from West Virginia, but I do want to ask a couple of questions without getting into debate on the merits of these systems, just on the arithmetic. If I could pose these questions to my friend from Tennessee, and I see the Senator from New Mexico is also on the floor, who would also be able to answer these questions.

Do the defense spending levels in the administration's fiscal 1992 5-year defense plan provide the required \$182 billion in discretionary outlay savings from 1991 to 1995?

Mr. SASSER. I think to answer the distinguished chairman's question, I think the answer would be in the affirmative. But I will say to my friend from Georgia that, as he will recall in the outyears, in 1994 and 1995, there are no caps with regard to defense and no caps with regard to domestic discretionary or international. It is simply one big sum of money.

The point is that at the rate we are moving we are simply going to break those caps.

Mr. NUNN. But the point I would like to make—and the Senator can correct me if I am wrong—it is not the defense numbers that are breaking the caps. The defense numbers have been met and will be met for the 5 years.

What the Senator is doing is anticipating, as I see it, that the discretionary spending is going to break the caps—that is nondefense discretionary spending—and therefore now making the cuts in defense, if this amendment passed, so that those discretionary spending nondefense caps would not ever have to be met.

Mr. SASSER. If I can respond to my friend from Georgia, in the budget summit agreement and in the discussions, it was, I think, widely perceived and understood that there were going to have to be additional cuts to be made in discretionary spending in the outyears. In 1994 and 1995, how those cuts were to be apportioned, would be determined by the appropriators and in conjunction with the administration. But we understood that in the outyears 1994 and 1995 that there was going to have to be some mixing and matching and some reductions if we were to hit the caps in those 2 years. That is one of the reasons why the fences came down in 1994 and 1995 between defense spending, international spending, and domestic discretionary spending so mixing and matching could take place.

What I am saying to my colleagues today is to put them on warning that

unless we start making some of these reductions now, when we get to the mixing and matching, we are going to find that not only is domestic discretionary going to be under an irresistible pressure to be cut, but we are also going to find that the defense budget is going to be in jeopardy in the items that the distinguished chairman of the Armed Services Committee has been so concerned about in years past, and that is personnel, the level and quality of personnel, and also in operations and maintenance.

Mr. NUNN. If I could just complete the question, the long and short of it is, what the Senator is saying is, the defense 5-year number is being met.

Mr. SASSER. What I am saying to the Senator is there was really, in my view, no solid agreement on what any 5-year number was. There was an agreement there would be caps for 3 years, but those caps were caps and they were not floors.

Mr. NUNN. But there was at least a minimum level of defense expenditure cuts that had to be made in order for domestic nondefense to be able to continue to protect its real growth; in other words, to stay even, there was a projected \$180 billion to \$182 billion defense number that had to be made.

I am not saying that was all that could possibly be cut because it was always anticipated this was going to be opened up in 1993 and 1994. My question directly to the Senator is the minimum floor of \$182 billion that was anticipated for defense is being met and the Senator has already answered that affirmatively.

Mr. SASSER. I think that is correct, but the caps do not allow the President's defense budget to continue as it is even though in real terms it is coming down and does not allow any real growth for domestic discretionary. So something is going to have to give.

Mr. NUNN. I understand the Senator's point, but my point is this: The defense number for 5 years is being met, the minimum floor. The Senator is saying we can cut more, and let us for the sake of argument understand that. The Senator from Tennessee is saying that overall the numbers are not going to be met and we are going to meet a crunch come 1993, 1994; is that correct?

Mr. SASSER. I may have misunderstood the Senator from Georgia. There was no floor anticipated under any spending.

Mr. NUNN. There had to be a minimum amount of cuts made in defense in order for any 5-year plan conceivably to make the budget cuts that were anticipated. Defense had to save at least \$182 billion.

Mr. SASSER. In order to hit the caps in the 3 years, yes.

Mr. NUNN. Right. If defense is meeting that number and we are not going to meet the overall number, including

defense and discretionary and international, then that means that some other part of the budget is not meeting its numbers. Otherwise, the arithmetic would have to work out. Then you can argue about whether we ought to be doing that as a matter of policy. But there is no conceivable way that the defense budget can be blamed for not meeting the outyear numbers that were anticipated in the budget summit. The only conceivable way, based on the Senator's own answer, that could possibly be the case is if other categories were exceeding theirs.

What the Senator from Tennessee and the cosponsors of this amendment are doing—and I think everybody ought to understand it—is they are anticipating that the other categories are not going to meet theirs and they are saying, wait a minute, let us get out in front and cut defense another billions and billions of dollars so we can then proceed as we plan to proceed and not cut other categories. That is what the Senator is doing.

I am not saying that is a violation of the 1993 and 1994 numbers because the Senator is correct on that. But there should be no misunderstanding when people vote that the defense numbers are being met. This is anticipatory excessive spending beyond what was anticipated in the other agreement. That is what this is.

If I could ask the Senator one other question.

Mr. SASSER. Mr. President, before I yield another question—

Mr. NUNN. I thought I had the floor. The PRESIDING OFFICER. The Chair reminds the Senators the Senator from Georgia was recognized to propound questions to the Senator from Tennessee.

Mr. NUNN. I will be glad to yield to the Senator.

Mr. SASSER. What we are saying, Mr. President, is that we agreed on defense caps for 3 years. We agreed on fences for 3 years. But what we are also saying is that if we embark on these large procurement programs with minimum outlays in the first 2 or 3 years, then we reap the whirlwind of that in 1994 and 1995. We simply have to do some planning now.

Mr. NUNN. If my friend will yield, if the other categories of the budget were meeting their ceilings in 1993, 1994, and 1995, there would not be any problem with defense.

What the Senator is saying is, look, folks, we are not meeting our numbers in discretionary and international and we better do something about defense right now because if we do not, we are not going to be able to overspend in these other areas. That is what this message is.

Mr. DOMENICI. Will the Senator from Georgia permit me to respond?

Mr. SASSER. If I can just respond to the Senator.

Mr. NUNN. Let me give the Senator from Tennessee a chance to respond, and then I will yield to my friend from New Mexico.

Mr. SASSER. What I am saying to my friend from Georgia is that in 1994 and 1995, all of the discretionary money, whether it be domestic, international, or defense, goes into one large pot. If we are going to continue to fund these programs in defense at the rate we are going, then there are going to have to be either draconian cuts in domestic discretionary spending, substantial cuts in international spending—

Mr. NUNN. That were anticipated to begin with.

Mr. SASSER. Or substantial cuts in the defense budget.

Mr. NUNN. Those are the cuts that were anticipated to begin with at the summit that are not being made.

Mr. SASSER. No, my point is this: If we were proceeding down the line at the summit of guaranteeing certain basic defense spending over 5 years, then we would have had the caps in place over 5 years. It was known and perceived and understood that in 1994 and 1995 that then we would have to make choices between domestic discretionary and defense spending and international spending, and we would not have to rely on the caps.

Mr. NUNN. What the Senator is saying is those choices have already been made in the other areas and the other areas are exceeding their budgets. And in anticipatory fashion, therefore, we have to make sure we do not wait until 1993 and 1994 to have the debate. We have to cut defense right now so we can go right ahead and overspend in domestic and international. That is exactly what the Senator's message is. This is anticipatory overspending in the other areas.

The only part of the budget that is on target right now is the defense cuts. That is the only part of the budget that is on target. Everything else is sort of coming out of whack. So everybody says let us just march in here and get out in front of the defense cuts again.

Could I ask the Senator one other question?

Mr. SASSER. If I could just respond to what the Senator just said for one moment.

I made the point on the floor of this Senate on two occasions that we were going to get into trouble if we continued to finance some of these large projects that ballooned in the out-years. We were not just talking about defense. I made the same case on the question of the space station. I made the same case on the question of super collider. We were overruled on that.

So I am here trying to make the case on the question of some of the defense projects.

We are not just picking on defense. We are asking defense to take less than

50 percent of the cuts that are anticipated will be necessary if we are to meet the caps.

(Mr. LIEBERMAN assumed the chair.)

Mr. NUNN. When the Senator says we are not just picking on defense, the absolute truth of the matter is if the other categories had met their targets, we would not have a budget problem on the spending side.

Mr. BYRD. Mr. President, will the Senator yield? I am either misunderstanding what the distinguished Senator from Georgia is saying—and I do not think I am. The other areas of the budget have not exceeded their caps. We have lived within our caps on domestic discretionary spending and we have lived within our caps on foreign ops, although I carry no brief for foreign ops. But for these years we have been very careful and I have insisted that our subcommittees stay within their caps, stay within their allocations, and those allocations and caps have not been one time exceeded.

Mr. NUNN. I believe the term I used, if I may say to my friend from West Virginia, is "anticipatory." What is happening here is an anticipatory exceeding of the ceilings in the other categories and cutting defense now so that can be accommodated. That is the point I was trying to make.

Could I yield to my friend from New Mexico.

Mr. BYRD. May I just make one point. We are not anticipating breaking any caps in the outyears. There are no caps in the outyears.

Mr. NUNN. There is an overall cap.

Mr. BYRD. There is an overall cap.

Mr. NUNN. What I am saying to my friend from West Virginia is there is anticipation that the overall cap is going to have a problem if defense only cuts what it originally was anticipated it would cut over the 5-year period, which was \$182 billion. What I am saying is that our friends on the Budget Committee and some of our friends on the Appropriations Committee are now saying we cannot meet the overall cap unless we cut defense more than the 5-year commitment of \$182 billion or if we do not exceed that \$182 billion in cuts for defense, what we are going to have to do then is cut the discretionary and international more than we want to cut them.

Mr. BYRD. I thank the Senator for yielding.

Mr. NUNN. I thank the Senator.

I yield to my friend from New Mexico.

Mr. DOMENICI. Mr. President, I did not write down the Senator's questions, but in a couple minutes I could address most of them, as I would have, had the Senator propounded them to me.

First, the defense appropriations bills and this one, carried on with its normal expenditures, will accomplish the

savings contemplated by the budget 5-year agreement. It does all of the savings that are required.

Second, you can read this budget inside out and you will not find anything that says you should not have big procurement items. It could not be that big procurement items were not contemplated. As a matter of fact, the B-2 and the SDI program were in the President's budget, and their funding is in compliance with the budget agreement. This amendment would say I have a new budget and this new budget will not accommodate certain programs. Of course it will not accommodate those programs that you determine in advance should be taken out. So if you say it is these big ticket items that you do not want—and the Senator is the proponent of this amendment on the floor—you will go to the CBO and say how much does it cost in the first year and how much in 3 or 4 years, and then you will say we cannot afford it because it is going to be bigger in the outyears.

But, I say to the Senator from Georgia, there are 15 or 20 items, big procurement items that get bigger in the outyears. Which is next as we draw a new budget each year and decide that we are going to set some new path that was not agreed to in the summit.

There is another issue here. Do we rely on the military, I ask the Senator from Georgia, to give us their ideas of what they want in a 5-year military plan?

I assume the Senator from Georgia looks at it carefully when they send it to him. When they ask them to do a new one, I assume the Senator looks at it. When and how are they going to get a chance to take a look at the new budget that is being developed here on the floor? This is a new budget. Should they not have an opportunity, I ask my friend, the chairman of Armed Services, should not the Joint Chiefs have an opportunity under a new budget line to tell the Senator whether they would put the B-2 in or not?

It seems to me they ought to be given a new budget by the Senate. I think the Budget Committee should go back in session and say we have a new budget; say that we do not want to spend as much as was allowed in the summit, and then let us let the Defense Department tell us which programs they would cut. And maybe we should suggest which big-ticket items we think they should cut because we have an aversion to big-ticket procurements.

Mr. NUNN. I would agree with my friend from New Mexico on that. I think they should be given—if the 5-year defense plan they have is out the window, if that is the message we are going to send them today, then certainly they ought to have a chance to go back and make tradeoffs and decide which items are more important. We

would make the final decisions, of course, but at least we should hear from the Department of Defense. I would agree with the Senator's point on that.

Could I ask both my friend from New Mexico and my friend from Tennessee this question again without debating the B-2 and SDI. We have had essentially 1 week of debate on those items already this year. I guess, the way our process works, we have to debate everything twice every year. My friend from Alaska says three times. But that is the way it works.

If this amendment is adopted, may I ask my friend from Tennessee, would not this bill then be open for further amendments adding this same money back in defense?

Mr. SASSER. Well, of course, it would be open for further amendment. But we would resist that. We would resist it vigorously. Because the whole thrust of this amendment is to reduce spending and to try to reduce the deficit.

Mr. NUNN. If somebody came back, and added F-14's on the floor to take up this money, or added more personnel, more money for the National Guard, and so forth, the Senator would make the argument then that, look, we have saved this money and therefore we are not going to spend it on any defense item; is that right?

Mr. SASSER. I would make that argument, but the argument would not be as persuasive if the program that was offered was one that could be satisfied in fiscal year 1992 and one that would not swell the outyear fiscal problems. If it were a program that spent out fast, then I think the argument would not be as convincing if it were offered on this bill, let me just say this to my friend from Georgia.

On the question of the \$182 billion defense savings that he asked me about a moment ago, the \$182 billion defense savings was a figure that was advanced by the administration and by the distinguished chairman of the Armed Services Committee, and that figure was merely illustrative. That figure was not chiseled in stone at the summit. If those savings had been part of the summit agreement—and that is all that defense was going to be asked to do—then we would have just extended the caps on out into 1994 and 1995, and we would have safeguarded that particular savings number. That was a number advanced by the administration and my friend from Georgia that was discussed but was never formalized in the summit agreement itself.

Mr. NUNN. May I ask my friend from Tennessee this question. Does not that same argument also apply to domestic and international?

Mr. SASSER. Indeed.

Mr. NUNN. So, in effect, we do not have to save \$182 billion; all we have to do is meet the first 3 years. In fact, in

the outyears we could add more B-2's in here; is that right?

Mr. SASSER. Certainly. We could just dismantle the Department of Health, Education, and Welfare and buy 1,000 B-2's, if we wanted to. I really doubt that this body would want to do that.

Mr. NUNN. I would be astounded, if we went over that track, if both the CBO and chairman of the Budget Committee were not out here on the floor saying you are not meeting your 5-year commitment. The Senator is basically saying we did not have a 5-year commitment. Every number I have seen indicated there was a minimum expectation from defense for 5 years. Every number I have seen says it. The Senator from Tennessee I think has said it several times. But what we are saying now is, look, it is wide open after 3 years. You did not have any commitment in 1994-95.

We have programmed and made big ticket cuts with tremendous pain in defense in order to meet those outyears. The Senator is making the outyear argument as if we are not going to meet it and the B-2 and these other programs are not going to meet that.

The whole track is to meet the \$182 billion.

What it amounts to is there are a whole lot of people, maybe a majority—and if there are, we will abide by it. If there are a majority that want basically to anticipate that we are not going to meet the ceilings in 1993 and 1994 on discretionary, nondefense and on international and therefore we better get out in front and change the budget agreement on an appropriations bill, that is fine. But it would seem to me that the chairman of the Budget Committee would want to change the budget agreement on a budget bill and not do it on an individual appropriations bill.

We do not have a chance here to join the issue. We do not have a chance to debate whether this particular area is more important than another one. Are we going to weigh it against some international expenditure? That is the problem of the budget process.

What we are basically doing now, make no mistake about it, is we are changing the 5-year budget deal. If that is what we are doing, fine. I expect to revisit this issue next year. I expect to take into account the changed threat in the world in defense.

It may very well be we can lower defense numbers in 1993, 1994, and 1995. I would hope so. If the threat continues to diminish, I would be the first one to say we should. I was the one who led the way to say the threat had changed, and we could reduce defense expenditures by 20 to 25 percent.

But it was based on a changed threat, a changed threat of assessment, and an orderly process. It was joined on the budget resolution. And now what we

have is the chairman of the Budget Committee basically saying change the budget agreement; do it on a defense appropriations bill, on two items. I do not think that is the way the budget process was intended to work.

Mr. DOMENICI. Might I answer the question? Let me first say there is no question that if this amendment is adopted then somebody can come to the floor on the Defense appropriations bill and add \$2.3 billion in fiscal year 1992. There will be no point of order because this amendment would have reduced the bill by that amount off the cap set in the budget agreement.

Second, might I suggest that the question of bow waves in the out years are not exclusively a problem with defense spending. I want to suggest that the House, in its appropriations bills—the Senator should know this—has \$6.5 billion in bow wave items. The House includes budget authority for various programs in their appropriations bills, but delays the obligation of these funds until the next year by making them available on the last day of the fiscal year. By putting these items at the end of the year, obligations are delayed to the next year, making a bow wave of expenditures.

Although these are not a big-ticket items as are being discussed here, they are significant. It amounts to \$6.5 billion already appropriated, in the House, of which \$3.2 billion is for domestic programs. Surely, they will have to take more out of defense in 1994 and 1995 if they do this every year, for they will already have that amount coming out of the discretionary spending caps.

In our body, in spite of the Budget Committee chairman coming to the floor and objecting on two items, and in spite of the chairman of Appropriations Committee coming to the floor and objecting on two or three items, nothing was done to strike this practice of delaying obligations. The delay creates an undesirable bow wave. In fact, \$4.3 billion worth of delayed obligations are in our bills here—by far more than is being saved in the first year under the Sasser amendment.

Mr. NUNN. I thank my friend from New Mexico. I add one other question to my friend from Tennessee. If this amendment goes through and there is no other amendment adding back defense money on this bill which would be within order—it could happen, no point of order against it—then the conference committee goes in.

The House has all sorts of add-ons. They have added on, and they have added on. They have projects that we have opposed on the floor of the Senate several different years in a row, led by Senator DANFORTH from Missouri, basically taking certain set-asides out of R&D money and specified different universities around the country. They have museums, all sorts of things.

Basically, under the Sasser amendment, this conference committee could come back, fill up all the money that is being taken out, still be in total compliance with the budget agreement, and simply change the defense priorities. Is that correct?

Mr. SASSER. Of course, in conference, I would assume that the distinguished chairman of the Defense Appropriations Committee would want to stick very strongly by the Senate's position. If the Senate spoke here in such a way that it wished to make savings and come in under the defense caps, then I would assume that the Defense appropriations negotiators, committee negotiators—I might be one of them—would stand very strongly for the Senate's position.

In theory, I think the Senator from Georgia is correct. We could revisit the whole issue when the conference report came back before the Senate. The Senate would have an opportunity then to once again express its will.

Let me just respond on another item. My friend from Georgia indicated that this amendment would do damage to the budget agreement. Quite the contrary. This amendment is offered to uphold the budget agreement. We are offering an opportunity to allow our colleagues to make the choice to uphold the budget agreement and keep us within the caps in the outyears.

My friend from New Mexico is quite right. There is nothing in the budget agreement that prohibits going down the road of embarking on these procurement programs. There is nothing in the budget agreement that says we cannot have a B-2 or an SDI or anything else.

But the point we are making is if we go with the B-2, if we have enhanced SDI spending, something is going to have to give. If it is going to give in defense, I do not want to see it give in the personnel and operations and maintenance. I certainly do not want to see it give in domestic discretionary spending, which in my judgment has been starved in this country for the past 10 or 12 years.

So we are simply trying to uphold this budget agreement.

Mr. NUNN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I will close out my remarks and yield the floor.

Mr. WARNER. If I could ask the Senator a question before he closes, at the appropriate time.

Mr. NUNN. Yes.

I am here to make the point that this is not a legitimate debate on B-2 and SDI. We have had a lot of debates. There should be a lot of debates. These are billing programs. They are expensive programs; they are important programs. That is not the point.

We had a long, lengthy debate on SDI and on B-2, and a very substantial ma-

majority of this body decided that the committee position was the right position on that, which by the way, is a considerable amount of cuts below the administration's request in both areas.

Mr. President, what we are not deciding this morning, in my view properly, is a rewriting of the budget agreement. If someone wants to vote to cut the B-2; fine. I am sure if this amendment is not adopted, we will have another one.

If somebody wants to vote to cut SDI; fine. But do not do it in the name of basically upholding the budget agreement. The budget agreement is being upheld. It is being upheld by our Defense Committee. The Senator from West Virginia says it is being upheld by discretionary nondefense. I know he knows, and I take his word for that.

But what we are saying here—it is clear as day; everybody knows it—is we are saying that we anticipate in the years ahead that basically defense budgets need to come down, and the discretionary is going to go up. This is not basically the original budget agreement. This a change in the budget agreement.

If the Senate of the United States wants to start changing the basics of the budget agreement on the floor of the Senate on an appropriations bill with an amendment on two specific defense programs, then we are changing the way we do business here. I do not think that is the argument that ought to be made.

If we are voting on the B-2/SDI merits, fine. But I think the arguments on budget matters ought to come in a framework when you have overall debate, and decide overall what is the right course, balancing one expenditure versus the other, and certainly from my point of view taking into account the basic threat on defense.

I would just add one argument on the merits here. I will probably come back and speak on the merits. I do not know how long this debate will go on.

But the threat change has not been the nuclear threat. These programs that are on this amendment relate to the strategic nuclear program. If you want to have a defense budget responsive to the threat, the threat change has gone down in the conventional area. It has gone down in the Warsaw Pact and NATO confrontations in Europe; it has gone down in regional conflicts around the world; it has gone down in naval deployments by the Soviet Union.

It has not gone down in the strategic nuclear area. That is the area where the Soviets have continued to produce. I hope they change. I hope a year from now we can have a debate that will say the nuclear threat has gone down. But to come out and basically change the 5-year budget agreement, and to do it in an area saying the changes have taken place in the world, and therefore we need to change, 1 month after we have

had this debate before, and the area you pick out to change is the very area where the threat has not changed, that is standing both the budget agreement on its head and it is standing any logical analysis of how you come about defense expenditures and priorities on its head.

I yield to the Senator from Virginia. Mr. WARNER. Mr. President, I would like to follow up on what was said by the distinguished chairman.

Look at the threat at this very hour facing the world when we are trying to determine what is happening in Iraq. If the decision were to be made by those in support of the U.N. resolution that you had to go in and take out a certain facility, it is the quality of the B-2, if we had it in inventory, that would be used.

As we speak, Patriot missiles are being shipped to Saudi Arabia, again missile defense.

So I join my chairman in saying the seriousness of the threat to the world as it relates to these two programs, if anything, has been enhanced and not diminished.

Mr. President, I have serious concerns about the impact of this amendment on the budget agreement and on our national security.

Mr. President, the amendment before the Senate today threatens to unravel the many months of work undertaken by this body throughout this session of the Congress. The amendment not only violates the spirit of the year-old bipartisan budget summit agreement between the Congress and the President, but it rejects the best judgments of the Armed Services Committee, which were endorsed by the full Senate less than 2 months ago, as well as the recommendations of the Appropriations Committee about the current and future requirements for our national security. The amendment would cut almost \$25 billion from the defense budget by eliminating funding for new B-2 bomber production, severely reducing the budget for SDI and theater missile defense programs, and canceling the MX Rail Garrison Program. I strenuously oppose the amendment, both because of its implications for the budget agreement as well as its negative implications for national security, and I urge my colleagues to oppose its adoption.

BUDGET AGREEMENT WEAKENED

Last year, Congress put in place a budget agreement which, among other things, set enforceable limits on the defense, international, and domestic discretionary spending in the hopes of controlling annual Federal deficits. Senator SASSER played a key role in negotiating the terms of the agreement among the House, Senate, and the President. While I would venture to say that none of the participants in the negotiations came away completely satisfied with the outcome, most believed

that the laborious negotiations and intricate agreements contained in the final agreement could actually improve the budget process and achieve the goal of reducing Federal deficits.

The Senate has been asked three times this year to waive the restrictions of the budget agreement because of poor performance in the U.S. economy. Each time, the Senate has rejected this approach, and by substantial votes each time. The most recent vote, taken just last week, not to waive the requirements of the budget agreement was an overwhelming 88 votes against the proposal. I believe this is an indication that most of my colleagues are reluctant to reopen the overall agreement reached just last year.

The author of the amendment claims that "This amendment compels no more from defense than from domestic accounts." But the amendment requires no reductions at all from domestic accounts, only from defense.

The Sasser amendment arbitrarily assigns a greater reduction to the defense budget than was agreed in last year's negotiations. Inasmuch as the amount of cuts in defense programs are tied to restrictions on other discretionary spending and a host of additional provisions in the summit agreement, the Sasser amendment would weaken the entire framework of the agreement. Adoption of this amendment could lead to repudiation of the entire agreement and renegotiation of all the difficult issues—taxes, spending, and deficit limits—that we worked so hard to settle equitably last fall.

BUDGET STABILITY ELIMINATED

In setting enforceable caps on discretionary spending categories, the budget agreement also provided needed stability for the entire Federal budget process, particularly defense spending. Stable, topline budgets allow Pentagon planners to buy the most defense for every taxpayer dollar appropriated to the Department of Defense. The result of this long-term stability are evident in the fiscal years 1992-97 future years defense plan recently submitted to Congress, which reflects a more complete and accurate budgetary plan for the DOD.

The cap on defense spending in fiscal year 1992 allowed the Congress, and especially the Budget Committee which Senator SASSER chairs, to avoid a long, acrimonious, and generally unproductive debate on the total amount of the defense budget, as has been required in the past. Instead, both the Armed Services and Appropriations Committees were able to focus their attention on the priorities within the defense budget and use their expertise to assess the content and balance of the President's Defense Program in light of new and continuing threats to our national security.

After less than a year of experience with the summit agreement, the Sasser amendment would eliminate another \$25 billion from the defense budget and would seriously disrupt the long-term defense budget planning process, causing inefficiency and waste in the Defense Program.

The budget agreement also provided stability in topline funding for international and domestic discretionary programs. The advantage of certainty in the level of available funds for many years in the future is immeasurable to budget planners in all agencies of the Government as well as to the congressional oversight process. And most importantly, the budget agreement put in place a process designed to gain control of the annual appropriations process and limit runaway discretionary spending. By slashing the defense budget below the agreed level, the Sasser amendment would remove an important element of the delicate framework of the budget summit agreement and could set in motion the dismantling of this important process.

DEFENSE SPENDING IS NOT THE PROBLEM

The author of the amendment has said that "in the context of the budget agreement * * * we simply do not have the option to forgo seeking defense reductions." I am amazed that he has so quickly forgotten the facts and figures of the budget agreement.

Under the terms discussed in the budget summit, defense spending was to be reduced by \$182 billion over the 5-year period, fiscal years 1991-95. As a result of the final agreement, the defense budget for fiscal year 1991 was cut by more than 11 percent in real terms in 1 year. The President's multiyear defense budget plan submitted in February of this year complies with the summit agreement through fiscal year 1993 and continues the decline of defense spending at an average rate of 3 percent in real terms each year through fiscal year 1996—even though no specific defense caps were agreed in the outyears. And finally, the DOD appropriations bill reported to the Senate is in complete compliance with the budget summit agreement and includes funding for fiscal year 1992 defense programs at the budget authority and outlay caps in that agreement.

In offering his amendment, Senator SASSER now estimates that, in fiscal years 1993, 1994, and 1995, the agreed caps on total discretionary spending will be exceeded. Since defense spending steadily declines under the agreement, to a level in fiscal years 1996 that is the lowest since World War II, 3.8 percent of GNP, then I must assume that some other part of the budget is increasing beyond the limits contemplated in the agreement. Why, then, does the Senator not offer an amendment to reduce that portion of the budget which is causing the problem?

In particular, Senator SASSER notes that the overall discretionary spending cap for fiscal year 1993 will be exceeded by \$9.4 billion. In that year, the budget agreement specifically sets out separate caps for defense, international, and domestic discretionary spending. The Senator knows that the President's budget plan for fiscal year 1993 complies with the caps for that year in each category. He also knows that the procedures of the summit agreement require sequesters of excess appropriations in any category. Why, then, does the Senator expect that the caps will be exceeded in that year?

NO REAL SAVINGS IN THE AMENDMENT

The proponents of the amendment claim that its adoption is crucial if we are to adjust our budgetary priorities to reflect the new world order. But the amendment does nothing to ensure that funds remain available for other priorities, nor does it attempt in any way to measure the need for defense this year or in the future against specific domestic spending needs.

If adopted, the Sasser amendment will not likely result in any savings from the defense budget, either this year or in the outyears. The amendment does not change the defense spending caps, nor does it prevent the expenditure on other defense programs of the amounts his amendment would cut from the vital defense programs set forth in his amendment. It merely eliminates three high-visibility defense programs from this year's budget.

As we all know, defense industries and other interest groups throughout the country have been adversely affected economically by the steady decline in defense spending since 1985, and we have all been contacted by constituents asking for some assistance in mitigating the hardships on local communities and individuals.

If the amendment is adopted, I predict that, when this bill returns from conference with the House, every dollar permitted to be spent under the existing defense caps will be spent for programs which cost just as much or more in the outyears as do the programs the Senator seeks to eliminate. In short, the amendment will, in no way, contribute to altered Federal budget priorities.

POSSIBLE IMPACT ON NATIONAL SECURITY

The funding constraints of last year's budget agreement forced the Department of Defense to make difficult decisions about the size and composition of our Armed Forces and our military strategy in preparing the fiscal year 1992-97 FYDP. The guiding principle in these decisions was to ensure our national security based on an assessment of the new and continuing threats to our national security. But Secretary Cheney has repeatedly cautioned that the size and shape of our Defense Program must be reassessed periodically based on the constantly changing

world situation. I agree with his cautionary statements, and would like to point out some of the many changes, both positive and negative, in the world in the past year.

As the author of the amendment has stated, the "evil empire" may be in its death throes, but a successor government has not yet emerged in its place. In the past month, we have witnessed the fall of the hard-line Communist leadership of the central Soviet Government; the emergence of the three Baltic Republics, Georgia, and Moldova as independent nations; and the beginnings of a wholly different economic and political union among some of the diverse republics of the former Soviet Union. However, the success of the new Russian revolution is still uncertain and should cause us to think seriously about the future relationship of the United States with the successor central government organization and with the other emerging nations in that region of the world.

I believe it is imperative to remember that there still exists a massive nuclear arsenal, both intercontinental and tactical, in the territory of the former Soviet Union. While we have received assurances from officials in the former Soviet Union that these weapons are under the control of central authorities, leaders in other Republics, such as the Ukraine, have asserted that they will retain possession and control of these weapons in the foreseeable future. I wrote to the President on August 30 expressing my concerns about the heightened risk of an accidental or unauthorized launch of these weapons from that region, as well as the threat of technology from this arsenal, or the missiles or warheads themselves, being diverted into the hands of other nations. Mr. President, I ask that a copy of that letter be printed in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, August 30, 1991.

The President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you know, the Senate-passed version of the Fiscal Year 1992 Defense Authorization bill contains a provision, known as the Missile Defense Act of 1991, which is designed to make a reality of our common goal of providing the United States and its forces overseas, as well as our allies and friends, with defenses against theater, accidental, unauthorized, or Third World missile attacks. The current Senate provision is modeled from a proposal which I and other Senators discussed with you in May and which subsequently became public in June. I had initially raised the concept of that proposal during debate on the Senate floor in March, noting that the Persian Gulf War provided dramatic evidence of the need for defenses for our forward-deployed forces against missile attacks.

The recent coup attempt in the Soviet Union has properly refocused the Nation's attention on the massive nuclear missile arsenal, intercontinental as well as tactical, in the Soviet Union. While that arsenal poses a substantial threat to the United States even during periods of stability in the Soviet Union, the present upheavals have heightened concerns regarding the command and control of that arsenal, especially as demonstrated by the reported temporary loss of control over nuclear weapons release codes into the hands of the coup leaders. As the several Soviet Republics assert more independence and greater control over military forces, we must also be concerned about ballistic missile proliferation, as well as the threat of technology from this arsenal leaving Soviet territory.

These facts, along with the existing but ever-growing presence of ballistic missiles in Third World countries, make even more evident the need for the United States to expedite our efforts to develop and deploy defenses against theater and limited ballistic missile attacks, whatever their source. At present, the Missile Defense Act of 1991 is the best available avenue for reaching Congressional-Executive consensus to begin providing for such defenses.

The upcoming Senate-House conference on the Defense Authorization bill promises to be one of the most difficult in a number of years. The Missile Defense Act will be a major issue of debate among the conferees, as the provisions in the House and Senate bills are widely divergent with respect to both policy and funding for missile defenses. If those of us who believe that we must act now in order to provide our Nation with defenses in the near future (and there exists in the Senate a growing bipartisan consensus to do so) are to prevail in this conference, it is vital that we have your continued leadership and support in this endeavor.

The purpose of this letter is to initiate now, before the conference begins, consultations with you and your national security staff as to how we might further strengthen the present Senate provisions. While many complex questions surrounding existing and possible future treaties involving the Soviet Union cannot be answered today in view of the changing political situation, the security interests of our Nation must be addressed now to meet the widest possible range of circumstances that could emerge from the unstable situation unfolding daily in the Soviet Union.

I commend you and thank you for your strong and thoughtful leadership in the very difficult circumstances of the past two weeks. I look forward to continuing to work closely with your Administration to provide for our national security during this time of transition in the world.

Respectfully,

JOHN W. WARNER.

Mr. WARNER. Mr. President, these facts, along with the existing and ever-growing presence of ballistic missiles in Third World countries, make even more evident the need for the United States to expedite our efforts to develop and deploy defenses against theater and limited ballistic missile attacks, whatever their source, rather than cut funding for these vital programs, as proposed by the Sasser amendment.

Other disturbing developments in that region of the world include the

stated intentions of two Republics, Georgia and the Ukraine, to develop independent military forces under their sole control, and Tajikistan has reportedly fallen under the control of a new Communist regime. These issues illustrate the rapidly changing political situation in the former Soviet Union, and the difficulty of predicting the future course of that region of the world.

The dissolution of the central Soviet Government also highlights the issue of ratification of the CFE Treaty which is now pending before the Senate. Possible reallocation of treaty-limited equipment, enforceability of destruction provisions, ratification procedures, and other questions relating to the ability of the former Soviet Government to carry out the terms of the treaty should be addressed before the United States proceeds to make further reductions in defense spending which are based partly on the premise of arms control treaties in force.

Several of our colleagues and others have called on the United States to provide humanitarian, economic, and technical assistance to the Soviet Union in order to assist in the process of democratization of a society ruined by 70 years of Communist control. Former Soviet Foreign Minister Eduard Shevardnadze is quoted in recent press reports as saying, "If we fail to improve [by] at least a minimum the living conditions of the people, then we have to face this reality, and it is quite possible that another attempt at a coup would be made." I believe that humanitarian or technical assistance may be useful in avoiding a return to totalitarian control over the Soviet Union. The Congress will doubtless be asked to consider many such proposals over the coming months and years, and I do not doubt that the defense budget will be tapped for funds to provide some measure of assistance. Our responsibility is to judge these proposals as to their effectiveness in light of the disarray in the former Soviet Union, but more importantly, as to whether they serve our own national interests and actually reduce the threat now facing the United States.

In the past year, the United States led a successful multinational coalition of forces in the Persian Gulf to restore the independence of Kuwait following the Iraqi invasion. The success of this effort would not have been possible without the substantial investment of dollars over the past decade and more which produced the exceptional military forces we saw in the Persian Gulf conflict.

Yet even today, Iraq refuses to permit inspections in compliance with postwar U.N. resolutions requiring the elimination of weapons of mass destruction and associated technology in that country, despite their stated intentions to cooperate fully with this international effort. The President

continues to work to convene a peace conference next month in the hopes of resolving the long-standing conflicts in this region of the world. It is my hope that large numbers of United States forces will not again be needed to ensure Iraq's compliance with U.N. resolutions. However, already it has been necessary for us to return Patriot missiles and 1,300 United States troops to Saudi Arabia to help ensure compliance and guard against the threat of new Scud attacks.

Because of the highly unstable situation in the former Soviet Union, continuing uncertainty in the Middle East, the continuing proliferation of ballistic missile and weapons of mass destruction technology to Third World countries, and the unpredictability of world events in general, it is essential that we maintain our military capabilities, which have served us so well over the past 45 years generally and most recently in the Persian Gulf, in order to ensure that our Nation is prepared, if necessary, to defend our interests and the interests of our friends and allies around the world.

Mr. President, the Sasser amendment would have devastating long-term effects on the defense budget and our national security, as well as on our ability to control the Federal deficit. It would eliminate three important defense programs without assessing the possible implications for our national security, and it would effectively break the promise made by the Congress and the President to control the growing Federal deficit. It is ill-conceived and misleading. I urge my colleagues to oppose its adoption.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I yield the floor unless the Senator from West Virginia has a question.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia [Mr. BYRD].

Mr. BYRD. Mr. President, let me begin by saying that I have always taken the position that the distinguished Senator from Georgia [Mr. NUNN] is the preeminent expert on defense in this body. I think he has had no closer follower over the years than this Senator from the hill country of West Virginia. Our State's motto is "Mountaineers are always free." I would not presume to attempt to match my very limited knowledge on defense matters against that of the distinguished Senator from Georgia.

I have many times said that he has no peer, as far as I am concerned, in the defense realm. And it is, as Wellington said of Napoleon, that the presence of Napoleon on the field was equal to 40,000 men. As far as I am concerned, the presence of Senator NUNN on the field of national defense is equal to 40,000 Robert C. Byrds from West Virginia.

But I say this, that we are on a different field today, and in this field I do not count myself below the equal of Senator NUNN, and that is the field concerning the budget agreement. And that is what we are talking about here today.

It has been said repeatedly by Senator NUNN and others—and he knows I respect him, he knows he has always been one of my favorites in this body—but he has said repeatedly and others have said that this amendment breaks the budget agreement. I do not agree with that. I disagree with that. I was at the summit. I have stood on this floor repeatedly and protected the budget agreement. So I thoroughly, absolutely, positively, and indubitably disagree with any statement—I do not yield yet; I will be glad to yield later—that what we are about to do today is to break the budget agreement. I do not agree with that statement.

What I say we are doing here is what I said at the budget summit. At the budget summit we took out our little pencils, we sharpened them, and we had our green eyeshades on. We subtracted here and added there and talked about formulas, this formula, that formula, and another formula. What I said was, "Gentlemen, we are here, of course, to try to work out a package that will lead in time to a lowering of the Federal deficits and to a balanced budget. But I also point out that we have another deficit and that is the investment deficit. We have the Federal deficit, yes, we have the trade deficit, and we have an investment deficit."

Now, I have to say with the greatest respect that in the years fiscal year 1981–fiscal year 1990 the defense budgets of this country, the defense spending, increased \$569 billion over baseline over those 10 years. Entitlements increased \$599 billion, but defense increased \$569 billion over inflation. Whereas, on the other hand, domestic discretionary spending for education, for law enforcement, for scientific research, for parks, for forests, for highways, for bridges, for mass transit, for health services, decreased under inflation over those 10 years \$326 billion.

Domestic discretionary took the cuts. And, whereas in fiscal year 1981, of the total budget, \$678 billion, domestic discretionary was \$157 billion, or 23 percent of the total budget. We are talking about this year's total budget that is \$1.574 trillion, and domestic discretionary has grown by \$42 billion to a total of \$199 billion, and is only 12.6 percent of the total budget. So, domestic discretionary, nondefense has decreased from one-fourth of the budget to one-eighth between 1981 and now.

I said to our friends there at the summit, let us take off our green eyeshades. We are really talking about a 3-year plan or a 5-year plan or whatever it works out to be for the Nation. We are not just talking about dollars and

cents and balancing the budget. We are talking about a 5-year plan for this Nation. And if we hope to compete in the world, if we hope for our young people to be able to compete, if we hope to raise our standard of living, we are going to have to talk about this investment deficit.

We did not anticipate then that we were going to have a recession. We did not anticipate then what was going to happen in world affairs. We did not anticipate what was going to happen in the Soviet Union. We did not anticipate what was going to happen with respect to the Warsaw Pact. We did not anticipate any of that. But the point we are overlooking here today is that the world has changed since the summit. I think we have to look at the future needs of our Nation in the light of this changed world.

We cannot continue to put our budget on automatic pilot, fold our arms and go home, and say we have done our job.

Defense cannot continue to be sacrosanct. That is what I am saying. The world has changed. But our friends would want us to stay on an automatic pilot.

At the summit, we set caps for 3 years, and I insisted that those caps be protected against incursion by the other categories—protect defense, and protect domestic discretionary.

We have those ceilings for 3 years. But as to the 2 outyears, we recognized then that they were going to be different in that there would be no caps in those 2 outyears. It would be everybody's choice when we get to that point. I anticipated then, and do now, there will probably be another budget summit when we get to that point. But as of then and as of now we have caps for 3 years. We have lived within those caps up to now. I would like to see us continue to live within them this year and next year. I am not sure that we can.

But we are not here today changing the budget agreement. We are not doing that.

If any Senator wishes me to yield at this point, I shall be happy to yield.

Mr. NUNN. Mr. President, if I could pose—

Mr. BYRD. Mr. President, I retain the right to the floor.

THE PRESIDING OFFICER. The Senator retains his right to the floor.

Mr. NUNN. Mr. President, if I used the term "breaking the budget agreement," I did not think I did.

Mr. BYRD. The Senator may not have.

Mr. NUNN. I thought I used the term "rewriting." I would like to make it clear that there are arguments on the B-2, SDI, that these programs are expensive. There are arguments on the merits. We can debate that. But the presentation that I basically saw this morning was one that was based on

cutting these programs. Otherwise, the budget agreement will not be able to meet its cap. And that was the point I was addressing.

If that is the argument on which people are voting for this amendment, then I believe the Senate is rewriting the budget agreement, because the budget agreement is being met by defense. In other words, what I am saying to my friend from West Virginia and to my friend from Tennessee, it is fine to argue SDI, B-2, super collider, any of those programs. Super collider is not in this budget, but it seems to me that it is the wrong argument to say that we have to do this in order to meet the budget summit agreement. If that is the argument on which Senators are voting, then I stand by my statement that this is a rewriting of the budget agreement, because—and the Senator from Tennessee agrees—we in defense have met every obligation we assumed as one committee under that budget agreement.

So it is the nature of the argument that I believe will, in effect, become tantamount to rewriting the budget agreement. I do not think it breaks the budget agreement, because there was nothing in the agreement that said you could not cut in any of these programs more and reduce the deficit more. The caps, which I think the Senator from West Virginia was so instrumental in and which I think were wise caps, and I agree with him on that, were basically to prevent transfers from one program to another.

I repeat that the way I view this is basically saying that we are going to start transferring now before we rethink the budget in 1993 and 1994, and we are going to get ready to have some very big transfers in 1993 and 1994. That I consider to be rewriting the budget agreement. That is the context I wanted my friend to understand.

Mr. BYRD. Mr. President, I thank my friend. I do not accept the argument, however, and the distinguished Senator has very skillfully transferred the force of the presentation here to a different argument. I do not agree. I do not agree that what the Senator from Tennessee is attempting to do with this amendment is to make shifts from defense to nondefense domestic discretionary now. That is where the distinguished Senator from Georgia would like to leave us. I am not going to let the argument be left there. We are not attempting to do that.

I thought I heard the distinguished Senator from Tennessee very carefully say that when we get out into the outyears, 1994 and 1995, we are going to be faced with an overall total discretionary budget of \$518 billion in 1994, and a budget baseline of \$525 billion in fiscal year 1995. That is the baseline. We are not changing that today. But that is going to be the baseline. And if we continue to lock ourselves in on

high-cost defense procurement items, in the light of the changed world situation, we will not be able to cut those items when we get into 1994 and 1995.

I have not heard the Senator from Tennessee argue that. I have heard him argue that that is the total cap, but if we lock ourselves in today on high-cost defense procurement items, we can only do one of two things when we get to 1994 and 1995: Either cut defense in items, such as personnel; or cut nondefense domestic discretionary.

I maintain that we cannot continue to bleed nondefense domestic discretionary. That is the train wreck that the Senator from Tennessee is trying to avoid. So I do not accept the argument of the Senator from Georgia. I do not accept the premise, and I do not accept his result from that premise—namely, that we are breaking the budget agreement today.

Mr. NUNN. Again, I do not think I said "breaking the budget agreement." If I did, I already made it clear to my friend.

Mr. BYRD. I am sorry, the Senator has indeed made it clear.

Mr. NUNN. I said, "rewriting" the budget agreement.

Mr. BYRD. I maintain that we are not rewriting the budget agreement today.

Mr. SASSER. Will the Senator from West Virginia yield?

Mr. NUNN. May I ask one other question?

Mr. BYRD. Yes, I yield for a question.

Mr. NUNN. I guess my major point is that if we are going to basically have certain numbers to meet in the out-years, then, as the Senator from New Mexico indicated, it seems to me that the way to do it is for those numbers to be given as soon as possible, and let those of us in the defense committees—the Senator from Hawaii, the Senator from Alaska, and those in the Pentagon and other places—try to determine what are the right priorities, instead of basically doing this on the Defense appropriations bill and picking out one or two programs that happen to be controversial programs, and assuming that this is the right way to meet anticipated outyear cuts. As I mentioned a moment ago, this is the very area where the threat has not gone down.

When the Senator mentions the personnel situation, you basically cannot continue to have the levels of personnel we have now and reduce defense spending in any significant way. Personnel dominates the Defense budget. When we look at the high cost of these items, if I showed you a chart on how much we spent on personnel, it would even make this look very, very small. That is where your big money is.

Interesting by enough, one of the items that is being basically cut here in the Sasser amendment would be the biggest personnel saver, which is the B-2. The B-2 has tremendous personnel implications because of the savings, not only in terms of the number of people operating the aircraft, but more important, two B-2's are equal to 56 normal aircraft. You do not have to have the base structure overseas.

All I am saying is that there are huge considerations that go into here. What we have is an amendment being presented in a budgetary context that selects two items in the defense budget to make the whole point on the budget. What I am saying is, I welcome a revisiting of the overall numbers. I am not saying they are sacred; I am not saying defense spending is sacred, but it ought to be in the threat-related context. It ought to be driven by the threat. What threat has changed? Primarily, it has been in the conventional area. This is where the committee structure—which I know the Senator from West Virginia has been the No. 1 champion of—is so important.

I repeat that I believe what we have here, based on the arguments I have heard, is a rethinking and rewriting of the budget agreement, rather than a substantive amendment that is an amendment on the basis of defense expenditures and priorities and threat-related environment. I thank the Senator from West Virginia.

Mr. BYRD. I thank the Senator. I agree with a point he has made, when he said he would be willing to sit down and take a new look and try to determine what areas could most appropriately and wisely be reduced.

I know I am not saying it exactly as he said it. The Senator made a good point. Again, I say that we are not rewriting the budget agreement. I have said that enough, and I will not repeat it. I will tell you what the distinguished Senator has said, and I think he has a point, that we are attempting here to make cuts when the subject of such cuts should probably and more appropriately be the subject of more heads than one or two: The Department of Defense, those key persons on the Budget Committees and Defense and Appropriations Committees in the Senate and House, and so on.

I think that is a good idea. I will tell Senators what the Senator from Tennessee is faced with. The distinguished Senator from Georgia is saying that the Senator from Tennessee is forcing a decision here when it ought not be forced here, it ought rather to be the conclusion of discussions among experts—we are forcing an issue here, wrong time, wrong place, and using the wrong approach.

Here is what forces the issue, not what the Senator from Tennessee is doing. When the President sends up his budget, he has to send up a projected budget for each of the ensuing 4 years, I believe it is. According to the table that I hold in my hand, a table of August 1991, The Economic and Budget Outlook, an Update, the President has presented his scenario. In 1994, his assumed budget authority for defense would be \$295.5 billion and the baseline is \$303.9 billion. That would be a cut in real dollars of \$8.4 billion. As a percentage reduction, it would be 2.7 percent. In fiscal year 1995, his assumed budget authority request for defense would be \$298.5 billion and the baseline is \$316.9 billion, a cut of \$18.4 billion, or 5.8 percent.

But for domestic—now these are the projected figures for the outyears 1994 and 1995. For domestic, it would be \$200.4 billion budget authority for 1994 and \$204.3 billion for 1995, from a baseline of \$215.3 billion and \$226.2 billion, respectively, for those years.

In other words, there would be a cut for domestic of \$14.9 billion in fiscal year 1994, or 6.9 percent; and in fiscal year 1995, the cut in domestic would be \$21.9 billion, or 9.7 percent. So there we have the percentages.

Let me repeat them in a different way. For defense, the President's assumed request would be a cut of \$8.4 billion in 1994, and \$18.4 billion in 1995, but in domestic, \$14.9 billion in 1994, and \$21.9 billion in 1995. Percentage-wise, the President's projections would call for a cut in defense of 2.7 percent in 1994 and 5.8 percent in 1995. On the other hand, domestic would suffer higher cuts, 6.9 percent in 1994 and 9.7 percent in 1995.

So what the Senator from Tennessee and I are doing, we are looking at the President's projections in these out-years. The President is cutting some in defense, but he is cutting more in domestic discretionary. Now perhaps we all ought to sit down if we are going to do what the distinguished Senator from Georgia has suggested and say, "Well, let's carefully look at the whole picture, and make logical and wise decisions." And that is not a bad point.

But we start with a set of givens in the President's projected budgets that does not give us any chance to sit down and talk about domestic discretionary and reach considered judgments. He has already made his projected cuts, he has already taken his givens, and they are here on this table, which I ask unanimous consent, Mr. President, be printed in the RECORD at this point.

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

TABLE II-4.—MEETING THE DISCRETIONARY BUDGET AUTHORITY CAPS IN FISCAL YEARS 1994 AND 1995

(In billions of dollars)

Spending category	1993 Cap	Scenario 1: Assume President's defense request		Scenario 2: Assume nondefense at baseline	
		1994	1995	1994	1995
Defense:					
Assumed budget authority	291.5	295.5	298.5	279.0	274.1
Baseline		303.9	316.9	303.9	316.9
Cuts required:					
In dollars		-8.4	-18.4	-24.9	-42.8
As a percentage		-2.7	-5.8	-8.2	-13.5
International:					
Assumed budget authority	22.9	22.2	22.3	23.8	24.7
Baseline		23.8	24.7	23.8	24.7
Cuts required:					
In dollars		-1.6	-2.4	0	0
As a percentage		-6.9	-9.7	0	0
Domestic:					
Assumed budget authority	207.4	200.4	204.3	215.3	226.2
Baseline		215.3	226.2	215.3	226.2
Cuts required:					
In dollars		-14.9	-21.9	0	0
As a percentage		-6.9	-9.7	0	0
Total discretionary:					
Assumed budget authority	521.7			518.1	525.0
Baseline		543.0	567.8	543.0	567.8
Cuts required:					
In dollars		-24.9	-42.8	-24.9	-42.8
As a percentage		-4.6	-7.5	-4.6	-7.5

Notes.—The caps shown are those the budget resolution assumes.

The baseline projections for 1994 and 1995 are based on 1993 appropriations that are assumed to be equal to the 1993 caps.

The CBO reestimate of the President's defense request assumes no change in pay dates or in accounting for the accrued cost of military retirement.

Source: Congressional Budget Office.

Mr. STEVENS. Will the Senator yield to me for a question?

Mr. SASSER. Will the Senator yield to me for a question?

Mr. BYRD. I yield to the Senator from Tennessee and then I will yield to the Senator from Alaska.

Mr. SASSER. I thank the distinguished Senator from West Virginia.

As the distinguished Senator from West Virginia has indicated, he was one of the primary participants in the budget negotiations that went on for days and days, weeks and weeks, and it seemed to this Senator at a time years and years. The Senator will recall that there was conversation and statements made that over 5 years the defense savings would be \$182 billion a year. But the Senator will recall also that that was the minimum amount of savings that was to come out of defense. That was not a maximum amount. That was not a guarantee to defense that they would not have to cut any more than \$182 billion over 5 years. As the Senator will recall, it was well-known to the negotiators that when we got to the outyears in 1994 and 1995, there was very likely to be some competition between defense, domestic discretionary, and international spending in an effort to meet these caps.

Now, what we are seeking to do today—and I ask my distinguished friend from West Virginia if he agrees with me—is to present an opportunity to make a rational judgment in order that we may maintain the budget agreement in the outyears. If we do not make these rational judgments now, then we find ourselves in the outyears locked into a scenario where we cannot make the kind of rational judgments that the distinguished Senator from Georgia wishes to make, and I sympathize with him.

The same argument that we are hearing now, that the threat now is a nuclear threat and if we are going to cut anywhere we ought to be cutting conventional, I fear that when we get to the outyears, if we do not cut the nuclear end of it now, they will be telling us in the outyears, "Oh, no, we cannot make the personnel cuts that quickly. That is where you have to make a quick savings, and we cannot make the savings that quickly. We cannot make the personnel cuts." That is what they were telling us last year.

I do not want to force that decision on the Defense Appropriations Committee or on the Armed Services Committee, so ably chaired by the Senator from Georgia. It appears to this Senator that we are embarked on a course of trying to make a rational judgment today so that we can make assigned priorities that are rational in the outyears. Would the Senator agree with that?

Mr. BYRD. Yes, I do. That certainly is the view that I take of our amendments. We never at any point said that these caps, that we had to appropriate up to the caps. They are not floors. They are ceilings. And we can reduce them below.

Mr. STEVENS. Will the Senator yield to me?

Mr. BYRD. Yes.

Mr. STEVENS. I say to the Senator I know the Senator from Hawaii wants to make a statement on this amendment. I do not intend to make mine yet. I wonder if I could ask the Senator from Tennessee if he could pick up the big ticket blues chart, just so I can make a point?

Mr. BYRD. I yield for that purpose, with the understanding that I do not lose my right to the floor.

Mr. STEVENS. I am not seeking the floor. I am just trying to ask the Senator from West Virginia a question.

(Mr. KOHL assumed the chair.)

Mr. STEVENS. My question is—I take the point of view that the budget chairman, as is his right, is presenting on this bill, a Defense appropriations bill, a budget determination for the future. He has, for instance noted these are the big ticket blues. He looks ahead to what decisions we have to make in the future. As I am sure the Senator knows, I have a chart here showing the decisions we have made so far, here on this side of the aisle, if I could call my friend's attention to it.

We have terminated in this bill the Bradley fighting vehicle, the Trident submarine, the LHD amphibious ship, the P-7 antisubmarine warfare aircraft, F-14D remanufacture, the naval advanced tactical fighter, A-12 aircraft, Air Force advanced tactical aircraft, the F-16, the Mark XV combat identification system, BSTS warning system and Tacit Rainbow.

We did that based upon hearings in the Armed Services Committee, and in the Defense Appropriations Committee. This is the judgment of those people in the Senate, some 40 of us, who have spent our lifetimes trying to assist, to defend, and formulate a defense policy for the United States.

This amendment is a budget policy for the United States. I am not going to get into an argument with my good friend as to whether or not it violates the budget summit agreement or whether it affects it at all. But this is budget policy.

Let me suppose tables were turned and we had someone who was coming in from the other side of the spectrum, who was saying the nondefense programs are growing too much. And we have another bill, the Health and

Human Services bill, and we project that and show what it is going to do to the system. It is going to require increased taxes. And we have an amendment that comes in that cuts across the board.

This cuts across the board. This cuts across the base closure policy, it cuts across the policy of eliminating some of these aircraft. We could not have presented this bill unless we planned the B-2. It cuts across the whole system of ballistic missile defense, which is a key to the nonnuclear defense against nuclear attack in this country.

I take the position that using budget policy, this amendment, is attempting to so modify the defense policies that we are defending, that both the Armed Services Committee bill that is in conference and this bill should be withdrawn and sent back to the committee.

Does the Senator realize the depth of our feeling in that regard? This is what the Senator from Georgia, I believe, was saying. And I think the appropriators on the Defense Subcommittee would make the same statement. We cannot survive in terms of defense planning based upon budget considerations alone. We have to survive on the basis of defense planning itself to be the basis for both the policy coming from the Armed Services Committee and the recommendations for spending coming from this subcommittee.

Does the Senator see what our umbrage is about this amendment?

It is not that it is improper to have the debate on a budget policy consideration. But at this stage of the game to put us in a position where both the Armed Services Committee bill and this bill, in my judgment, have to go back to committee if this amendment passes—I think is just wrong procedure.

I am trying to appeal to my friend as the chairman of the committee to understand, we must go back to the drawing table if this amendment passes, as far as this Senator is concerned. I will not vote for this bill. I will do everything to prevent it being passed if this amendment is agreed to because it destroys defense planning. Not because it is not good budget policy, mind you. If the Senate wishes to limit us in terms of budgets—and it did, by the way. At the beginning of the year it limited us and it forced these considerations. We have recommended this to the Senate. And I believe rightfully.

But this is a change in basic budget policy and it tells us you must go back and rescrumble this whole defense alignment to meet our needs with this budget, this money limitation. My friend is telling us this is not an attack on B-2, it is not an attack on SDI, it is not an attack on the ballistic missile defense, but it is an attack on the amount of money being spent. If that amount is limited, we ought to have a right to come back with a rec-

ommendation as to what we think should be built under those limitations.

I urge my friend—my question is, does my colleague understand both the Armed Services Committee and the Defense Appropriations Subcommittee position on this amendment?

Mr. BYRD. Well, I can understand the umbrage which is being taken. I do not think I misunderstand it at all. But the distinguished Senator says perhaps they ought to go back and take a look, and defeat this bill.

Well, is that the argument, that we should not proceed at this point, which may be our only point at which we can really do something about these items? Let us call it defense as against domestic discretionary. This may be the only opportunity. Is that an argument that we should not proceed here? What are we going to wait for? What future date? When are we going to be able, in the future, to do something that will rectify the mistakes that may result from our action here?

The distinguished Senator from Alaska, when he was talking, reminded me of that scene in the second part of Henry IV, after the insurgents against King Henry IV had been defeated at the battle of Shrewsbury. The first runner had brought back good news to the Earl of Northumberland and some of the other insurgents. But immediately upon his heels there came another runner, saying: No. The Earl of Northumberland's son, Hotspur, has been killed. And the insurgents lost the battle, and King Henry IV is preparing now to march into the north and attack the rebels. So the insurgent leaders were discussing what they should do next. Bardolph—I can remember the name easily because of my good friend and former colleague, Senator Randolph—Bardolph said to the Archbishop of York, whose name was Scroop—and that, too, is an easy name to remember—and the others who were gathered, Mowbray and Hastings.

They were talking about regrouping and fighting again. As I recall, Lord Bardolph said to his fellow conspirators:

When we mean to build,
We first survey the plot, then draw the model;

And when we see the figure of the house,
Then must we rate the cost of the erection;
Which if we find outweighs ability,
What do we then but draw anew the model.
In fewer offices, or at least desist.
To build at all?

That is exactly what we are up against here. We keep overlooking the fact that we are facing a changed world from that which we faced at the summit—if I may just finish and I will then yield—

Mr. STEVENS. Yes, sir—

Mr. BYRD. We are facing a changed world from that which we faced at summit and I think we have to take a new look now and “redraw the model,”

perhaps, and reduce it to “fewer offices,” to fewer dollars.

What the Senator from Georgia has said is perhaps what we ought to do. But we are trying to use the opportunity here, the only opportunity which I see before the year is out, to call attention to the changed world, to be able to do something about the defense line on the graph and protect ourselves against those future domestic contingencies with which we are going to be faced by the squeezing down of domestic discretionary initiatives in the outyears.

Mr. STEVENS. Will the Senator yield right there?

Mr. BYRD. Yes, I will.

Mr. STEVENS. Will my friend uncover his big ticket blues chart again? I want to make a point right there. The Senator from Tennessee, may we see that chart again?

I have no problem whatsoever if the Senate were to have an amendment from the Budget Committee chairman brought before it to say this defense bill is too large and the Budget Committee, acting in behalf of the budget process, offers this amendment and direct the Defense Appropriations Committee to report back a bill that eliminates x dollars.

But if you look at the big ticket blues, chant, if we have to cut something, I want a chance to argue whether it should be the light helicopter or the destroyers that are coming or the SSN-21's—which, incidentally, will cost more apiece than the B-1 bombers—or the C-17, or a few other things that are in this bill that I know are not even on that big ticket blues list.

This bill is under the 602(b) allocation. It complies with the direction that came from the full committee and it gives the best recommendations we can make based upon the judgments of the Armed Services Committee and the advice that we received from the Department of Defense in a series of hearings that included General Schwarzkopf and Gen. Colin Powell, with his force structure analysis. The Secretary of Defense innumerable times came before us this year because we were very careful and said we have to come in under the 602(b) allocations. I view the budget process to be the proper process. What is being said is that you have too much money here; because we see a bow wave coming, we believe that the Senate ought to cut now more from defense so that we can prepare for that bow wave, prepare for that 1993-94 period. This attacks us on three systems—and I will explain this later in my statement—which, in this Senator's judgment, are the key to the defense of this country in the next century. I still ask my friend to assist us in getting back to the instruction.

I will accept and I am sure the chairman of the subcommittee and the chairman of the Armed Services Com-

mittee will accept any instruction the Senate gives us on the limitation of defense spending. But we urge that those instructions not come at us clothed in a way to attack three systems that have been under attack on this floor every year for the last 5 years. This is a budget process now that is going to make a defense decision that, in this Senator's judgment, will affect the credibility of America's defenses for the future.

Mr. BUMPERS. Will the Senator yield?

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. Mr. President, I wonder if I may finish the statement and then I will yield the floor. I do not want to monopolize the floor. I have been a supporter of the Stealth bomber from the beginning. In December 1981, I offered an amendment to the Defense Appropriations Act for fiscal year 1982 adding \$250 million of funding for the Stealth bomber. The amendment failed on the Senate floor 51 to 40, on a tabling motion. I offered an amendment adding \$200 million for the same purpose, and the amendment failed on the Senate floor 53 to 36, on a tabling motion.

My amendments were offered in an effort to ensure that the administration at that time kept its promise to fund this critical new technology at a level which would bring an operational squadron of the aircraft on line at the earliest feasible date. This date was judged by experts to be around 1990. The \$250 million add on would have restored the administration's original request which was slashed by the President in the previous September and up to the level presently at that time contained in the House bill.

It was recognized the Stealth was the only bomber which would be able to penetrate Soviet air defenses with assurance in the 1990's and into the next century.

On July 12, 1983, I offered an amendment to the Defense Authorization Act for fiscal year 1984 prohibiting the funding for the Stealth bomber from being used for any other purpose, and the amendment was accepted on the Senate floor.

On November 7, 1983, I offered an amendment to the Defense Appropriations Act for fiscal year 1984 to protect the funding for the Stealth bomber from being obligated or expended for any other purpose. I withdrew the amendment upon assurances from the bill managers, one of whom was Mr. STEVENS, that the Department would not divert the money, and so we established legislative history.

On June 7, 1984, I offered an amendment to the Omnibus Defense Authorization Act for fiscal year 1985 prohibiting funds for the advanced technology bomber and the advanced cruise missile programs from being used for any other purpose. That amendment was accepted on the Senate floor.

Likewise, I have been a strong supporter of the SDI. On two occasions I cast the deciding vote, one of which was when the distinguished Senator from Louisiana [Mr. JOHNSTON] offered an amendment cutting the SDI appropriations—he lacked one vote—I voted with the distinguished Senator from Georgia.

There was another occasion when there was a one-vote difference, I believe. I again voted with those who were supporting the SDI.

So I have been a supporter of the SDI. I have been a supporter of the B-2 over the years. But I think that as far as the B-2 is concerned, I have been, as I said in the full committee the other day, I have been disturbed about some of the stories that are continuing to appear indicating that the B-2 bomber is not meeting the test.

I ask unanimous consent to print in the RECORD a news item dated the 9th month, 13th day of 1991, in the Washington Post entitled "B-2 Bomber Fails Test of Stealthiness."

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

B-2 BOMBER FAILS TEST OF STEALTHINESS
(By R. Jeffrey Smith)

The Defense Department expressed uncertainty yesterday that a problem with the radar-evading capability of the B-2 strategic bomber can be fixed, calling into question the ability of the \$865 million plane to fulfill all its potential military missions.

A Pentagon spokesman confirmed that the unique, bat-winged plane had failed a recent test of its "stealth" features, which were designed to help shield the aircraft from detection by radar.

The revelation amounted to a new blow against the embattled aircraft, on which the government has already spent roughly \$30.8 billion under plans approved during the Carter administration. Last week, the Air Force disclosed that cracks had appeared in the aft decks of the three planes built so far, necessitating an estimated \$200 million in repairs for the planned B-2 fleet.

The B-2, which the Air Force has billed as the premier long-range bomber of the next century, is already the subject of a tug-of-war between House members willing to build only the 15 planes already ordered and senators who have voted to proceed toward production of the 75 planes desired by the Bush administration.

As one of the most expensive items in the administration's proposed defense budget, the B-2 has become a lightning rod for criticism from legislators who maintain its mission and cost belong to another era in U.S.-Soviet relations, particularly in the wake of the recent Soviet upheavals. Advocates of the plane, in turn, have maintained it represents a triumph of technology that can be used in future conventional wars as well as any nuclear conflict. The F-117A, a tactical fighter that shares some of the B-2's stealth characteristics, was successfully flown against Iraqi targets in the Persian Gulf War.

Defense Department spokesman Pete Williams, briefing reporters at the Pentagon yesterday, said Air Force officials had learned from a July 26 flight test that B-2 can be picked up by radar more readily than

expected. "The plane does not meet the desired level of performance at this point in time," he said.

Williams said the Air Force officials he spoke with are not certain if the stealth deficiency of the B-2 can be corrected, how long repairs might take and how much this might cost. He added, however, that defense officials had determined there was no reason to halt production of the aircraft.

"If [the B-2] continues to have this problem, then it's a major problem," he said. "But for now, it's a cause of concern" rather than a "show-stopper."

Several congressional sources, who spoke on condition they not be named, expressed amazement that such a revelation would come after the Air Force had spent so much to develop and build several B-2 bombers. The high cost, special composition and unusual shape of the plane were meant to ensure that its radar "cross-section," or ability to be detected by radar, would be as low as possible.

Williams said the revelation that the plane had failed its first inflight, radar-detection test was considered serious enough to warrant prompt notification of senior Air Force officials and Secretary of Defense Richard B. Cheney. Cheney, in turn, authorized the Air Force to notify senior legislators and aides on Capitol Hill this week, several of whom differed yesterday in describing the immediate significance of the test failure.

Air Force Secretary Donald B. Rice, who spent two days on Capitol Hill this week briefing senior legislators on the secret test results, said in a prepared statement Wednesday night that "testing has confirmed the fundamental soundness of the B-2's stealth design." Rice also said the Defense Science Board had endorsed adhering to the existing production schedule following its own review of the latest testing results. Rice noted that a number of defects in the plane's stealth features have already been corrected, but did not assert that the new problem could be solved.

Defense officials and congressional sources, citing secrecy restrictions surrounding the advanced stealth technology, provided few details about the precise nature of the deficiency. Williams said that "it's not the shape of the plane" or a defect in manufacturing. He also said the Air Force had guessed that the cost of making the repairs would be less than the financial penalties incurred if the government were to temporarily halt the B-2's production.

A declassified excerpt of a Defense Science Board report on the B-2 last February referred cryptically to the need for "mods," or modifications, to the surface of the plane to ensure that it could absorb radar energy at certain frequencies.

Senate Armed Services Committee Chairman Sam Nunn (D-Ga.), a major supporter of the B-2; said in a statement last night that he does not view the new test results as "a permanent setback for the B-2 program" and cautioned against a "pile-on mentality" against the troubled plane.

Sen. John W. Warner (Va.), the committee's senior Republican, said after a closed Air Force briefing yesterday, "I think this can be fixed over a period of time." House Armed Services Committee member William L. Dickinson (R-Ala.), who was briefed separately, said he has "no idea how long it will take to fix" the plane because officials have not determined what repairs are needed.

Mr. BYRD. Mr. President, I have been a supporter of both programs. But as a member of the Appropriations

Committee, as a Member of the Senate, as one who has supported the B-2, I have reached the breaking point on it. I have reached the end of the line.

Regarding the B-2, I feel a little like that man in the Bible who went out to his garden and called the gardenkeeper to him and said, "Behold, I come these 3 years looking for fruit on this fig tree and find none. Cut it down!" Wordsworth said, "The world is too much with us; late and soon, getting and spending, we lay waste our powers." We ought to think about that. We are spending, spending, spending, and laying waste our powers. If we are going to be a strong nation militarily, we first have to be strong economically, and we surely are having some problems in that area.

Mr. President, the distinguished chairman of the Budget Committee, Senator SASSER, has made a very compelling case for reducing the defense budget below the caps provided in the Budget Enforcement Act [BEA]. As Senators are aware, under the BEA there are separate caps for defense, domestic, and international appropriations for fiscal years 1991, 1992, and 1993. For fiscal years 1994 and 1995, there will be only one cap for all discretionary appropriations. This means that for those years—fiscal years 1994 and 1995—defense spending will have to compete with international and domestic discretionary spending in budget resolutions and in the Appropriations Committee's 602(b) allocations.

The single cap for fiscal years 1994 and 1995 will be extremely tight. Pages 59-62 of the August 1991 report by the Congressional Budget Office entitled "The Economic and Budget Outlook: An Update," points out just how tight the cap will be. A table on page 60 of this CBO report sets forth two scenarios. The first scenario assumes the President's requests for defense for fiscal years 1994 and 1995. The budget authority would be \$295.5 billion for fiscal year 1994 and \$298.5 billion for fiscal year 1995. This amounts to a reduction below baseline of \$8.4 billion, or 2.7 percent, in 1994 and \$18.4 billion, and 5.8 percent, in 1995.

In order to meet the President's requests for defense, both international and domestic discretionary appropriations would have to be cut 6.9 percent below baseline in fiscal year 1994 and 9.7 percent in fiscal year 1995. For domestic discretionary, the cut would be \$14.9 billion in fiscal year 1994 and \$21.9 billion in fiscal year 1995 below baseline. Mr. President, I am not in favor of cutting domestic discretionary spending below inflation by \$14.9 billion in fiscal year 1994 and by \$21.9 billion in fiscal year 1995. But, that is the direction we are headed if we adopt the President's defense requests.

CBO goes on to point out in their report that if we wait until fiscal years 1994 and 1995 to cut defense, "very large

cuts in military operations and investment would be inevitable." A CBO analysis, in fact, concludes that there would be no orderly way to achieve the defense outlay targets that will be necessary in fiscal years 1994 and 1995 if we are to keep domestic discretionary at baseline for those years—unless we start before 1994. That is, unless we appropriate less for defense than the caps allow in 1992 and 1993.

The amendment of the Senator from Tennessee [Mr. SASSER] recognizes these facts. It is a responsible approach that will cut B-2 spending by \$15 billion over fiscal years 1992 through 1995. It will cut SDI by \$9.1 billion and MX rail train by \$370 million over the same period. These three programs are not the only ones that should be reduced. We should take a very hard look at the superconducting super collider next year, as well as the space station. These are all interesting and potentially beneficial programs. But, when we have no room for growth in higher priorities—for example, for infrastructure, for education, and other investments in our children, for environmental cleanup—all of which are crucial to our future as a nation, I can no longer support these big-ticket items that seem to have a life of their own, even when the justification for them is proven to be outdated and even when the programs have high cost overruns and, in many past cases, just plain do not work.

So, I compliment the distinguished chairman of the Budget Committee for bringing this amendment to the Senate floor. I urge my colleagues to keep in mind, as they decide how to vote on the amendment that if we do not start cutting defense now, in 1994 and 1995 it will be too late. At that point, only massive personnel cuts will achieve the savings that will be necessary in order to avoid real cuts in domestic discretionary programs. I, for one, signed up for last year's summit because it offered us an opportunity to reverse the devastating cuts of the last decade in domestic discretionary spending. For fiscal year 1991 and fiscal year 1992, we have had real growth in these critical programs—not enough, not as much as I would have liked, but at least we have not had real cuts. If we are to be in a position to at least keep up with inflation in fiscal years 1994 and 1995, we must start now by cutting unnecessary, large ticket items such as those in this amendment.

During the period 1981-85, I offered amendments every year to either add to the budget for the Stealth bomber, as it was known then, or to protect its funding from raids within the Pentagon. In that period, the program was so highly compartmentalized that no strong outside constituency was available to protect it, and DOD was constantly afraid that the funding for its preferred system, the B-1 bomber,

would be drained in favor of the more promising and advanced new Stealth bomber. I was among those who believed that we needed to protect our advanced technology development, and so was a very strong supporter of this new bomber. However, Mr. President, times have changed dramatically. We have learned a great deal through the technology development we experienced in the B-2 program. Now we are talking about nearly a billion dollars for each airplane, a sum which just staggers me. The use of the system, for extended nuclear war, has become more and more remote, and, indeed, the whole concept of some orderly extended nuclear "exchange" or series of "exchanges" is highly questionable. So this is just one of a number of very expensive systems that we could certainly forego in a changed environment, systems which have just served the purpose of gilding the edge of our security lily. We frogs are safe on our lily without the B-2, and without some of the other big items I have mentioned, along with a couple of other programs which are still classified.

In regard to the MX rail train, I put that in the same category—more glitz, gild and greenbacks on the edge of our already fulsome security lily. We ought to can it.

And as for the funding for the SDI, I have been a strong supporter of that system, but there are certainly some savings, as expressed in this amendment that can be had without jeopardizing the value of it.

Mr. President, this amendment says it is time to start the process of reordering our priorities in light of a changed world environment. Gone are the days when this Nation could afford to do nearly everything it wanted with ease. The realities of a decade of huge budget deficits changed all of that. Now the realities of a changed world, where competitiveness in world trade markets has superseded the arms race in importance make it necessary for us to examine our priorities again. We must start that process now if we are to avoid savaging our potential. We must not continue blindly down the path of funding big-ticket defense items that have either become dinosaurs or threaten to drain the national treasury. I commend the distinguished Senator for trying to focus the attention of the Senate on this matter. We must begin to look ahead and adjust our spending priorities now.

Let me close, Mr. President, by saying apologetically to my friends, Senator NUNN, Senator WARNER, Senator STEVENS, and Senator INOUE, that I respect their viewpoints. Their viewpoints are not without merit. I know how strongly they feel, and I know how well prepared they are to argue the merits of the systems which we are discussing.

I only have injected myself into this matter for two reasons: One, as I have just stated, I have lost faith in the B-2 bomber. As one of the key participants—and I do not wish to appear to be immodest in saying that, or modest either—I think I was a key participant in the budget summit, I have to say again that we are not rewriting the budget agreement here. But we are confronting a problem, which in light of changed conditions in this world, is going to come back to haunt us like Banquo's ghost in the outyears 1994 and 1995, and perhaps even next year, 1993, in nondefense domestic needs areas.

The amendment of the Senator from Tennessee is one which is attempting to foresee and provide for that day in the future when those domestic needs are not going to be met; they are going to be squeezed by the big-ticket items that are being laid in concrete today and which we will not be able to reduce on that future day of judgment when there is going to be a great deal of weeping and gnashing of teeth with respect to the shortage of funds for health services, education, and all of the other domestic needs of the country.

I congratulate Senator INOUE and Senator STEVENS. I have watched them every year. They work hard. They are very knowledgeable Members. I come with some trepidation into this field, because I am not skilled in combat in this subject area. But I do bring these views from the standpoint of the budget agreement and the problems that we are going to be confronted with in the outyears of the agreement.

Mr. President, I thank Senators for listening, and I yield the floor.

Mr. JOHNSTON addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, one of the most indelible impressions of my youth was watching the movie, "The Wizard of Oz." We all remember that great scene when the wizard was finally brought out from behind the curtain. The curtain was pulled back and all those fearful sounds, all of the sound and fury that had come from the wizard was finally revealed to be just from a weak old man who was not threatening to anyone.

Mr. President, at the time I saw that as a very young boy, it was hard for me immediately to accept what I had seen, that this fearsome thing we had seen suddenly was no longer fearsome anymore. There was a period of time in watching that movie when I could not accept emotionally what my eyes were seeing.

Mr. President, I think there is sort of a lesson in that with respect to the Soviet Union, because the whole organizing principle of our lives, at least those of my generation, has been the red menace, the terrible, fearsome, dan-

gerous, organized, hostile, imperialistic, powerful hegemonistic Soviet Union, which was out there threatening the freedoms of every American, threatening the lives of every American.

In my own case, if I count the 4 years that I spent in high school ROTC, I wore the uniform of this country for 8 years. I was lucky I did not have to fight at that time. Many of my colleagues fought in various proxy wars against the Soviet Union.

But, Mr. President, the Soviet Union, like the "Wizard of Oz," is now no more. Mr. President, it is just not the same threat. All of the Eastern European satellites are gone. They have probably joined us. All of the cohesion is gone. They do not even call it the Union of Soviet Socialist Republics anymore. It is now called, I believe, the Union of Sovereign Soviet Republics, to the extent they can get a union at all. What it is is some kind of confederation, or it may turn into some kind of collection of Third-World powers which are not threatening to anybody, except perhaps for the internal fights which they have among their own people. Their economy is devastated. Their once vaunted technology, Mr. President, is no more.

Now, we know those things intellectually. We have seen them unfold on the television day by day, and yet somehow we cannot reorganize our lives, and we cannot reorganize the budgets that have defended against those fearsome possibilities in an intelligent way.

What this amendment says, Mr. President, is that, yes, we do have the sense in this Senate to reorganize priorities based on what now is reality.

I guess if there was one vision to come from all of this which really convinced me, which finally made me realize emotionally what I was seeing intellectually was that statue of the founder of the KGB—what was his name, Dzerzhinsky, I think—that huge, monumental statue, which over a period of, I think, a couple of days, was finally toppled there in Moscow, signifying not just the end of Soviet military power, not just the end of Soviet communism, but the end of the Soviet police state. With the toppling of that statue, Mr. President, goes, in effect, the danger of the Soviet Union.

Mr. STEVENS. Will the Senator yield for just one question?

Mr. JOHNSTON. Not yet, Mr. President. I will in a moment.

Which leads me to the B-2 bomber, Mr. President. I have been a supporter of the B-2 bomber as long as the Senator from West Virginia. I voted with him on every one of those votes. As a matter of fact, earlier this very year, I reexamined my conscience and I reexamined my logic, and I supported the B-2 again. We had invested so much in it I thought we are going to need a

bomber, so let us go with the B-2; it is the only thing we have.

But, Mr. President, as I have watched that statue of the KGB founder topple, and really looked at what the B-2 is designed to do, and looked at what it is we are defending against, there is no mission for the B-2 bomber. There is no need for a triad against the Soviet Union. There is no need for a penetrating bomber.

Now, my friend, the Senator from Georgia, says that the threat of Soviet thermal nuclear war is undiminished. Mr. President, it is probably true that they have as many warheads as they did, although I have no doubt they will do away with those warheads, or a large number of them, in some kind of treaty which we will put together with them, because they did not need them. They are a menace to them to have them scattered all over the country.

I have no doubt they are going to do away with some of those. I cannot prove it. I know they continue the momentum of that manufacturing, and they still continue to produce some. But that is only because those people have no jobs; it is not because Gorbachev or Yeltsin or anybody else wants more nuclear weapons. They have 25,000 or thereabouts right now, as do we.

Now, what the B-2 is about is penetration, and the one threat that is going to be less is the ability of the Soviet Union to put up radar, which would prevent, say, the B-1 bomber from penetrating.

One of the reasons I opposed the B-1 bomber back when we were going to build it with all the advanced funds was because it would not penetrate, as I recall, into the next century; that it would penetrate through the 1990's, but by the next century Soviet radar would be improved enough so that the B-1 could no longer penetrate.

Mr. President, the B-1 bomber ought to be able to penetrate today, but penetrate what? Tadjikistan, Uzbekistan, Moldavia, Yeltsin's Russia? Mr. President, we do not need a penetrating bomber. To the extent that we have a threat against us, and it is a dangerous situation to have that many warheads, we have more than enough terror to inflict upon them right now.

I had occasion a couple of years ago, Mr. President, to take a cruise on the U.S.S. *Nevada*, and when we boarded that submarine, the Commander said, "Senator, we have on this submarine enough nuclear power to destroy half the industrial might of the Soviet Union." They did not even have the D-5 missile at that time. With the D-5 missile, one Trident submarine will have, as I recall, 240 warheads—I believe it is 240 warheads—at, as I recall, about 450 kilotons apiece, which is many, many orders of magnitude bigger than the bombs we dropped on Hiroshima and Nagasaki. We have mul-

multiple Trident submarines, and that is just one system.

Mr. SASSER. Will the Senator yield for just one question here?

Mr. JOHNSTON. Yes.

Mr. SASSER. The Senator was discussing the merits of the penetrating bomber. I might say facetiously that one way we could save money is just buy a fleet of Cessna 110's.

You will recall the young German student who flew a Cessna 110 from Germany across Eastern Europe and landed in Red Square in Moscow. That was quite a penetrating bomber there. Surely we have aircraft that can penetrate it as successfully as a Cessna 110 without buying a whole fleet of B-2's at about \$600 million a copy.

Mr. JOHNSTON. Mr. President, the Senator makes a good point. It is very clear that in the basket case economy of the Soviet Union they are not going to be spending the billions of dollars they will have to spend in order to improve their radar system.

Mr. STEVENS. Will the Senator yield for one question?

Mr. JOHNSTON. Yes.

Mr. STEVENS. Does the Senator have the information about the number of production lines still going on in the Soviet Union despite the toppling of the Lenin statues? How many lines are closed that are making missile submarines, attack submarines making their bombers, making their ships, which last year they produced 10 to our 1? Does the Senator know how many of those have been closed and what the comments have been coming out of Russia about why they are not closing?

Mr. JOHNSTON. Mr. President, I am aware that they continue to produce some of these weapons just as Czechoslovakia, for example, under Vaclav Havel, the great poet, continues to produce tanks. The reason is they do not have jobs for those people. There is this momentum that just under the Soviet system takes a while to roll down.

But if the Senator is telling me that Yeltsin and Gorbachev have the same idea about a possibility of an attack on the United States that the Soviet Union had under Brezhnev and before that, he simply is not going to be successful in convincing me of that.

I just really believe that the symbolic toppling of that statue brings with it all of that hostile imperialistic intent of the Soviet Union. I believe that. I believe it to the soles of my feet. I just think the Soviet Union is no problem anymore except perhaps with civil war and some errant commander out somewhere. But in terms of an attack on the United States, I just do not believe it. I do not believe it. I hear what the Senator says. I know about those production lines, but it scares me not one whit.

Mr. STEVENS. Did the Senator hear Shevardnadze repeat the statement he made to a group in Washington just a

month ago that the great power of the pro-military group still exists, that he warned the world again that if this winter is as bad as they believe it will be, 40 million unemployed, that the strength of the Soviet Union is still in the pro-military forces, in those that would use those weapons? That does not impress my friend from Louisiana at all?

Mr. JOHNSTON. I have read Shevardnadze's statement, and the Senator will recall that Shevardnadze accurately predicted the last Soviet revolution. He also predicted it would not be successful, but he predicted it would happen, and he continues to warn about the powers or about the intentions of the right wing.

I understand that. I also do not think for a minute that they could be successful, or, if they were successful, I think it would take them so long to put the Soviet Union back together as a threatening power to the United States that we would have plenty of time to reconvene all kinds of lines whether we produced B-2's or cruise missiles. We would have plenty of time to do that. We would have plenty of time to get a lot more troops over to Europe.

I understand what the Senator is saying. I have read it all. I think one can make a plausible argument out of it. I just do not believe it. I do not think Senators in their heart of hearts will believe it either.

A much bigger threat to this country is the budget deficit. A much bigger threat to this country is the amount of interest we are paying, the amount of the infrastructure that we are not renewing, the quality of the education that is slipping behind international competition. The Japanese understand this game very well. They do not worry themselves with spending for defense. They are hiding behind their Constitution, and they are gearing up the civilian sector. They are outproducing us and grabbing our markets away from us. We can continue to build B-2 bombers and SDI's—and I understand the argument for SDI too, that some commander out there is going to shoot some missiles over here and we have to defend ourselves against that.

So we are going to spend billions upon billions upon billions of dollars to do that. I just do not think it is a plausible threat. It is a possible threat. We can conjure up all kinds of scenarios. Qadhafi gets hold of an intercontinental ballistic missile, gets a warhead, puts it on it—that is possible, but it is not plausible.

Mr. STEVENS. Why are we building those destroyers? Why are we building the things in the Senator's State we are building? Why are we ordering all of this ammunition we are ordering and building these missiles that are going to be shot from submarines? If the threat has totally evaporated, why

do we not send the bill back to committee and say, give us enough money, as the Senator from Hawaii says, to keep the people at West Point, Annapolis, the Air Force Academy, and in the embassies around the world, and let us forget about the military?

Mr. JOHNSTON. I did not say that.

Mr. STEVENS. What is the threat there for these things that are built in Louisiana or other places where we are procuring so many systems for that list that my friend had, the big-ticket items? Why do we build destroyers? Why do we build Seawolf? Why do we build the F-15's? We just ordered 36 of them—48 of them, as a matter of fact. Why do we build all of these systems if there is absolutely no threat against the United States?

Mr. JOHNSTON. I did not say that. What I said was the Soviet Union as a threat against the United States has ceased to exist. Simply it has. That which the F-15 defends against, such as Iraq, has not ceased to exist. That which fast sealift would take our troops to has not ceased to exist. As a matter of fact, if I had my way, we would build a lot more fast sealift and bring some more of those troops home from Europe and Korea and elsewhere.

I heard General Powell the other day say we are still going to have a corps in Germany. I think by a corps he means two divisions with all the associated troops, plus all the support troops, plus all the hundreds of thousands of civilians. We are going to have that as late as 1995 or 1996. If anybody can tell me why we need that to defend against what? East Germany, Czechoslovakia, Russia? I am sorry. I do not see the threat.

With respect to the Senator's statement that this is not the place to argue this, Senator SASSER was prepared to bring up his amendment in the committee and was prevailed upon by many who said that this is a more appropriate argument for the floor and not for the committee. The Senator remembers that.

Mr. STEVENS. If the Senator will yield, I did not say it should have been decided in committee. I said if the Senate wishes to have a cut in total amount of defense money, they should so instruct us. They did instruct us. They gave us a 602(b) allocation. This is not an attack, I am told, against SDI or the B-2 or the MX or the ballistic missile defense. No. No. The chairman of the committee has said, no, this is budget reality we are looking at. We are not going after systems. Do not vote because of these systems. Vote to cut the money. That is a budget decision.

Mr. JOHNSTON. I am saying they are right on both scores. They are right on the systems and they are right on the cuts in money. It seems to me we have to face up to the reality of our threat.

Another one of those events which happened that I find very convincing,

was that the CIA analysis which they used to put out year after year, and in which they put a great deal of research, and put slick covers on, and sent out to all the press and everybody else, called I think, "The Soviet Military Threat," which was the subject matter of it; this year, Mr. President, they are no longer publishing that document. I guess they cannot pass the straight-face test with that, or maybe they realized that they have been telling us in the CIA all this time that the Soviet Union was this huge, strong economic power that suddenly evaporated like the Wizard of Oz behind his curtain. Maybe that is the reason.

The fact of the matter is, Mr. President, the Soviet Union is gone. All of that organizing principle which has directed our lives, which has directed the appropriations we have made, which has sent people off to fight and to serve and to be in the Army, which has directed our national priorities, is gone. I might say, Mr. President, that the politics behind those priorities have also gone.

I have been a hawk all my life. I have felt instinctively that we needed to be strong, and that that is the only thing the Soviet Union understood. As I look back at history, strength begot peace and not vice versa. All of us can cite that history.

Mr. President, that has now changed, and the politics of it has changed, too. The American people understand this. They understand you do not need a B-2 bomber at almost \$1 billion a copy or \$½ billion a copy, whatever the figure is, to penetrate Soviet air space. Yeltsin is just not going to put up those radars. Yeltsin is not a threat to us, nor is Gorbachev, nor Shevardnadze, nor those who might follow.

It is time for us to reassess, both intellectually and emotionally, that which is driving our policy in this country. Based on that, I am supporting the Senator from Tennessee in his amendment.

Mr. INOUE. Mr. President, I have listened to the learned words of my colleagues, but, most respectfully, I still believe that this amendment is wrong. It is wrong on procedural grounds. It is wrong in substance. It is offered at the wrong time. And above all, Mr. President, it is wrong for America because, in one stroke, this amendment would seek to overturn major recommendations which the Subcommittee on Defense Appropriations has made, after we conducted a thorough review of the President's budget request.

I realize that is our job, and that is what we are supposed to do. I believe we have done that. The committee system around which the work of the Senate is organized is supposed to work this way. This subcommittee began its hearings on the fiscal year 1992 budget in March 1991, and we carried on for week after week until the end of May.

There were 19 separate hearings. I cannot think of any other appropriations subcommittee that has held at least half of these hearings. We held 19, sir. The subcommittee heard testimony from representatives of the Department of Defense, naturally, and from many other Federal departments and agencies, and from the general public.

One thousand seven hundred fourteen pages of testimony were taken. We now have a five-volume public record on this budget request. That is just the unclassified portion. There are volumes of classified testimony, which is available in S-407 for the Members of the Senate.

So, Mr. President, we did not arrive at our recommendations by happenstance. These recommendations do not reflect whim or caprice. These recommendations represent the findings of hundreds of hours of work, of thoughtful reflection and conscious decision, and I believe that the subcommittee has done it work.

Mr. President, this amendment that we are considering at this moment is not some minor modification, some modest adjustment to the subcommittee's recommendation. It is an amendment which will profoundly affect the future of the Defense Department and our national security for the next 30 years.

Mr. President, this amendment is a major departure from the course set for our defense programs by the administration and the Congress over the past several years and, most specifically, in the budget summit of last fall.

Mr. President, are we now to tear the very fabric of that grand compromise? Are we going to do so in the heat of this floor debate? Are we going to overturn an omnibus multiyear budget agreement through a defense appropriations bill? I hope not. Mr. President, I say that this amendment is wrong on procedural grounds. It is also wrong on substantive grounds.

The author of the amendment expresses a concern that we are building a bow wave of procurement spending. He is concerned that those charged with the responsibility for defense spending are not managing the defense drawdown properly, and that this will lead to a sharp reduction in military personnel in order to meet the budget requirements of fiscal year 1994 and 1995.

But, Mr. President, the facts do not sustain that argument. The defense appropriations bills that were enacted over the past 3 years, and the bill which is now before the Senate, have reduced this bow wave of procurement.

These are not my words; I am not making this up, because I believe that the numbers are there for all of us to see. The bow wave would come from the second- and third-year outlays of a spending measure enacted in the base year.

What do we find when we look at the second-year outlays of the fiscal years 1989, 1990, and 1991 acts, and the fiscal year 1992 bill before us? We find the second-year outlays have decreased from \$66.4 billion in 1989, \$61.6 billion in 1990, \$54.1 billion in 1991, and \$47.8 billion in the current bill. These are the numbers that were provided by the Budget Committee. It demonstrates a steady path of reduction by the Department of Defense.

What about third-year outlays? We find the same pattern here: \$28.5 billion in the 1989 act; \$26.4 billion in 1990; \$25.4 billion in 1991. And in this bill, \$24.1 billion.

Clearly, Mr. President, the defense appropriations are acting to bring down procurement spending. As I also noted in my opening remarks of Tuesday last, I said that we are not unaware of the budget. Defense budgets will decline, and will decline sharply in the next 3 years. So accordingly, we have been careful to avoid initiation of R&D programs, which are unaffordable in the future.

This year, Mr. President, in acting upon the budget request of the President of the United States, as it related to research and development, we cut \$2.4 billion below the budget request and \$2.6 billion below the amount authorized in the recently passed authorization bill.

These were ratified by the full committee and so we are acting to reduce outyear defense spending.

It is also quite obvious, Mr. President, that the Secretary of Defense is concerned with the so-called bow wave of procurement and with the high cost of operating Defense Department installations in the United States and overseas.

As my colleague from Alaska pointed out, the 1992-93 budget submitted by the President of the United States terminates, it stops funding for 81 separate programs, and my colleague has listed 15 of the 81 programs. We have cut them out. Oh, yes, you heard gnashing of teeth throughout this floor because these procurement projects came from different States but a decision had to be made and this committee made that decision. It was not easy.

The termination of these programs will save \$11.877 billion in 1992, \$16.6 billion in 1993, \$18.5 billion in 1994, and \$20 billion in 1995.

Mr. President, we have done our job. It was not easy. It was painful. And these projects represent jobs. There are many hundreds and thousands of men and women out of work because of our decision. And yesterday we passed a monumental bill to cover the contingency of unemployment caused by these activities. That is not a peace dividend. It is a painful dividend. The Pentagon is doing its part.

Mr. President, the costs of worldwide operations of defense installations are

also being reduced. In the 1988 Base Closure and Realignment Commission we closed 16 major bases and closed or realigned 84 others. In the 1991 Commission recommendation we closed 34 major bases and we realigned 48 others.

These were in the continental United States. Since 1988, the Department of Defense has closed over 300 bases and installations overseas. The Pentagon is reducing operating costs. It is not just talk. These are deeds. We are responding to the facts of this day.

So, Mr. President, to those who say otherwise, may I say that as chairman of this subcommittee I am convinced that defense spending is coming down. You can use all the statistics you want but we have our statistics, also.

The force structure is being reduced. Army divisions which numbered 28 in fiscal year 1990 will number 18 in fiscal year 1995. We have 15 aircraft carriers now, within a year we will have 12; with carrier air wings reduced from 15 to 13 in the same time period. Our ships of the Navy will be reduced from 545 to 451. Our tactical fighter wings will come down from 36 to 26. And our strategic bombers from 268 to 181.

It may be interesting to note at this juncture that we will have 12 carriers in a year. In Desert Storm six carriers were operating in the adjacent waters, six carriers were involved in our conflict in the desert. As you know, Mr. President, out of 12 carriers, 1 would always be in drydock. There were only five other carriers involved. Six were in the operation. Of the brave marines we have, 85 percent of the combat troops were in Desert Storm. Six divisions were fighting there, and it was considered a small war, just against a little country called Iraq. It was not against the Soviet Union. And we used over half of our carrier force, 85 percent of our marines, and 23 are lucky because we had the technical edge.

Yes, Mr. President, defense spending is coming down. We have reduced our active duty end strength. Two years ago we had 1,174,000 men and women in uniform. That will be reduced by 521,000. It will go down to 1.6 million. In this bill alone 106,358 men and women will receive their pink slips and they will join in many cases the unemployment ranks. Hopefully, not too many but some will join the welfare ranks. It will not be a happy time for many of them.

Even the Reserves are declining. Two hundred forty-five thousand will come out of the Reserves in fiscal year 1995. Even our civilian forces will come down. They will be reduced by 193,000. A lot of men and women are going to receive pink slips.

This amendment, Mr. President, is wrong on substantive grounds. Force structure, base operations, military personnel, end strength, procurement programs, R&D expenditures are all being reduced. This is wrong for America.

Mr. President, at this juncture just a footnote, this exercise I presume is to reduce our defense spending. I am certain all Members of this body agree that the cost of Government should come down. But while your subcommittee was doing its best to bring down the cost of Government, bringing down the cost of defense, holding 19 hearings, we received requests from 79 Senators, for add-ons, and some of the very ones who are advocating cuts were coming forth with add-ons, add-ons that were not approved by the Defense Department, add-ons that would not have helped the national security of this country.

Mr. President, in a recent special briefing before the Appropriations Committee, Gen. Colin Powell, the distinguished Chairman of the Joint Chiefs of Staff, spoke rather frankly and candidly about his fears for the future of America's Armed Forces. He was concerned that measures to keep the Guard and Reserve at current levels, or to prohibit the managed reduction of the regular force, will lead to a topheavy structure of aging military personnel. He expressed his concern that reductions in procurement and research and development could erode the qualitative edge our service men and women have on the battlefield.

And, as we all know, that made the difference in Desert Storm. He expresses concern that, as we have in the past on many, many occasions, we would build a hollow force without modern equipment and overaged soldiers.

Mr. President, we must not let this happen. We must manage reductions in force levels and defense spending. We all know that these reductions will come about. And, as I have tried to convince my colleagues, we on the Appropriations Committee have begun to make them.

And so, Mr. President, I implore the Senate to choose the course of patience and wisdom. We have seen on too many occasions what happens when America is unprepared.

In a few months, we will observe the 50th anniversary of Pearl Harbor. I realize that is ancient history, that is 50 years ago. For most Americans, Pearl Harbor is a harbor somewhere in Hawaii.

But how many Americans remember that when General Patton took over the Tank Corps, he had 325 tanks at Fort Benning. And over half of these tanks were not operational. They needed nuts and bolts. He sent an application for parts to the U.S. Army and it came back rejected. Why? Because we had none.

Imagine General Patton going to Sears Roebuck and buying nuts and bolts. That is how he put the U.S. Tank Corps together. Sometimes it makes me wonder how we won the war.

Gen. George C. Marshall, who commanded the largest military force in

the history of mankind, 12½ million men and women, when he took over the command of Fort Leavenworth, you would think that he had thousands of men and women around him. He had 200—cooks and clerks. That was the Army, the Army that used broomsticks for rifles and placards for tanks. Fortunately, we won the war.

But then, when we won the war, we decided that the millennium had arrived, peace was upon us. And so we began slashing the military might of 12½ million, and within 3 years, it came down to 600,000. The North Koreans decided that the United States had lost its stomach for warfare. Americans have had enough. So they crossed the 38th Parallel.

Something had to be done to hold back the onslaught. The only thing we had in Japan were cooks, stevedores, and clerks of the 8th Army. And that is what we sent as the initial force—men who were not trained for combat, men who were not equipped for combat. And now experts tell us that the first 10,000 casualties were not necessary. It was due to the lack of preparation, lack of equipment.

So let us not repeat that again. Mr. President, this amendment is wrong.

In the debate of the first 3 hours, I have heard that we are now in a changed world; that with the basket-case economy of the Soviet Union, we have no fear. One of my colleagues said, "The Soviet Union is gone."

I know that it is tiresome and tedious to hear about history, but I think it is well to reflect upon history. And, if I may, Mr. President, just as a reminder, not of the history of 300 years ago or 200 years ago, but just 1989.

In 1989, the wall came tumbling down. The Warsaw Pact was shattered. There was jubilation all over. The stock market rose. People cheered. The millennium had arrived. And as part of this euphoria, a few months later, in January of 1990, the Government of the United States decided that the time had come to do away with the Central Command, to terminate its operations, to hang its flag.

Mr. President, just to remind ourselves, Central Command is the command that took charge of Desert Shield and Desert Storm. In January of 1990, we were all set to put it in pasture. We were prepared to retire General Schwarzkopf because the man was not needed. The services of General Schwarzkopf was not necessary, not necessary at all. The millennium had arrived. Peace was upon us. The Middle East was clam and stable.

In fact, we were so convinced that we provided Saddam Hussein \$4.2 billion in agriculture assistance. We provided Saddam Hussein with \$200 million in Export-Import Bank credits. And in the same month, January 1990, the Department of Commerce of this Government

laid out plans to have a trade fair in Baghdad, a trade fair to sell the Iraqi aerospace technologies, ballistic missile technology and computer technology.

Your committee called upon the Secretary of Defense and complained, first, about General Schwarzkopf and the Central Command, and second, about this Baghdad business. And, Mr. President, I am certain all of us recall the months following that when some of my colleagues here stood up and spoke about Saddam Hussein as the possible mediator of peace; that he was one that we should listen to.

Mr. President, you will recall in June of 1990, I submitted a bill to impose economic sanctions on Iraq. And at that time, I was told in no uncertain terms by the administration and by my colleagues, "Don't do that. He's our friend."

Why do I say all of this? Mr. President, yes, we are in a changed world, but very likely in a much more dangerous world than what we found 3 years ago because of two worlds—"uncertainty" and "instability."

Yes, we were certain that there was peace in the Middle East, but then we had to send thousands of men and women there.

Have we achieved peace there? Today, as I speak, thousands of men are going there with Patriot missiles.

As my colleague from Alaska tried to point out to the Senate, 2 years ago when we built one submarine, the Soviets built nine. A year ago, when the Soviets built 10 submarines we built 1. In this bill we build one submarine and the Soviets are continuing to build nine more. While we speak, the assembly lines on the construction of tanks and artillery pieces goes along unabated. As we speak, work is being done on their first aircraft carrier.

Aircraft carriers are always used for power projection.

The assembly lines on nuclear warheads continue. And while we debate the advisability of having mobile missiles—while we debate, they have already put into operation over 250 of them.

The Pacific fleet of the Soviet Union is much more lethal today than it was before Gorbachev's days.

Mr. President, these are the facts. I wish I could tell you the future of Mr. Gorbachev and Mr. Yeltsin. I do not know. A few ago, Mr. Yeltsin had some chest pains. It could have been overeating, for all I know. But when that happened, the stock market came down. That is how concerned we were—and should be concerned.

Can anyone tell me the future of Mr. Gorbachev? Where will he be 24 hours from now? Or, for that matter, 24 days from now?

Before this turmoil in Moscow we dealt with one super nuclear power, the Soviet Union. Now, with this apparent

breakdown, we do not deal with 1; we deal with 11. They have nuclear warheads. What are they going to do with them? Who has the key? Who has the code? Who has possession? I do not know. Will they keep them? Will they sell them? There are many countries that would give much to get hold of some of these tactical nuclear warheads.

So, most respectfully, I say to my colleagues, this amendment is wrong. It is wrong, as I have tried to convince all of you, on procedural grounds. It is wrong in substance. But most important, Mr. President, and most respectfully, I contend that this amendment is wrong for America.

I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in strong opposition to the amendment to reduce the funding for the strategic defense initiative. We recently defeated a series of similar amendments to the authorization bill. Since that time, of course, many things have changed and some may believe that we should immediately modify our defenses to reflect the threat as we see it today.

Mr. President, Congress is not now, and must never be like a weather vane, changing directions to face the day's prevailing winds. If today was August 19, the day of the Soviet coup, should we vote for a massive increase in our defenses? If today was just 3 days after that, August 21, when the coup fell apart, should we then vote for a massive cut? And if we had just now found out that the nuclear missile launch codes had been taken from Gorbachev by the coup leaders, should we today double the funds for SDI?

If ever there was a perfect application of the old saying that an ounce of prevention is worth a pound of cure, it is strategic defenses. At this point, the odds of an accidental launch from the Soviet Union are small, I do not deny that. But when you consider the catastrophic consequences should the worst occur, the situation cries out for some type of insurance policy, some type of protection for our people.

We are protected from other types of nuclear threats. Could a terrorist come to the United States with a nuclear bomb in a suitcase, or place one in a ship and sail into our harbors? The Chief of the CIA's Counter Terrorism Center will answer this question with a strong "no." The billions of dollars we invest every year in intelligence programs are spent to protect us from just this type of terrorist threat.

Mr. President, without SDI there is a window of vulnerability in our defenses that can be pierced by the Soviet Union and, in the days to come, by the Third World. The plan devised by Senators NUNN and WARNER is a rational one, providing a defense against accidents and limited attacks. It does not

provide the grandiose protection envisioned by Ronald Reagan, but instead gives us the level of protection we now need, at a price we can afford with today's limited budgets. In these days of uncertainty I appeal to my colleagues to act with caution, lest we hamstring a program that may one day prove vital to our continued survival.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to join those in opposition to the Sasser amendment, which would delete funding for the B-2 program, and reduces funding for the SDI and the MX-Rail Garrison Program. This amendment represents yet another attempt by those who oppose the modernization of our Nation's strategic forces to cut the funding for programs that will provide this nation the flexibility to meet our defense needs for the next several decades. The Senate has previously rebuffed their efforts, and I urge my colleagues to do so again by defeating this amendment.

Mr. President, the Senate has previously indicated its support for the B-2 program. This support has been demonstrated in the deliberations of the Senate Armed Services Committee, the Appropriations Committee, and during numerous votes here on the Senate floor. The Senate's support is based on the capabilities and need for the B-2, neither of which have diminished due to the temporary set back in the testing program. Both Secretary of Defense Cheney and the Secretary of the Air Force have assured us that despite the anomaly in the B-2's stealthiness during a recent test, the B-2 is still far less detectable than the F-117 stealth fighter which performed so magnificently during Operation Desert Storm.

Mr. President, I have addressed the capabilities of the B-2 on several occasions here on the Senate Floor and will not reiterate those arguments here today. Suffice it to say that terminating the B-2 program would deny this Nation the ability to modernize its aging nuclear and conventional bomber fleet. We would enter the next century with a major flaw in our defense posture—the inability to react quickly to a crisis in any part of the globe. In my judgment, neither this Congress nor the American people should condone such a weakness in our Nation's military preparedness.

Mr. President, one of the most important lessons of the Persian Gulf war is that we must develop an effective defense against ballistic missile attacks, for the protection of both our forward deployed forces and our citizens here in the United States. Iraq was only one of many Third World countries that possess or have the ability to develop ballistic missiles. The Director of Central Intelligence estimates that, by the end of the century, between 15 and 20 developing countries will have acquired bal-

listic missile capabilities; at least 6 developing countries will have ballistic missiles with ranges of up to 1,800 miles; and at least 3 of these countries may develop missiles with ranges up to 3,000 miles that could directly threaten the United States.

To illustrate the threat, I direct my colleagues to a quote from a speech by Colonel Qadhafi, the terrorist ruler of Libya:

If they (the United States) know that you have a deterrent force capable of hitting the United States, they would not be able to hit you. If we had possessed a deterrent—missiles that could reach New York—we would have hit it at the same moment.

Consequently, we should build this force so that they and others will no longer think about an attack.

Colonel Qadhafi's threat was in response to the United States' reprisal raid on Libya in 1986. The threat is not yet credible, but Libya is known to be developing such a missile capability.

Mr. President, in the Defense authorization bill, the Senate has set a goal to deploy an antiballistic missile system, including one or an adequate additional number of ABM sites and spaced based sensors, capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles. To support this goal, robust funding for continued research and development of Brilliant Pebbles space-based interceptors and other follow-on technologies necessary to provide future options for protecting the security of the United States and our allies, the committee authorized \$4.6 billion for fiscal year 1992.

For the past 8 years, taxpayers have spent approximately \$22 billion on SDI research without a clear concept of where the program was heading. We have now taken the bull by the horns and recommended a blueprint and timetable for developing a cost effective and operationally effective defense against accidental or unauthorized missile launches or ballistic missile attacks by a terrorist government. Senator SASSER's amendment would gut the bipartisan plan and preclude the Nation from deploying the missile defense it needs to protect its citizens.

Finally, Mr. President, the amendment before us would cancel the procurement of the test rail cars for the MX-Rail Garrison Program. The Congress, in the fiscal year 1991 Defense authorization, directed the Air Force to test the MX-rail garrison concept. We did that to ensure that this Nation had the capability to quickly deploy a rail mobile system in the event that the political and military climate in the Soviet Union changed for the worse. In my judgment, that criteria is still valid and we must continue to develop and test what is considered to be the most effective missile system in our nuclear arsenal.

Mr. President, We are living in a rapidly changing world. Every day there is

a new revelation that most of us would have previously thought impossible. In this era of constant transition, we must be prepared to meet all possibilities; especially when it comes to the protection of our Nation, its friends and allies. The amendment before us would eliminate our flexibility to respond to all these contingencies as we enter the next century. We would neglect our constitutional responsibility if we allow that to happen. I urge my colleagues to vote against this amendment and support a strong defense for this Nation.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senator from Arkansas [Mr. PRYOR] be added as an original cosponsor of the pending amendment.

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

Mr. SASSER. Mr. President, I listened carefully to the statement made by my friend, the distinguished senior Senator from South Carolina. I would remind my colleagues that the amendment presently pending funds the strategic defense initiative at \$600 million over the funding level for fiscal year 1991.

In other words, if this amendment, sponsored by myself, Senator BYRD, Senator LEAHY, Senator JOHNSTON, and others should become law, the strategic defense initiative would still be funded at a significantly high level. The funding for fiscal year 1992 would be \$3.5 billion for this so-called missile defense system, or star wars, or whatever you want to call it.

In listening to all of these statements made this morning about the perils in the world and the threats that this country faces, I am reminded of the old saying that the wicked fleeth where no man pursueth.

Just as recently as a few weeks ago, the Chairman of the Joint Chiefs of Staff, a very distinguished American, Gen. Colin Powell, said, in all seriousness, that he was down to only two threats: Kim Il Swng and Castro. It appears that Mr. Castro's days are numbered.

But how in the world do little countries like North Korea and Cuba really pose any threat to this country of 250 million people, with twice the gross national product of any other nation? No, I do not see that our citizens are threatened by Castro or Kim Il Swng. They do not perceive that they are threatened by that. But they do perceive that they are threatened by other things, and you can see it in their faces.

I was in New York City just a few weeks ago. Mr. President, it broke my heart to walk down the streets of this great American city. It literally looked like a city in a Third World country.

The infrastructure in that city is decaying. In some of the best sections of New York City, panhandlers were standing on the streets asking for handouts. It might as well have been at the height of the Great Depression in the 1930's.

Yes, there was fear on the faces of the citizens of that great city when nightfall came, but it was not fear from external threats. It was fear from internal threats, as they walked down the streets looking over their shoulders to see if someone was approaching them. They were apprehensive. They walked out close to the curbs away from the shadows of the buildings because they were afraid. They were not afraid of an external threat represented by Mr. Sung or Mr. Castro or any other tinhorn tyrant around this world. They were frightened about what was happening in their own country. They could not walk the streets of this great American city without fear, and as you looked around this great American city you saw decay and you saw what appeared to be, at least I saw what appeared to be, the decay of a great power, indeed the decay of a culture.

That has to be reversed, and if we are going to reverse it, we are going to have to start making greater investments in our own people.

The amendment I am offering today continues to fund the strategic defense initiative at an adequate level, a level that I, quite frankly, think is too high. But we are going to continue to fund it at \$3.5 billion. Think what \$3.5 billion could do for the city of New York or Nashville, TN, or Birmingham, AL, or Juneau, AK, the great cities of this Nation. They are the ones that need the funds, and there is where I think you find the threats to the citizens of this country.

But we are going to go ahead under this amendment and fund the strategic defense initiative at a level that is adequate, a level that will allow them to continue to carry out the research and development to the point that they can produce a system that might be deployable if we need to deploy it in future years.

The amendment we are offering today seeks to spare this body from the agony in another year or two—indeed, another year—of making the choices between these domestic needs that we all agree are necessary to be satisfied or making really draconian cuts in the muscle of the defense budget. When I say draconian cuts, we are talking about cuts of personnel, cuts in operation and maintenance. That is what makes a military establishment work, people, skilled people, to have the necessary funding to carry out the maneuvers and exercises to be able to perform their jobs. It does not do them any good to be surrounded by sophisticated weapons if there is nobody there who knows how to operate them.

So we are simply trying to get a handle on some of these procurement programs if we have a chance to do it. If we do not do it now, I think we are going to be foreclosed from doing it in the outyears.

That is the thrust of the amendment I am offering here today, not to emasculate the Defense Department. Nothing could be further from the truth and nothing could be further from my wishes. It is simply allowing ourselves now, hopefully, to make a rational choice at a time when we have the opportunity to do so with minimal problems for the defense establishment and with minimal tension developing in the outyears between our needs for domestic discretionary funds, funds in the international area, and also funds in the defense area.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I think it is important to keep in mind what is before the Senate. Before the Senate is a recommendation on the B-2 and SDI and the MX. The B-2 is the unique one because the money that is in this bill is not available. It is what we call "fenced" until an act of Congress is passed following a certification by the Secretary of Defense that the B-2 has, in fact, met its testing requirements.

I was reminded about these testing requirements when I started thinking about this amendment and what we are doing. We have just come through the Gulf war, and the most used munition in that war was the Maverick antitank missile that was used on the A-10's and F-16's. It was a missile that had a great deal of trouble in development. At one time the GAO issued a report critical of the Maverick.

When I was managing this bill in 1982, an amendment was offered to delete the Maverick missile. The same arguments we are hearing today—and I am glad to see my friend here from Tennessee because the Senator from Tennessee voted to kill the Maverick in 1982 on the basis of testing. GAO looked at it and said, "Oh, this missile can't work." I think anyone who would look at the recent performance in the war would realize that it was the elimination of the tanks by the A-10's and the F-16's that really was the turning point of the war. There is a good example of a system that everybody at the time said was totally flawed: it failed a test.

I can remember several other items—some of them are classified—that went through similar, what I call glitches.

The B-2 right now has a glitch, and it is a testing glitch. We are not even sure whether the test itself was wrong or whether the way the test was applied to the system was wrong or whether the system was given a greater expectancy through the predictions

of what it would do. In other words, since it is a new system and we are testing it against projected potential threats, the question of whether the threats have been properly stated, whether the system is properly applied, is such a confused matter that it is hard to understand.

The thing that should be understood is this: The B-2 today is the best bomber in the world. It has the capability and it has passed its test against any known threat in the world today and the projected threats of what might be developed out in the next century. They are classified. I think it is going to look like Yorick pretty soon if people do not take some classifications off what we are doing with this system. But as a practical matter, the projections were based upon what were the estimates of the threat that could be developed by some foreign power in the next century. Those estimates were cranked into the contract specifications and then they were quantified down into how this bomber should perform right now.

In a series of tests, it did not meet one cryptical element. It is critical if the estimates are right, and the assumption that a foreign power could create a system, provided the threat is right, then this must be corrected. In any event, it must be corrected because it was agreed to by the company that they would make these corrections, and ultimately it must be fixed, as the Maverick was fixed. I come back to where I started. The Maverick was considered to be defective.

There was a committee, as a matter of fact, that was formed to review the Maverick because of a series of test failures. The program was restructured. The production design decision was delayed. And the committee concluded—this is the special committee—that "procurement of the Maverick at this time is unjustified," and recommended no funds.

Those of us who are familiar with the system at the time reported to the Senate—for anyone who wants to look it up it was on December 16, 1982—we made the case. Senator RUDMAN made the case very strongly, and I must say very effectively. He had been assigned that missile system in our committee process. And the Senate rejected that; rejected that connection that the Maverick be discontinued.

It did so on the basis of the advice of those of us who, as I said before on the floor today, have spent a considerable part of our lifetimes following the Department of Defense. The Senator from Hawaii and I now have been on the Defense Appropriations Committee for 22 years. We come before the Senate now with a recommendation that these systems should not be cut in the interest of budgetary control.

As I have stated before, if the Budget Committee tells us now, even at this

late date, that we have been allocating too much money, the 602 allocation is too large and we must cut money from the budget, and the Senate votes that, we will take the bill back to committee. And we will bring back to the floor a bill that complies with the Senate's decision. That is our job. We have allocated moneys. We have complied with that allocation.

Part of our recommendation is that in the interest of the defense of this country we need the B-2, we need the SDI, and we need the MX—the production that we have scheduled under this, which is a very limited production. It is really not a significant portion of the Senator's amendment.

During his opening remarks on this amendment the distinguished Senator from Tennessee remarked about budget caps and pressure. We still have one of the charts of the Senator from Tennessee still up. But the pressure on the budget caps in 1994-95 are not caused by this bill. This bill complies with the budget agreement. The pressure comes from significant increases in domestic, nondefense spending, measures that the Senate has already adopted, and many of which I have supported along with many others.

We know we have problems in the outyears in terms of nondefense ceilings, but it is not brought about by overspending on defense.

I think it is important to note that the study relied upon by the Senator from Tennessee, the chairman of the Budget Committee, from the Congressional Budget Office, states this very clearly. That paper is dated June 1991, and the Congressional Budget Office reports that caps for fiscal year 1991 required that the defense budget authority be reduced by 8 percent in real terms below the 1990 appropriations level, and that the international budget authority be reduced by 5 percent. Domestic discretionary budget authority in 1991 was permitted to increase by 7 percent above the inflation-adjusted 1990 levels.

The CBO study goes on to state in 1992 and 1993 the discretionary spending limits in the Budget Enforcement Act require substantial further reductions only in the defense category. The budget authority limits for international and domestic discretionary spending in those years exceed the real 1991 appropriations by small amounts.

Mr. President, my contention is we are complying with the Budget Act, and I do not really know what the Budget Committee is doing out here on the floor asking us to change the budget, as far as defense is concerned in this manner. But it is not only asking us to change. It is doing something which is contrary to the Budget Act itself; it is including in its amendment a direction to terminate three specific programs. I know that there are many, many others that will be involved in this.

I want to come back again to a chart that I used before on this matter. It is defense as a share of Federal outlays. In this 5-year agreement, by the end of fiscal year 1995, as we enter 1996, the defense share of Federal outlays will be its lowest in 50 years. We started in 1950 with about 28 percent of the total Federal outlays, went as high as 57 percent during the Korean war, as high as 43 percent during the Johnson administration, and 27 percent during the Reagan administration. We will be down to 18 percent, two-thirds of the amount that we spent from our Federal budget in 1950.

The chairman of the Budget Committee says that has to be reduced even further in order to accommodate nondefense spending in 1994 and 1995, and he wants to do it now. But I really think that this is a wolf in sheep's clothing because the people who are supporting this amendment have opposed the B-2 all the time, they have opposed the SDI all the time, and they opposed the Maverick all the time. Now they are coming in under the Budget Act, and saying are you not spending too much money for defense?

Well, I tell you, I do not think we ought to spend one more dime for defense than we need to carry out our constitutional responsibilities. As I have said before time and time again, the Constitution gives us the responsibility to provide for the common defense. We are saying if you project our needs out into the next century when, by definition they will be even lower—I project that 18 percent is going to come down to somewhere around 10 percent in the peacetime era, I hope and pray it will at the end of the century, on into the first part of the next century—what will we need? We will need a force structure that can maintain our presence in terms of conventional threats, and we will need the ability to protect our sea lanes.

We are an island nation. We are the most heavily involved in foreign trade of any nation in the world. We have to be able to insist that our vessels be able to travel wherever they must travel on the seas. We have to protect air commerce, the air lanes of this world for our own good. We have to have the ability to deliver the systems that will be necessary to protect us against the high technology future. That one system, by the way, that is most essential is the B-2. We have to suppose and assume that the Senator from Louisiana is correct and the Senate will say, the Congress will say, bring our forces back to the United States. We will not have bases overseas. We will not have large squadrons of F-15's and F-16's stationed around the world.

As the Senator from Georgia has said, the B-2 is the equivalent of a great many smaller airplanes. It has the range, it has the capacity, it has the ability to deliver a real punch if it

is necessary. God knows, I hope it will never be necessary. But it is a system that has been designed for the future. I will be in my grave probably when the country will need it. But I hope to God someone is listening now to help us be sure it is there, just as the Maverick was necessary in the Persian Gulf war. Without it, we would have lost many men in the tank warfare. It was the system that killed those tanks.

This is the system that can maintain our presence throughout the world, and the very knowledge that it is there, the very knowledge that the B-2 is such an effective system, will be a deterrent in and of itself, a system that can be controlled and it can be recalled. It does not have to be a MAD system, a mutual assured destruction concept that if someone is doing something wrong, we know they are going to do it, and we have to fire off a missile in order to prevent it. That is the way to start World War III. We are trying to get away from that in this bill.

We are saying to the Senate, fund SDI, a ballistic missile defense system, so that can we can have a nonnuclear response to a potential nuclear attack against this country. We have the potential threat even today of an accidental launch, a terrorist launch, an unauthorized launch of a missile in the Soviet Union.

Under the circumstances we have no defense. We do not have a Patriot missile. We just do not have a concept of being able to handle the intercontinental missiles.

I cannot believe that we would abandon all the progress we have made to date in terms of being able to design a system that could provide that protection that our people need, just like the people of Saudi Arabia and Israel against the Scud missiles from Iraq.

Mr. President, I oppose this amendment because I think it is an improper use of the Budget Committee's authority to try and determine defense policy. And I oppose it because I firmly believe that we have gone into this matter very deeply over a period of years, and we have authorized this system; we have spent \$38 billion on the B-2 so far. This amendment would just completely abandon that investment, abandon it.

As a matter of fact, as I pointed out before, we have other systems that are much more expensive. If the Senator wishes to deal with expensive systems, he ought to look to them. The big ticket blues are the blues of the appropriators, too. We know what these systems cost. I wish they did not cost so much. But the question is: Can they do the job, and will they protect the men and women in the armed services as they have to represent our country throughout the world? I believe they will. I mentioned briefly the report of the Senator from Louisiana on military production over the last 3 years.

I ask unanimous consent to have printed in the RECORD this table of the Soviet Union's military production during that period of time.

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

MISSILE PRODUCTION: U.S.S.R. AND U.S.¹

Equipment type	1988		1989		1990	
	U.S.S.R.	U.S.	U.S.S.R.	U.S.	U.S.S.R.	U.S.
ICBMs	150	12	140	9	125	14
SLBMs	75	0	75	10	65	77
SRBMs	600	0	600	0	600	86
Long-Range SLCM ²	175	³ 199	175	³ 394	175	³ 391
Short-Range SLCMs ²	1,100	³ 497	1,100	³ 228	1,000	³ 311
ABMs	15	35	20
SAMs (nonportable) ..	15,000	2,986	14,200	3,581	13,000	2,840

¹ Total military production, including exports.

² SLCMs divided at 600 kilometers.

³ Data adjusted to reflect new information.

As of September 1991.

PRODUCTION OF GROUND FORCES MATERIEL: U.S.S.R. and U.S.¹

Equipment type	1988		1989		1990	
	U.S.S.R.	U.S.	U.S.S.R.	U.S.	U.S.S.R.	U.S.
Tanks	3,500	784	1,700	720	1,300	718
Other armored fighting vehi- cles	5,250	1,109	5,700	659	4,400	627
Towed field arti- llery	1,100	47	800	62	700	155
Self-propelled field artillery	900	170	750	41	400	0
Multiple rocket launchers	500	48	300	47	250	49
Self-propelled antiaircraft arti- llery	100	0	100	0	100	0

¹ Total military production, including exports.

As of September 1991.

PRODUCTION OF AIRCRAFT: U.S.S.R. AND U.S.¹

Equipment type	1988		1989		1990	
	U.S.S.R.	U.S.	U.S.S.R.	U.S.	U.S.S.R.	U.S.
Bombers	45	22	40	0	40	0
Fighters/lighter- bombers	700	534	625	473	575	456
Antisubmarine warfare (ASW) fixed-wing	5	6	3	9	1	5
AWACS	5	8	5	7	2	11
Military helicopters	300	337	² 225	273	175	307

¹ Total military production, including exports.

² Data adjusted to reflect new information.

As of September 1991.

PRODUCTION OF NAVY SHIPS: U.S.S.R. AND U.S.¹

Equipment type	1988		1989		1990	
	U.S.S.R.	U.S.	U.S.S.R.	U.S.	U.S.S.R.	U.S.
Ballistic missile submarines	1	1	2	1	1	1
General purpose/ attack sub- marines	7	² 2	7	² 3	10	5
Other submarines	1	0	0	0	1	0
Aircraft carriers ..	0	0	1	0	0	1
Cruisers	1	3	1	² 4	0	1
Destroyers	3	0	3	0	2	0
Frigates and corvettes ³	5	0	7	1	7	1

¹ Total military production, including exports.

² Data adjusted to reflect new information.

³ Includes paramilitary ships.

As of September 1991.

Mr. STEVENS. These lines are ongoing. This is strange. We are told that in a Communist world it is not possible to stop building items of mass destruction. Despite the apparent collapse of their system, they continue to build.

Did you know, Mr. President, in 1990, which is the last total figure we have, although we are informed the lines are still going, the Soviet Union produced 13,000 surface-to-air missiles? We produced 3,000. We used part of them, I am sure, in the war. In terms of tanks, they produced 13,000 again; 4,400 armored fighting vehicles. Mr. President, they produced 40 bombers in the Soviet Union last year. We produced none, in terms of new bombers, last year.

All of those lines are ongoing, and we are told to just assume that since there is this change in their system, that what comes out of this change is not going to be any kind of command and control over all of that armed force that is over there and all of the basic systems that they have. I think it is premature to make that judgment. But I do say that this bill reduces our production down even lower than theirs; our comparisons last year were down, and again this year we are at a lower figure.

This is one other thing to keep in mind. I think it is important to ask the people of the United States, is it proper to use 3.6 percent of our total gross national product for our defense? In 1950, we used 4.4. In the total aftermath of World War II, we were down to that level, 4.4. At the end of this 5-year period that we are working on now, we will be down to 3.6 of our total gross national product that will be involved in defense. That is manpower, new production, and R&D; all expenses for the Department of Defense will be only 3.6 percent of our total outlay.

How much do you have to pay to maintain peace? What are we willing to pay to maintain the defenses of this country? I think that is a legitimate question to ask the Budget Committee, and I asked them before, if they follow that chart of theirs and they fill up the gap which appears in red on the chart of the Senator from Tennessee, by cutting down defense now, in 1993 and 1994, in order to spend it in 1995 and 1996, what is he going to cut in 1997?

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

Mr. STEVENS. Yes.

Mr. SASSER. In response to the statement as to what the Budget Committee is willing to pay for the defense of the country, we paid \$289 billion this year, as my friend from Alaska knows. That is hardly what I would classify as unilateral disarmament.

Mr. STEVENS. I answer that by saying you are unwilling to let us continue that. Our bill shows it further. We go down another 12 percent in the next 2 years on our charts. But you say you want to change the budget agreement now. You want to say the budget mix is not going to be as we projected, as the Senator from Georgia indicated, and we cannot deal with those numbers. What is the number the Senator would like us to deal with? What is the

total amount he would like to make available, as chairman of the Budget Committee, for 1992?

Mr. SASSER. Well, the Senator from Alaska has asked me a question, and with regard to what is to be available for fiscal year 1992, it is satisfactory with this Senator if we just stick with the 602(b) allocation. The problem we have with it—

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. I will be glad to answer the questions. I will give up the floor in a minute when I am finished.

As far as the Senator's position is concerned, that again accentuates what the Senator from Georgia [Mr. NUNN] was trying to say. This is not a budget amendment. As the Senator from Tennessee has indicated, he is willing to live by the 602(b) allocation which we have lived by. He wants to cut off the B-2, SDI, and the MX, which means we are going to face the amendments we have already rejected.

Mr. President, I alone—I do not know how many the Senator from Hawaii received—received in my office requests from other Members of the Senate to add \$6 billion to this bill. A great many of the people who asked for me to support their amendments are the people supporting the amendment of the Senator from Tennessee now, and what is going to happen to the amendments we rejected? We are going to see them here on the floor.

It is not a question of saving the money the Senator says he wants to save. It is the B-2, SDI, and the MX. We ought to get those three wolves out of this one wrap of sheep's clothing here.

I do not believe that it is fair for the Budget Committee to say, on the one hand, that the budget has to be reduced in order to take care of 1994, 1995, and 1996, but, by the way, you can still have your 602(b) allocation, which is what we have lived up to. It means we will come back and consider all of those amendments, amendments to add the F-14, to ramp up the tank lines again. All of the amendments that were on that list of items we terminated. Let us look at them. How many more do we want to build? That is just a portion of them. We terminated 81 systems. Those are the largest ones that we modified or terminated.

I say, Mr. President—and I am still looking for another item—I believe the Patriot was under similar attack. At one time, we had to ramp up the Patriot moneys in this committee, the Defense Appropriations Subcommittee, in order to keep it under production, because of complaints that had been heard here and in the other body about the testing of the Patriot. It was still being tested when it was shipped over to the Persian Gulf, but it worked.

When the time comes for the B-2, it will work. It will work. The ones we have right now, if they had to be sent

off, would work against any threat in the world.

I want the Senate to realize what we are up against here right now. We have a difficulty in dealing with this amendment, primarily because it is couched in budget terms. It implies that, somehow or other, we have not complied with the budget.

That is the thing that the Senator from Tennessee ought to be clear about stating to the Senate and to the country. This bill is in compliance with the budget agreement. This bill is in compliance with the allocations we got under the budget agreement. This bill is in compliance with the Senate authorization bill, which was passed previously by this Senate this year.

Here, at the last minute, we are faced with a philosophical argument based upon the amount of money we are going to be needing in 1994 and 1995 and the balance of the budget summit agreement which—whether this modifies it or anything else—I am not going to argue with the Senator from West Virginia over the semantics about it. But as far as this Senator is concerned, if this amendment passes, that agreement is gone. That agreement has no real validity in terms of the allocation between defense and nondefense spending because this amendment would be contrary to the best planning that we have had in terms of the future of our country.

I will close by saying this. I asked the other day my good friend, Gen. Tony McPeak, who is chairman of the Air Force, what his feeling was about the B-2. And he said, in effect—I wish I could quote him precisely—he said when the time comes that the U.S. Air Force has been reduced as many people believe it will be in the future, and we are called upon to defend this country and defend our interests abroad, the key to that defense at that time will be the B-2. It is the plane of the future as far as defense is concerned.

I has a multiple role, and I wish we had the capability to explain the greater detail what some of its real merits are. They are still so highly classified, we cannot talk about them. And I am critical of over classification, but I am not critical of classification in this sense because that system, in my opinion, will be able to defend our interests anywhere in the world, with a minimum number of pilots, with a minimum amount of support based worldwide. I really think it is the system that is vitally needed in the country.

The PRESIDING OFFICER. The Senator from Vermont.

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

The PRESIDING OFFICER. The pending business is the Sasser amendment.

Mr. LEAHY. Is there a time agreement on that?

The PRESIDING OFFICER. No time limit.

Mr. LEAHY. Mr. President, I do not intend to speak long.

Mr. SASSER. Mr. President, will the Senator from Vermont yield?

Mr. LEAHY. I yield to the Senator from Tennessee.

Mr. SASSER. I thank the Senator from Vermont.

Mr. President, the Chair responded a moment ago that the pending amendment is the Sasser amendment. The pending amendment is the Sasser-Leahy-Byrd-Johnston et al. amendment, and I want to pay tribute to the fine work that the Senator from Vermont has done over a period of years on one or two facets of the pending amendment. He has been a leader in this field. He particularly called this body's attention to some of the problems with the B-2 bomber. I want to just pay tribute to the leadership that he has shown on this particular issue at this time.

(Mr. FOWLER assumed the chair.)

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Tennessee and chairman of the Senate Budget Committee. He has, in many ways, the most difficult job in this body and that is trying to hold the desires of many within the realities of the budget. He does it very well. That is why I am pleased to join as a cosponsor to the amendment that the Senator has offered with the distinguished chairman of the Appropriations Committee.

The reason I was pleased to join with him is that the amendment incorporates the efforts of myself, Senator COHEN, and others to halt the B-2 bomber as well as to make deep cuts in the strategic defense initiative and the MX rail garrison system.

Last year, I supported the budget agreement reached between Congress and the White House to reduce the Federal deficit by \$500 billion over the next 5 years. That agreement took many weeks of negotiations and was an important step in limiting our ballooning Federal deficit.

I thought if there was one thing I might do for my children and eventually for their children it is to try to take those dramatic and drastic and sometimes draconian steps to lower our budget.

The recent dramatic changes in the Soviet Union has prompted many calls for renegotiation of the budget agreement. I support efforts to mandate lower defense spending below the levels reached in last year's negotiations.

But today, Senator SASSER, who played a leading role in those negotiations, is warning that before we can consider changes to last year's agreement, we are going to have trouble living up to the current rules. And the distinguished senior Senator from Tennessee makes a very valid point. You might say a very sobering point. If the defense and domestic budgets proposed

by the administration are enacted at current levels, Congress is going to be required to cut \$25 billion from the Federal budget by fiscal year 1995.

For over 40 years, our defense spending has been based on preparing for a conflict with the massive forces of the Warsaw Pact and the Soviet Union. That threat is vanishing today right before our eyes. The Warsaw Pact has been disbanded. The Soviet Union no longer exists.

The Sasser amendment proposes to reduce three big ticket programs whose justification is based on threats from an era that lives now in the history books. The savings from canceling the B-2, cutting SDI and eliminating research for the MX rail garrison would cut the \$25 billion gap in 1995 and cut it in half. Here is an opportunity that goes beyond symbolism. It goes to substance. It goes beyond rhetoric. It goes to reality. It cuts the defense budget and allows us to shift priorities to meet our current needs.

The greatest threat to our Nation today is red ink and not the Red Square leaders. The deficit continues to spread its cancer through our economy despite last year's efforts. The Congressional Budget Office recently announced the deficit is now over \$300 billion. Taxpayers of this country spend \$545 million every single day on what? Not to build new bridges or new schools, not for health care, not for law enforcement, not for environmental protection. We spend \$545 million every single day on interest payments alone.

I, for one, would rather see our tax dollars spent on educating our young, providing health care of our old, homes for our people, improved roads and bridges, and better research and development.

Every million dollars spent on interest is a million less available for building a strong economic base that is going to properly feed, educate, and employ the American people. The Treasury is spending more time worrying about bringing in foreign capital to service the deficit than they are setting monetary policy that will assist American firms to compete against the European Community, the Japanese, and other nations in the rapidly expanding Pacific Basin.

Our massive debt has prevented our leaders from paying attention to domestic problems that are going to be a far greater threat to our security than any foreign military force. The roads and bridges that provide our national infrastructure are crumbling. And despite being the wealthiest nation on Earth, we do not provide shelter and food to our poor. We have the finest health care in the world but only for those who can afford it. The United States ranks 13th among industrial nations in the maternal mortality rate. Seventeen industrial nations are ahead of us in the infant mortality rate. We

have to start making choices in this country.

I am convinced that the American people will pay any price to defend our country. As threats change, however, so must our priorities. Today, the U.S. Senate has an opportunity to make choices with foresight and not hindsight.

Continuing to prepare for threats that no longer exist exhausts resources to care for the very Nation that all of us have sworn to protect.

Mr. President, I urge my colleagues to vote for the Sasser amendment. I salute Senator SASSER for his leadership as chairman of the Budget Committee. I am pleased to serve with him on the Defense Appropriations Subcommittee.

Mr. President, I yield the floor.

Mr. SASSER. Mr. President, I wish to thank and commend the distinguished Senator from Vermont for the remarks that he has just made. The Senator from Vermont, as my colleagues know, has been a leader over a period of years in calling this body's and indeed the country's attention to what he eloquently described as the shortcomings of the B-2 bomber and the need to reallocate those resources to more critical needs of the country. He has reinforced that argument on the floor here this afternoon, and I want to indicate to the Senator from Vermont that I very much appreciate his arguments and the kind comments he made regarding this Senator.

I will be very brief, Mr. President, because I see the distinguished Senator from Arkansas on the floor, and I would not attempt to try to match his eloquence on the issue before us, or any other issue for that matter.

But an attempt was made, I think, on the floor of this body a short time ago to characterize this amendment as a Budget Committee amendment. Mr. President, that is not an accurate characterization.

Yes, this amendment does have as one of its chief sponsors the chairman of the Budget Committee, but it also has as one of its chief sponsors and most powerful advocates the chairman of the Senate Appropriations Committee, the distinguished Senator from West Virginia [Mr. BYRD]. It also is cosponsored by a number of Senators who sit on the Defense Appropriations Committee, including the Senator from West Virginia, the Senator from Vermont, the Senator from Tennessee, and others, including the distinguished senior Senator from Arkansas [Mr. BUMPERS]. So to characterize this simply as a Budget Committee amendment I think is a mischaracterization.

This is an amendment, I think, that expresses the profound concern of the appropriators themselves as they view the cruel choices that they will be called upon to make in the outyears should the amendment before us fail.

I sought to raise this issue and did raise the issue, but sought to bring the

amendment to a conclusion in the Appropriations Committee itself when the defense appropriations bill came before the full committee. At that time, I was discouraged from doing so by the chairman of the Defense Appropriations Subcommittee, the distinguished Senator from Hawaii, and it is my practice of long standing to defer to the requests of the distinguished Senator from Hawaii in these matters. But there is no other way to dispose of this problem now, save to discuss it on the floor. And that is what we are doing.

I will freely concede that this is an issue which would have been better resolved in the Appropriations Committee itself by the appropriators because they are going to be the ones who are going to be called upon to make the choices in 1994 and 1995. It is going to be the Appropriations Committee that makes the choices about how in the world we are going to make up the difference between the caps that are in place and the \$54 billion that we are going to go over.

It is going to be the Appropriations Committee and the appropriators who are going to have to determine whether we cut domestic discretionary spending, education programs, health and human service programs, infrastructure, environmental programs, or whether or not we cut defense. And if we cut defense, how are we going to cut it? Are we going to cut manpower? Are we going to cut operations and maintenance?

By the time we get to 1994 and 1995, if we are going to take any of the necessary savings out of defense, all there is going to be left to cut will be the muscle, the sinew of operations and maintenance and personnel. And these are going to be very, very cruel choices indeed, very difficult choices, choices that Senators have recoiled from in times past—and are going to have to be made in the Appropriations Committee unless we deal with the issue here today.

It is not a budget Committee issue. In the final analysis, it is an Appropriations Committee issue, because we agreed and enacted into law caps for discretionary spending. And it is the Appropriations Committee that is going to have to determine the priorities within those caps. That is why you find out here on this floor today great concern being expressed by appropriators, including the chairman of the Appropriations Committee, because we see rational decisions and ordered priorities being foreclosed if we go ahead today with some of these systems that spend slow on the front end but spend very rapidly in the outyears. We find that other very necessary investments are going to be squeezed out or we are going to have to make some unpalatable and unsatisfactory choices.

Mr. President, I see the distinguished Senator from Illinois here who has been waiting patiently to get the floor, so I yield the floor at this point.

Mr. SIMON. Mr. President, I will just take a couple of minutes here. I rise in strong support of this resolution. The reality is we have to get spending under control. We are going to have to do more on the domestic side. We are also going to have to get that deficit down. The faster growing item in the Federal budget by far is not defense spending. It is not discretionary domestic spending. It is not entitlements. It is interest because of this deficit.

If you were to take a poll of the people in the gallery right now, what is the great threat to this Nation? I think they know it is that our economy is not moving ahead as it should be. And it will not move ahead unless we get revenue and spending in balance.

What the Sasser amendment does for fiscal year 1992 is to simply say we are going to cut this a little less than 1 percent. That is hardly a drastic cut, in view of what has happened in the world in the last 4 weeks. The world has changed dramatically. Are we not going to do anything in terms of military spending as a result of that?

The request in the amendment of the Senator from Tennessee is a modest one indeed. I think we ought to be going along with it. For example, we have spent 12 years at least, the Presiding Officer can remember, arguing about the B-1. In the Middle East, we had the Iraq-Kuwait situation. How many B-1 bombers did we use in the Middle East? Not a single one, because it is not designed for that.

The B-1 is not designed for the kind of military problems we are going to have in the future. The B-2 is designed to escape Soviet radar. There is a technical question whether it can even do it today. But that is what it is designed for. The Soviet threat has disintegrated, and we ought to recognize the military realities in the world in which we live today.

My hope is that we will adopt the Sasser amendment. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I tell my friend and colleague from Alabama, I will be very brief because I know he has been on the floor, and my colleague from Arkansas as well.

I urge my colleagues to oppose the Sasser amendment. I just heard my friend from Illinois say that the Soviet threat has disintegrated. I wonder if he said that about a month ago, when we had the coup that ousted Mr. Gorbachev for a few days? Had the Soviet threat disintegrated at that time?

I would say just the opposite. Many people would say it increased because of the instability in the Soviet Union. The threat is real. The threat is very

real, because we do not know who is going to be in charge in the Soviet Union next month or next year. It may be the wrong people. I hope and pray not, but it could be the wrong people will be in charge in the Soviet Union.

The Soviet Union is a third-rate economic power, but they have first-class strategic weapons. Many of those weapons are aimed at the United States.

So for some of our colleagues to come out and say, well, the threat is not there, therefore we do not need SDI, therefore we do not need the B-2 bomber, I think they are missing the point. I hope and pray that those weapons will never need to be used. But the fact is, we better have some capability of destroying incoming missiles. Right now, we do not have that.

I think if the Persian Gulf war proved anything, it proved the success and need for stealth technology. The Stealth fighter plane did an outstanding job and basically enabled us to win the war within the first 24 hours. So stealth technology worked. And we need it not only in a fighter plane which was used during the gulf war in a bombing role, but we also need it in a long-range bomber.

One other thing the Persian Gulf war proved is the need for missile defense. Somebody said, well, we have Patriots. The Patriots worked OK against the so-called Scuds, which are somewhat of an obsolete and inefficient missile. But really all they did was destroy the Scuds just as they were about to hit the target.

If you are talking about a chemical weapon or if you are talking about a nuclear weapon, that is not good enough. You do not want to destroy those weapons right over the city or right over the target, or they will achieve their objective. So we need to stop them before they get into our own backyard.

So we need SDI and we need stealth technology. The Sasser amendment guts SDI, and it eliminates the B-2. I think that is a serious mistake.

The Senator from Illinois mentioned we did not fly the B-1 during the Persian Gulf war. We were flying the B-52. Many of those are quite old. Many are quite obsolete. You might remember, some of those same B-52's were being shot down in Vietnam.

It just so happens the Stealth planes did such a great job knocking out some of the radar and knocking out some of the antiaircraft defenses that those defenses were not successful in knocking down the B-52's. The B-52's also had to fly very high.

I do not think we can continue to rely on the B-52 for decades to come. That would be a serious mistake.

The Senator mentioned the B-1. We limited the purchase order on B-1's to 100, the idea being we would follow up with a long-range Stealth bomber. That is exactly what we are trying to do.

I think if our colleagues kill that bomber, if they radically reduce SDI, they are making a serious mistake that jeopardizes the lives and the health and the safety of Americans. We do not want to do that. I think that is a serious mistake.

Then, a couple of final comments, I heard some of my colleagues say we want to save this money. It is interesting to note why many of the proponents of this amendment want to save this money. They want to save it so they can spend it elsewhere.

If we read the Constitution and what our Federal Government's purpose is, it is protection of our liberty, protection of our freedom. Frankly, if we do not have the capability to destroy incoming missiles, we are making a serious mistake. If we do not have the capability to have a long-range bomber—and yes, a stealthy bomber—I think we are making a serious mistake.

I do not see peace at hand, as some people would say, just because the Soviet Union is disintegrating. I would say quite the opposite. I think the threat is more real because of the instability, and in fact—hopefully, this will not be the case—somebody could get into power in the Soviet Union who could be very hostile to the United States, or very irresponsible with the control of those enormously powerful weapons.

So we need a B-2. And we need the SDI program. We should not be gutting it on the floor.

Again, I urge my colleagues to defeat this amendment. This is probably one of the most serious amendments that we have had before us. It is one of the strongest—in my opinion—antidefense amendments we have considered in the Senate in my 11 years in the Senate.

I hope this Sasser amendment will be soundly defeated.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY].

Mr. SHELBY. Mr. President, I rise today to speak in opposition to the amendment offered by the senior Senator from Tennessee. While I share his concern over cuts already programmed in future Defense budgets and overall budget deficits I cannot support this attempt to derail programs of such importance to our national security.

The issues before us this afternoon are certainly not new. The Senate, earlier this year has already rejected, by significant margins, similar amendments to the Defense authorization bill. We have also rejected the argument of using defense dollars to reduce the budget deficit. This is not a budget resolution that we are today debating. The allocation for defense has already been debated. The overall funding level for defense has been set. Cuts in defense spending for the outyear have also been set. In 3 years defense spending will only be 3.5 percent of the gross national product, the lowest it has

been since shortly after the second world war.

Overall budget arguments aside, I believe that these programs, SDI, B-2, and MX rail garrison can be supported based on merit alone. These are systems that continue to be vital to our national security. They provide strategic deterrence, protection against limited ballistic missile attacks, and are on the cutting edge of technology that we all know.

In debate over the SDI provision included in the Defense authorization bill the Senate rejected no less than five amendments that would have either revised the direction of the program or cut funding. The Senate rejected an amendment by the junior Senator from Tennessee, Senator GORE, by a vote of 39 to 60. The Senate rejected Senator BINGAMAN's amendment by a vote of 43 to 56. The Senate tabled two amendments offered by Senator HARKIN by votes of 60 to 38 and 64 to 34. And finally, the Senate rejected an amendment from the senior Senator from Arkansas, Senator BUMPERS, by a vote of 46 to 52.

Time after time the Senate defeated attempts to alter the program designed by the Senate Armed Services Committee. It is a bipartisan effort. It is a major breakthrough for the strategic defense initiative. A cut of \$1.1 billion from this program is a step backward, not forward on SDI.

Supporters of this amendment, the Sasser amendment, have stated the world events can now lead to lower defense spending. While this argument is true in a general sense it does not apply to the strategic defense initiative. The dissolution of the Soviet Union has left the world with the possibility that some of the Soviet Republics could very well become sovereign nations with nuclear arsenals at their disposal. In addition, so-called world events have not changed the fact that by the year 2000, it is estimated that 24 nations will have a ballistic missile capability.

As this proliferation continues, the trend will be toward missiles with longer ranges and greater accuracy. It is possible that within a decade the continental United States could be in range of the ballistic missiles of several Third World nations. We need to protect the citizens of the United States from this threat. The Sasser amendment will derail any change for the United States to provide a limited defense against ballistic missile attack by the end of this decade.

As with SDI, the Senate has already voted to reject by a vote of 42-57 to deny procurement funding for an additional four B-2 bombers. Despite the recent changes in the Soviet Union, strategic nuclear deterrence remains the primary mission of the B-2 bomber. The maintenance of the manned bomber leg of the nuclear triad is vital to

this strategy. The B-2 will contribute the strategic nuclear deterrence by providing the operational capability to penetrate enemy airspace and deliver any of a variety of nuclear weapons to enemy targets with great accuracy. Unlike a land or submarine launched ballistic missile or a cruise missile, the B-2 can be called back once it has been launched. It also has the flexibility to attack relocatable targets.

This stabilizing influence is best reflected by the START Treaty which reduces nuclear arsenals by one-third, and was recently signed by President Bush and President Gorbachev in Moscow. This treaty favors bombers over all other delivery vehicles. All warheads on ICBM's and SLBM's will count toward the warhead limits under start. Each U.S. bomber carrying cruise missiles will be counted as 10 warheads. However, in the current START structure, manned penetrating bombers will only count as one warhead regardless of how many gravity bombs or short-range nuclear missiles they carry. The termination of B-2 production at 15 aircraft would significantly weaken the U.S. deterrent position. Neither the B-1 nor the B-52 can be depended on to serve in the role of the penetrating bomber.

The Desert Storm experience also foreshadows the development of nuclear and chemical weapons by Third World nations. Nuclear deterrence is evolving from a bipolar phenomenon to a more complicated multipolar one. This problem will only get more complex over time. The more tools we have to provide deterrence, the better. I believe that 75 B-2 bombers provide the flexibility necessary to meet these challenges that await us.

The provision of this amendment cutting funding for the rail garrison MX is also a rerun of debate on the Defense authorization bill. On August 2, the Senate rejected an amendment to cancel the final phase of the Peacekeeper Rail Garrison Program. The Senate decided that it was essential that all the rail garrison research, development, and testing be completed as a hedge against an uncertain world. This issue and arguments for and against remain the same. The MX rail garrison deserves a logical termination.

Mr. President, we live in an uncertain world. We cannot predict what will ultimately rise from the collapse of the Soviet Empire. Nor can we predict where the next Third World crisis might be located. However, what we can predict is that nuclear weapons are here to stay. We will continue to maintain a large inventory of nuclear missiles into the foreseeable future, as will the various Soviet Republics. You can be sure that by the year 2000 additional nations will join the nuclear weapons community. We must have these strategic systems to offset this horrible

threat. We must reject this amendment.

Mr. BUMPERS. Mr. President, unlike my colleagues who get up and say, "I will be very brief," I will tell you I am not going to be brief. I am not going to be long, but it is not going to be brief. Because this is a very important subject, and it should be treated in a very important way.

I do not know whether what any Senator has to say on the floor is going to change anybody's thinking or not. But in the Cloakroom in the past couple of weeks I heard a few Senators who in the past have been supporting SDI and the B-2 bomber, expressing considerable trepidation and reservation about whether we should go forward with it or not.

I have been here most of the day, and I heard very good arguments on both sides of the issue. I come down strongly on the side of the amendment presented by my distinguished colleague, Senator SASSER, for a host of reasons.

We are debating two things which coalesce. You cannot separate one from the other. We are debating the strategic need for the B-2 bomber in light of the considerably reduced threat of the Soviet Union, I might say almost the extinction of the threat from the Soviet Union. We are debating about the desirability of continuing to spend \$3 to \$4 billion a year on SDI, and I freely confess and believe that we ought to have research in SDI, but not as much as is in this bill.

Finally, Mr. President, the debate is about the budget. As a matter of fact, I think the question ought to be presented squarely: What do you think is the biggest threat to the future of this country, to the economic, social, and political well-being of your children and grandchildren? What do you think is the biggest threat? Is it the strategic threat from the Soviet Union, which is almost nonexistent, or is it the fact that at the pace we are going right now, it will not be very many years before the United States Government will not be able to service the interest on its debt?

In 1981, Mr. President—that is not totally relevant but it is an interesting statistic—in 1981, interest on the national debt represented 45 percent of the defense budget, and the defense budget was \$145 billion. Let that soak in just a minute. The defense budget was \$145 billion, and interest on the national debt was 45 percent of that figure. The bill we have before us is essentially—it is not quite this much—but the defense budget for 1992, 10 years later, is \$291 billion; \$291 billion, and in 1992, interest on the national debt will exceed 100 percent of the defense budget. In 1992, interest will easily be, for the first time in the history of this great Nation, the biggest single item in the budget. It will be bigger than Social Security. It will be bigger than de-

fense. And not only will it be bigger next year, it will be bigger than any other item in the budget forever. Forever. What does that say about the will and the courage of both bodies of the Congress?

So I repeat the question, Mr. President: What is most likely the thing that is going to make this country a Third World nation, the Soviet threat or the insatiable appetite of the Congress, and, yes, Mr. President, to spend far beyond our means to pay for it?

Do you know what the tragedy is? We have reached the point where we do not debate very much whether we are going to pay for something or not. We just vote for it. No political will to raise taxes, no political will to cut spending, and those two things are a prescription for disaster and the demise of this Nation.

I remember the debate on the B-1 bomber. President Carter, as you will recall, had killed the B-1 bomber. I thought it was a wise decision. In 1980, I became privy to some information which at that time essentially only members of the Armed Services Committee had, and that was that we had this new totally different concept of a strategic bomber, not only in research but well on the way to development. Bill Perry was Director for Research and Engineering and a man in whom I had great confidence both as a person and as a person who knew what kind of weapons we needed, and so on, in the Defense Department. So he came to my office and he gave me a briefing on the B-2 bomber. He assured me that he had great confidence in our ability to build the bomber. There were still plenty of skeptics at the time, but the truth of the matter is, what we now know as the F-117, if I am not mistaken, we already had a squadron of those bombers operational, or did shortly thereafter, flying at night from Nellis Air Force Base in Las Vegas, NV, so that the Soviets could not see them with their satellites. That is how secret that whole thing was.

Of course, as you know, nothing is very secret around here for very long. But in any event, because of Bill Perry and my confidence in him and Harold Brown, who was Secretary of Defense at the time, I became a supporter of that bomber.

But then Ronald Reagan was elected President and he had run on a lot of things. One was to balance the budget—and I am not going to belabor that promise—and another that we would build the B-1 bomber.

The American people had been led to believe and did actually believe that somehow or another Jimmy Carter was weak-willed and had allowed our Nation's defenses to drop to the point that the Soviet Union was prepared to come up the Potomac River and get us. It sold like hot cakes across America. So when candidate Reagan became

President, he immediately began to lobby the Congress for the B-1 bomber, even though he had been thoroughly briefed on where we were on the B-2.

I will never forget an amusing thing. Secretary Weinberger, Secretary of Defense, held a press conference one day, and he was sort of touting Soviet air defenses. He said that he would never send a mother's son into the Soviet Union in the B-1 bomber. It would be a suicide mission. He got back to the Pentagon and his handler said, "Mr. Secretary, you have just torpedoed the B-1 bomber." He quickly rushes out to call a press conference and say, "I may have misspoke myself, but I did not intend to say it the way it sounded. The truth of the matter is, this B-1 is hotter than a depot stove, and we want it and we have to have it."

And so they received it. And it has been grounded too much of the time ever since we completed it. But for all of those years until 2 years ago, I had been an ardent proponent of the B-2 bomber, not only because I thought it would penetrate Soviet defenses but because I thought the cost was acceptable, even though we already had 100 B-1's, now 97. I think the birds flew into the engines and took down two or three of them. We spent \$30 billion on that bomber, but you never heard from it during Desert Storm.

So here we are now, and the reason I have turned against it, as I say, No. 1, the threat is totally different. I was surprised to hear my distinguished colleague and very good friend from Georgia, Senator NUNN, say this morning that the conventional threat has changed but the strategic threat has not; that the Soviet strategic factories are still operating.

Well, I will tell you, they quit making the Typhoon submarine, which is their largest nuclear ballistic missile submarine. They have quit making the Blackjack bomber, an intercontinental bomber. They have invited us to come to the Soviet Union and help them convert their defense industries to civilian uses. The defense minister says we should start negotiating immediately a new nuclear agreement, START II, and let each side have 1,000 warheads. What a blow for sanity that would be.

And they say, whatever you do, we are declaring a unilateral discontinuance, a unilateral moratorium on nuclear testing for two reasons: No. 1, we do not want it. No. 2, it is environmentally devastating to our country.

This is not just DALE BUMPERS, Senator from Arkansas, country lawyer, telling you this. Here is what the SAC commander says, quoted in Defense News. General Butler became commander of the Strategic Air Command in January of this year:

Butler, who assumed command of the Offutt Air Force Base in Nebraska, Strategic Air Command, in January said he has ordered an internal study to examine options

of how and when to reduce his fleet of about 200 nuclear alert bombers.

"It's time we start thinking about loosening the leash on those bombers," Butler told Defense News last Tuesday. "It's a new world order and that requires a sweeping reassessment of the way we have traditionally done business."

Retired General Michael Dugan, former Air Force Chief of Staff—

That is the top Air Force officer in the country.

told Defense News last week that the Soviet Union no longer keeps bombers on alert.

They do not even keep bombers on alert anymore.

And that U.S. interests would be better served by making better use of the strategic bomber for conventional war fighting.

Now, how do you square the statements that the Soviet Union is as great or greater a strategic threat to us than they have been in the past with those statements from the SAC commander and the former Air Force Chief of Staff?

Sometimes I think we are like children at a Saturday night slumber party where somebody tells a scary story and it is everybody else's obligation to tell one a little scarier.

Well, we have spent about \$2.5 trillion on defense in the last 10 years with that slumber party mentality. And we have also gone from a \$1 trillion debt, national debt, that it took this Nation 200 years to accumulate—think of that. It took us 200 years to get to a \$1 trillion debt and 10 years to triple it, to \$3.5 trillion.

One of the great economists of this country—I believe it was Professor Tobin—said it is the greatest act of irresponsibility and profligate spending in the history of the world.

I heard the Senator from Alaska [Mr. STEVENS], say this morning—and I was not quite sure what he meant by it—this amendment is wrong because it interferes with defense planning. That instead of saying to the subcommittee, which is chaired by the one of the very best friends I have ever had in my life, the Senator from Hawaii [Mr. INOUE], the most accommodating and fine man I have ever known—I sit on that committee, the Senator from Hawaii is the ranking member. He said this morning, this interferes with defense planning because you are trying to pick out the weapons to meet these budget goals, and that is unfair. Send it back to the committee and let us decide.

His argument is not totally without merit. If somebody were to make a motion to recommit this thing to the committee and say come back with sufficient defense cuts to meet the objections of the chairman of the Budget Committee, Senator SASSER, and say we have cut enough now, maybe the B-2 would survive in committee and maybe it would not. That is foolish. Of course it would survive in the committee. And as I say that argument is not totally without merit.

But I can tell you what is really meritorious, and that is killing a program that has no future and the cost of which is absolutely out of the roof.

I will never forget, in this subcommittee from which this bill came, when the Air Force came over and told us that the cost of this bomber could go as high as \$500 million each. God, I gasped for breath. The B-1 had cost \$300 million and I almost choked to death on that one. They said this thing could cost as much as \$500 million and everybody gasped. But they said, well, you know, Brezhnev is still in power, or maybe Gorbachev—I guess Gorbachev was in power then, but he had not consolidated his position. And you know the rest of the story. It is now reaching almost twice that amount.

Why, one B-2 bomber will almost run my State for a year.

And so you have all kinds of reasons, the least of which is the fact that the B-2 failed one of the tests. I can tell you that if that were my only consideration in this debate, I would not be standing here, Mr. President. I do not know whether the Air Force will be able to overcome this problem of the failed test. It is one failure. We have all been up, most of us on this subcommittee, to S-407, and we have watched the briefings. They are very persuasive about the fact that this is not the end of the world and that the problem can be resolved, and so on.

That is not the reason I came here. I do think this. I think the failed test precipitated a lot of the thinking of people around here about whether you want to go forward with a bomber that is now up to \$850 million a copy, whether you want to go forward with that in light of the fact that you have had one failure and, while the promise of correcting it looks fairly good, it is not inconceivable you will have more. But, Mr. President, I am just saying that is not persuasive with me.

One thing that is sort of interesting. I find when people talk about the B-2 bomber and why we have to have it anymore, it has had more missions. When we first started, it was going to be a high-low-high operation, in and out of the Soviet Union. It was going to be so stealthy, their radar would never pick it up. Then they said, well, maybe that is not a good enough mission. We can use it because we can call it back. It is a fail-safe airplane.

Then they said, no, we will use it to look for Soviet mobile missiles that are hiding in the woods.

Somebody said they cannot find them. We are down now to where the proponents of this will freely admit that you are not getting a strategic weapon at all. You are getting a conventional bomber. I promise you. You can build a conventional bomber, three of them, for the cost of this plane.

This plane has had more missions than Elizabeth Taylor has had hus-

bands. Every time somebody challenges the mission they change the mission. There is nothing new about that. It does not just apply to this bomber. It happens all the time.

You know, Mr. President, I want to make one other observation. The suggestion has been made by the Senator from Oklahoma that if you vote against this you are voting to weaken our defenses. I submit you are voting to strengthen not only our defenses but our Nation.

The debate on defense around here is invariably not about the \$300 billion defense budget. It very seldom is on more than 3 percent of that amount. We all vote for defense budgets around here because we all want the security interests of this country intact. We want our vital interests here and around the world protected.

When I went on the Armed Services Committee many years ago one of my colleagues said, "You know, if you are going to be on Armed Services, there is a book out you ought to read called 'How Much Is Enough?'" So I read it.

After reading that book I can summarize it for you, and it has been my philosophy ever since. That is what are your interests? What is your foreign policy? What kind of a defense structure do you have to have to carry out your foreign policy? Once you make that decision, if you spend a dollar more than you need to do that, it is wasteful. If you spend a dollar less than that, it is dangerous.

So I have tried to pick and choose what I thought fit what we needed, what was vital, what was necessary to carry out those missions. Now instead of talking about a B-2 bomber that will penetrate the Soviet Union, fly around Moscow, the Soviet Union, undetected, the believers do not talk about Moscow anymore. They talk about Baghdad and Tripoli.

I submit I cannot imagine spending \$865 million for a bomber to bomb Baghdad. Those old 30-year-old B-52's did an accurate job. They did not lose one. We lost one to mechanical failures down here at Diego Garcia in Desert Storm. But those planes were flying over Iraq from all over the world, B-52's which everybody likes to make fun of—about how the plane is older than the pilot. The truth of the matter is it performed magnificently. You ask any Air Force general how the B-52 did.

So now they say we need an \$865 million bomber to bomb Baghdad? I think the B-1 would penetrate the Soviet Union. I think the B-52 would probably penetrate the Soviet Union if that is all you are looking for today. If a 25-year-old kid from Germany can fly a Piper 150 and land it on the grounds of the Kremlin, the parade yard of Red Square, it seems awfully foolish to spend \$865 million for a plane to do that.

I have always said the thing about SDI that is flawed is SDI is directed at

only one dimension of the Soviet threat. That is missiles coming in from space will not protect you against a chartered airplane out of Havana. Good Lord, a Cuban pilot had to circle Homestead Air Force base in Florida for 30 minutes before he could get permission to land, and he was trying to defect. They did not even pick him up down there. We do not have air defenses in this country.

So the strategic defense initiative is not going to protect you against some charter pilot out of Havana. It is not going to protect you against a nuclear weapon concealed inside a bale of marijuana. We do not have much luck finding those planted at the base of the Washington Monument. It will not protect you against the Soviet bomber force.

Yet here we are headed toward \$100 billion to \$1 trillion, God knows how much on SDI, to deal with only one portion of this perceived threat.

That brings me to SDI. And we should all be cognizant of the fact that the amendment of the Senator from Tennessee cuts SDI from the \$4.5 billion to \$4.6 billion to \$3.5 billion. Does anybody here believe that the concept of SDI that we are talking about that we have to have to defend ourselves against the Soviet Union—does anybody here really believe that if we only give them \$3.5 billion instead of \$4.5 billion and do something about this deficit, very responsible thing about the deficit, does anybody believe for a minute that we have really lost anything?

I believe in a limited SDI. I believe that accidental launches are possible. I believe that a renegade launch is possible. I do not think either one of those things are nearly as great a threat as the things I mentioned a moment ago, such as introducing nuclear weapons in the country.

There is one thing I forgot a moment ago. Think about this. The Soviet Union has all kinds of cruise missiles loaded with nuclear warheads on ships, and this \$100 billion to \$1 trillion we are spending on SDI is useless against a cruise missile. It is useless.

So why are we putting all of our eggs in one basket and saying somehow or other we are protected when cruise missiles could be launched by the hundreds right over the coast of the United States?

Incidentally, there is another thing the Soviet Union used to do. They used to keep two Yankee submarines off the east coast and two Yankee submarines off the west coast. They quit doing that years ago.

Mr. President, I listened to our senior Senator from West Virginia, the distinguished chairman of the Appropriations Committee, this morning, who always speaks so eloquently. He quotes Shakespeare, Wordsworth.

It is a very fascinating thing to sit in awe—how Senator BYRD can put all of

that into this computer and extract it at just the right moment to make the point he wants to make. What a fascinating story about Henry IV this morning. He told it with the actual quotes from the players.

I wanted to jump up and say, you know, Senator, there are a lot of children in this country who will never know anything about Shakespeare, who will never know anything about Henry IV, Hamlet, Macbeth, or anything else, because we have slurped up all the education money in the defense budget, and in entitlements and so on.

The other night, Mr. President, I was with a former Member of this body, a man who is revered internationally as a statesman, a thinker. And in the course of the conversation I told him about the figures that Senator BYRD had recited on this floor a number of times; that since 1980, defense spending has gone up well over 100 percent; entitlements have gone up over 100 percent; foreign aid has gone up about 40 percent. And the money we spend on ourselves for education, health care, law enforcement, the very things that identify us as a people, we have increased, in 10 years, by three-quarters of 1 percent.

Nondefense domestic discretionary spending has gone from 24 percent of the budget to 12.6 percent of the budget, and we ask ourselves, why are 38 million people without health care insurance? Why are our children dead last in education? Why is the violent crime rate in this country continuing to go up 10 percent a year?

Those figures Senator BYRD gave are precisely the reason. And one of the reasons the children in this country will never get to hear about Henry IV, one of the reasons they will not have courses in civility, manners, how to dress, how to act, how to be civilized, one of the reasons they will never get that is because we have neglected education in this country.

I wish every child in this country had to take a course on the Civil War before they graduate from high school. And then I would like to see "Battle Cry of Freedom," by Prof. James McPherson up at Princeton, the textbook. The Civil War is the defining event in the history of this Nation. So far as I am concerned, that magnificent book, "Battle Cry of Freedom," is the definitive book on the Civil War.

But if you speak to some of these youngsters and ask them just a few questions about the most important event in the history of this country, they do not know. Again, the reason they do not know is because nobody told them. The reason nobody told them is because we have neglected education.

Mr. President, I said I would not be brief, and I have not been, but I will ease your minds by telling you that I am coming to the conclusion of this little tome.

This subcommittee has fenced this money so that it cannot be spent until the subcommittee is assured that the problem has been met and dealt with successfully. I applaud the subcommittee chairman for doing that. That may have produced enough votes here to defeat the amendment of the Senator from Tennessee.

But the other point I want to make is that I do not think I can ever remember money being fenced in the defense budget where the fence did not come down. It ultimately was spent. It gives you a temporary respite, a temporary feeling of satisfaction, but the money will be spent—make no mistake about that. The fence will come down, and the money will be unfenced.

Mr. President, this is not the last debate on these charts. Back on January 1, I asked myself, while sitting around the living room of my house with my children, "what are you doing to protect their future? What are you going to do in 1991?" I made up a list. Some of you know that I have almost kept full faith with my list, namely, trying to torpedo the superconducting super collider, the space station, SDI, B-2 bomber, brilliant pebbles, SRAM-T missile, the MX missile.

I have to confess to you that I think, in all of those amendments, 37 votes was my high watermark, except for my SDI amendment, where I received 46. I had a number of people come up to me after the debate on the space station and say: Senator, I have always thought I was hot for the space station, but I did not know that. I did not know that. I did not know that. I had no idea that the Congressional Budget Office says—or GAO, I forget which—said, just to get the space station up there was going to cost \$40 billion. That is not a scientific feat. That is a simple engineering feat. We know we can do that if you are willing to spend \$40 billion to do it.

When you ask the great proponents what is the big scientific payoff once you get it up there, the answer is: I do not know. That is what science is all about. We have to find that out.

My answer to that is, I am not willing to spend \$40 billion just betting on the come. As a matter of fact, regarding the superconducting super collider in Texas, it is no fun for me to go up against my good friend, LLOYD BENTSEN. But it is no fun to go home and tell the folks in my State that just the interest on the space station for next year—not the \$40 billion—or what we will spend over the next 6 or 7 years, not the interest on the \$118 to \$200 billion it is going to cost to keep it up there 27 years, but just the interest on what we are going to spend on the space station next year alone will be, on the magnitude of \$200 billion, \$150 million. Within 10 to 15 years, interest will have more than compensated for the total amount. We are going to

spend \$2.1 billion next year, and we have to borrow every nickel of it, every dime of it.

You know how long you are going to pay that \$150 million a year just for this profligate waste in 1992? Forever. Forever. You will not; your children and grandchildren will. It is an interesting thing. I made this statement once before on the floor, but it is worth repeating. I went down and did MacNeil/Lehrer with the staff director of the American Physical Society, which is composed of 40,000 physicists in America, virtually every one of whom think the space station is the biggest boondoggle ever invented.

So I was in good company with Dr. Park. I had two very good friends on the other side—our in-house astronaut, JAKE GARN, and our all-American hero, JOHN GLENN, both of whom were hot for the space station. But I made this observation, which is worth repeating. I had been sitting in appropriations all day long trying to find \$20 million more so we could have an effective immunization program for our children next year. Betty Bumpers and Rosalynn Carter have been touring Pennsylvania for the last 2 days—New Jersey this afternoon, Kansas tomorrow—trying to alert the mothers and fathers of this country of the dangers of a deadly disease—not a childhood disease—called measles. We now have vaccines that prevent liver cancer, of all things.

The National Institutes of Health reported earlier this year that we now have a vaccine to prevent hepatitis B, to give children shortly after birth, and that hepatitis B is the cause of 25 percent of the liver cancer cases in America; totally preventable.

As far as haemophilus influenza, there is a brandnew vaccine that you can give children to protect them against meningitis. A woman in Batesville, AR, a wonderful woman, bright, intelligent schoolteacher, is lying in a coma and will be in a coma for the rest of her life. It is totally preventable today.

There I was all day long trying to find \$20 million to tailor that program out, and we are spending \$2.1 billion on a space station and incurring more debt, more interest forever. And our priorities remain, as Senator BYRD so eloquently stated this morning, away from the things that make us a great nation.

I say to our colleagues, "It is my firm belief—and I do not exclude myself—that when I leave the U.S. Senate, sit in my living room around the fireplace, or out on my farm, and I reflect about my tenure in the Senate, I promise you I am going to be filled with remorse and regret about a lot of my votes. I will be filled with remorse because on occasion I have voted for something I knew in my heart was ba-

sically a political vote and not necessarily what I really believed."

There will be enough remorse over the votes that I voted for in good conscience that did not turn out so well.

I think about my 4 years as Governor of my great State. I was very popular when I left the Governor's office. And I will also tell you I never thought I would be as smart as I was the day I moved off the mansion grounds, only to come to Washington and find out I did not know anything.

But my point is, as well as I was perceived to have done as Governor of my State, I would be so much better a Governor now than I was then. But only if you are willing to bite the bullet and do what you know is right, as best you know on what you have gleaned, information you have.

To close, I was thinking about Harry Truman, one of my all-time heroes, who could not be elected justice of the peace today with that little plastered-down hairdo, with Vasoline hair oil, little old wire-rimmed glasses, nasal twang voice. Can you feature Harry Truman on television? For that matter, can you feature Abe Lincoln on television?

We do not elect Abe Lincolns and Harry Trumans in this country anymore. But Harry Truman, as one of his biographers said, took polls; he took polls to find out how hard his job was going to be to bring the American people along to what he believed was right. Today we take polls to find out what is popular right now so we know how to vote.

I can tell you this vote is not going to cost anybody anything. If you choose to support Senator SASSER's amendment and you want to go home and tell the folks it is high time we start getting serious about the deficit, I do not care how hawkish they are, how strong they are on defense; if you like applause, that is the way to get it.

So, Mr. President, I strongly support and cosponsor this eminently sensible, rational amendment by the Senator from Tennessee and say to my good friend from Hawaii and my distinguished chairman, who is a great Senator, I do not know of anything that pains me as much as to be on the opposite side of an issue. But that is what makes the mare go in this country, honest intellectual difference.

Mr. President, last year's Department of Defense appropriations conference report contained report language concerning the Air Force's plans for the B-52 bomber. This language asked the Air Force to address the requirement for B-52's, the numbers and kinds of capabilities needed for the future, remaining lifetime, and feasible upgrades that might be considered.

I ask unanimous consent that the text of last year's Defense appropriations conference report concerning B-52 life expectancy be reprinted at this point in the RECORD.

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

[101st Congress, 2d Session, House of Representatives, Report 101-938]

MAKING APPROPRIATIONS FOR THE
DEPARTMENT OF DEFENSE
B-52 LIFE EXPECTANCY

The conferees urge the Air Force to provide the Committees on Appropriations of the Senate and House of Representatives a comprehensive overview of its plans for the B-52 bomber fleet. This overview should address requirements for B-52's, the numbers and kinds of capabilities planned for the future, useful military lifetime remaining, and options for upgrades, including reengining with modern fuel-efficient high-bypass ratio turbofan jet engines, for any B-52 aircraft which may remain in the active force structure beyond the year 2000. The overview also should address the affordability and cost effectiveness of any upgrade options and examine the pace and extent of decreasing B-52 survivability in both conventional and nuclear roles against improving threats in the future, and the impact of this decreasing survivability on the cost-effectiveness of any identified upgrade options.

Mr. BUMPERS. It has been nearly 1 year since that report was requested, but Congress has yet to receive it. A few months ago I asked the Air Force when we could expect it and was told it would be August. Here it is late September and still there is no report. I believe Congress needs the information that this report would contain and am disappointed that the Air Force is so late in providing us with this information. Quite apart from the debate on the B-2 bomber, we will be keeping at least some of the B-52's in the inventory for many years, and it make sense to at least consider cost-effective upgrades to them. As this body knows, I have championed the idea of putting new jet engines on the B-52's, which would significantly improve their range and decrease their tanker dependence while saving large amounts of aviation fuel. Does the distinguished chairman of the Appropriations Subcommittee share my concern over the excessive length of time the Air Force is taking to get back to us on this matter?

Mr. INOUE. Mr. President, I say to my esteemed colleague that I do share his concern. We know that the Air Force plans to maintain B-52 aircraft in the inventory for conventional purposes, as well as some additional number of B-52H aircraft as cruise missile carriers. It is important for us to know what the Air Force has in mind for these aircraft, which will remain in the inventory and play an important role in our combat capabilities, as our Desert Storm experience has shown.

Mr. BUMPERS. I appreciate the remarks of the Chairman on this, and I hope that the Air Force will move quickly to report to us on this important matter, certainly before mid-October.

I thank the chairman of the Defense Appropriations Subcommittee, and I thank the Chair.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with very keen interest to my long-time and dear friend and colleague, the senior Senator from Arkansas and, as usual, he makes some very, very excellent points and I, for one, never take lightly what the Senator from Arkansas has said.

The fact of the matter is I have agreed with him on many of the cuts that I felt were necessary in the overall defense budget.

We also have had the opportunity to listen to the individual that at least this Senator and many others believe to be the best orator in the U.S. Senate. He was an accomplished trial lawyer before he served as Governor of his State, at the same time that I served as Governor of Nebraska, and he has all of the skills, and the perfect delivery of a trial lawyer and, in addition to that, he makes a great deal of sense from time to time. But I think when we look at the measure before us today, the amendment offered by the chairman of the Budget Committee, I think we had better stop, look, and thoughtfully listen to what we are doing and take a look at the facts.

The amendment offered by the Senator from Tennessee does three things. No. 1, it halts the MX experimental train. It so happens that I agree completely with point No. 1. As the backer of the MX, for a long, long time I led the Senate just before we broke in August, and failed by one vote to knock out the MX rail garrison train that is going to have a total cost of about \$100 billion. And when we build such a train, after it is built we will run it on the rails. We will do no test firing of an MX missile from it. And then we will put it in storage. That sounds like a likely fairy tale, but those are the facts. And how the House of Representatives, who are supposed to be tight, supposedly, with defense dollars, funded fully the \$255 million requested by the President for this needless, worthless program, is more than I can imagine.

I must, though, ask the Senate to take a careful look, without a lot of passion, about what the other two parts of the amendment offered by the chairman of the Budget Committee, Senator SASSER, from Tennessee, would do. I ask the Senate to look at this, Mr. President, because from my reading of the mood of the Senate I think that the measure that we are going to vote on, that the Senator from Tennessee has authored, will be a close vote in the U.S. Senate.

I want to say to the Senate, though, that anyone that is considering voting for the amendment offered by the Sen-

ator from Tennessee, basically on the grounds that they agree with the Senator from Tennessee on striking the MX train money, as has this Senator in the past, will have another opportunity on this bill to make a separate and clearly defined chance to express their opinion once again on the MX train.

I think probably this time, Mr. President, we have the votes. We lost by one vote. There were two Senators absent at that time. One of them has told me that he certainly will support my position of canceling the MX train, and I think we are very likely to get the other Senator who was absent at that time. Plus, the excellent talk on this subject canceling the MX rail garrison that has been delivered by the Senator from Arkansas may help our cause in that regard.

But I do not believe that we should vote for or against the amendment offered by the Senator from Tennessee on the matter of the MX train, because I assure all that you will have a separate chance to vote against that on an amendment that will be offered, co-sponsored by the Senator from Michigan [Mr. LEVIN] and the Senator from Illinois [Mr. SIMON].

Stopping the B-2 aircraft with only 15, as the House has already voted to do, I think is not wise, it is not prudent, and it should not be done at this juncture.

Likewise, I, too, have been one of those who have continually insisted on pushing down the amount of spending on the Strategic Defense Initiative as advanced by the previous administration and this one. And I am going to talk a little bit this afternoon about what the SDI Program is, as envisioned and restructured by the Armed Services Committee, and how that fits in almost exactly with what the Senator from Arkansas I think was saying with regard to SDI. And in a nutshell, that is that we should give up the grandiose plan of shooting down any and all incoming missiles, or the threat of incoming missiles in the future, and have a more conventional system that probably is needed at this point in time with regard to a threat from a Third World country, and not necessarily the Soviet Union.

I certainly commend the Appropriations Subcommittee, and the Senator from Hawaii, who has been a stalwart leader and a thoughtful person on a whole series of matters that have come before this body in the Appropriations Committee in the last several years. Likewise, the Senator from Alaska.

The Senator from Alaska and the Senator from Hawaii have had an excellent grasp looking into the future and not know with emotionalism as to what we should do to best secure the interests of the United States in the future. I especially want to salute those two individuals and their Subcommittee on Appropriations and the full Ap-

propriations Committee for their wise decision in zeroing out the SRAM-T missile. Suffice to say, the SRAM-T missile is a nuclear-tipped missile that was built and designed to attack enemy forces in Eastern Europe.

Well, the Eastern Europe that that missile was designed to attack is East Germany, Poland, and Czechoslovakia, and probably the Baltic States. If ever there was a weapons system without a mission, it is the SRAM-T.

Likewise, this Senator tried in August on the Defense authorization bill to knock out the SRAM-T. We lost by four votes. I am delighted to see the Appropriations Committee and the subcommittee have clearly indicated that they are not buying every piece of weaponry that comes down the pike just because it pops. And your selective decision to eliminate the SRAM-T from your appropriations, which I think will not be challenged on the floor of the U.S. Senate, is a step in the right direction. And since the House of Representatives, in their bill, have already zeroed out the SRAM-T missile, then that will be the end of it because it will simply not be a conferenceable item.

I do wish that my friends on the Appropriations Committee that I have saluted for their leadership would have provided just a little bit more leadership in zeroing out the MX rail garrison missile that both the Senator from Hawaii and the Senator from Alaska know has not received the support of this chairman of the Strategic and Theater Nuclear Defense Forces in the Armed Services Committee.

I say this vote is going to be very close. I listened with great interest, as did my friend and colleague from Arkansas, to the thoughtful words expressed by Senator BYRD, the chairman of the Appropriations Committee, and a long-time supporter of the B-2 program.

In fact, Senator BYRD's influence and his thoughtfulness and his standing in the U.S. Senate deals with one more blow to the credibility of the B-2 program. And if there are many more defections like that, then very likely the B-2 may be eliminated by the Senate, since its production future has already been eliminated and voted on in the House of Representatives.

I say that, Mr. President, because we are taking a very important step in this regard, and I just hope that we would not vote without equivocation to kill the B-2 at this time when all of the facts are not in yet on the B-2, as to its future.

I heard the statements that have been made by many on the floor today in opposition to the B-2. Indeed, it was this Senator only last week who raised some doubts about the B-2, as I have from time to time. It was this Senator who had a key part in erecting the fences for the funding of the program.

Once again, the fence that has been erected by the Appropriations Committee with regard to B-2 funding is exactly on point. Regardless of the statements that have been made with regard to fences never working, fences do indeed work. I can assure all, as a member of the authorizing committee, that unless the B-2 can meet its tests, then it will not be funded, and we will not be making any large buy of the B-2 in the future.

I hope that is not the case. Because one thing that I think is being overlooked in all of this discussion, Mr. President, is what is the future of the bomber force in the United States in the future if the B-2 program does not jump through its hoops, meet its stealthiness, or for some other reason never becomes a working part of our Air Force?

No one really believes that the B-52 bomber, which is the heart and soul of our bombing force today, can go on forever. The B-52 aircraft is over 30 years old. That is the youngest one. It is the only plane around today, I suggest, in the military, and very few in the private sector, that is being flown by pilots that were not even born when the aircraft was made.

How many people, Mr. President, in the United States today, who are frequent fliers or just occasional fliers, would be happy to get on an aircraft to travel from point A to point B, knowing that aircraft had been flown for over 30 years? Yes, it has been kept up well, and it is still a good airplane. But it is old, and it is getting older.

The point I am making, Mr. President, is that if the B-2 is killed by the Congress, or if the B-2 fails by killing itself, not living up to its expectations, then 10 to 12 years from now, essentially, the total bomber force of the United States of America will be 97 B-1 aircraft.

I will not go into the details of the difficulty that we have had with the B-1 aircraft, but they are well known to the Appropriations Committee, they are well known to the Armed Services Committee, and I think generally they are well known to many of the Senators who have worked on these programs for a long, long time.

We have no bomber program on the drawing board today. If the B-2 is killed, then we will be wasting \$33 billion. Let me repeat that, Mr. President. If the will of those who would kill the B-2 program prevails now, at a time when we are just beginning to see whether or not it is going to be part of our system, we would be throwing away essentially \$33 billion in research and development that has gone into this aircraft.

When an \$800 million price tag is placed on a plane, that is sticker shock. But the facts of the matter are we can buy whatever number of these planes we want in the future for about

\$350 million because the \$33 billion that we have already expended for the research and development is gone, which is half of the cost of any workable or effective weapons system.

I also caution that there are some—and I am not saying all those people who have spoken against the programs that are scheduled for either cuts or elimination in the amendment offered by the Senator from Tennessee fall into this category—but there were many over the years who did not seem to have the foresight with regard to weapons systems that served well in Desert Storm. I will only mention one which is most prominent, and that is the Patriot Missile. I hope the public at large will recognize there was a very solid movement at one time, to save money, to cancel the Patriot program. The Patriot and many of the other smart weapons systems served the United States of America well in Desert Storm and saved a great many American lives.

Let me just say something about the comments that have been made today about cutting back on defense expenditures. If you look at the figures that have been cited, you will see the authorizing committee and the Appropriations Committee have indeed been cutting back substantially, by billions of dollars, the amount of money we are putting into defense. The Armed Services Committee just last year held a series of evaluation sessions, called in all the experts, and it was very clear that the threat had been reduced. There is certainly not the threat, obviously, as has been highlighted here this afternoon, from the Soviet Union.

I say, though, that the amount of money that was spent during the defense buildup, when you look back at it, as expensive as it was, was probably a price that we should recognize as a good investment. I think most would agree that the deterrent value of that defense, above and beyond anything else, was one of the principal reasons for the demise of the evil empire, as it was once referred to by President Reagan. The Soviet Union today is nowhere near the military threat that it once was. As had been mentioned here, had the coup of August in the Soviet Union gone the other way, we would not have the calls for cuts that we are having today.

So, I simply say the advance money that was provided up and down the line for effective weapons systems and the structuring of strategic deterrence played the key part, if you will, in the near end of the cold war.

I touch once more on the B-2 bomber. The B-2 bomber, it is true, was originally designed as a penetrating bomber against Soviet air defenses. But if one will take the time to look at the record, one will also find not only was the B-2 built and designed to be a penetrating bomber, it was also built and

designed as a very low-level fast-attack bomber that can be used for other than nuclear missions.

I hope Americans and Senators will remember the vast armada of naval ships, naval airplanes, Army forces, Army airplanes that all took part in that raid a few years ago on Libya. We have done a lot of research on this, and we are convinced that the Air Force is right, that had we had two operational B-2 bombers at that time, those two bombers, launched from the United States with the risk of life of only two pilots in each plane, a risk of four, could have done everything better than that vast array of ships and airplanes that we were forced to deploy to carry out that mission ordered by the Commander in Chief.

Let us not be pennywise and pound foolish. Let us take a look at things and make sure we know what we are doing and where we are going. There has been a lot of talk about SDI. I made a comment a few minutes ago that I believed the program fashioned by the Armed Services Committee is exactly the type of an SDI program that the Senator from Arkansas thinks we should have; yet, much of the talk that we have heard today is that we do not need SDI because we are not likely to have an all-out assault from the Soviet Union with ICBM's. I subscribe to that.

I never did subscribe to the overall umbrella feature that was advanced by the former administration when they first brought forth this new concept to be wrestled with. We have spent too much money on SDI, and we are cutting down dramatically what the President requested in this regard. I may have to stand corrected on the figures, but I believe the President asked for about \$5.5 billion for SDI, and in the authorizing committee we cut that down \$1 billion. Now they are trying to take another \$1 billion out. I suggest on that program it would be well for those who are criticizing the amount of money that would be spent to see what the new proposal authored by the Armed Services Committee would really do.

What it would do is eliminate, at least for the present time, any starwars approach. It could be better described as being converted to a ground-based system, based probably in Grand Forks, ND, that would not violate any treaties that we have at the present time with the Soviet Union. This kind of system would not be designed to, nor would it be intended to, nor could it, for that matter, protect this Nation from any massive assault from ICBM's by the Soviet Union or anyone else.

What it would do would be to give the Commander in Chief, this one or the Presidents to follow, hopefully 95 to 98 percent assurance that we would have ground-based capacity that could be best described, I suggest, as a highly

advanced Patriot-type system. I only use that because I think most people know the role that the Patriot played. It would be a highly advanced system, not the Patriot, but based on the way the Patriot operated. And it would be in a position, hopefully, with a 95- to 98-percent guarantee, of being able to take out limited attacks on the United States, as might be possible from a Third World dictator at some time in the future.

I do not want any President to have to pick up a telephone from a Qadhafi-type character with a threat that I have an ICBM or I have a missile on a boat off the shores of the United States, and if you do not do this or that, I am going to launch it.

The Senator from Arkansas did make a very good point. He talked about the fact that an airplane of a potential enemy could not land because we did not know it was coming in. The statement was made that we do not have air defenses in the United States. That is absolutely true. We have no air defenses of any significant amount, radarwise, for the United States of America. That is why I think it would be wise at least to pursue the possibility of some type of a limited SDI program, ground based, that would not violate treaties.

I may have more to say on this subject at some later time, Mr. President. I simply want to say that I support, again, point No. 1, the elimination of the MX train, but I happen to feel—although I am sure it is very sincere and very well intentioned by the Senator from Tennessee, I urge my colleagues to vote against the proposition for what I think it does to items 2 and 3 as I have referenced and, therefore, should be defeated.

Mr. SASSER. Will the Senator from Nebraska yield for a question?

Mr. EXON. I yield the floor.

Mr. DOMENICI addressed the Chair.

Mr. SASSER. I want to ask the Senator a question, if I may.

Mr. EXON. Do I still have the floor?

The PRESIDING OFFICER. The Senator from Nebraska has the floor and may not yield the floor except for a question.

Mr. EXON. I yield for a question.

Mr. SASSER. I want to ask the Senator from Nebraska, on the question of rail-mobile MX, I remember the Senator making a very eloquent and convincing argument on the floor in opposition to the rail-mobile MX. As I understand it, we are going to build a rail-mobile MX missile and then immediately put it into mothballs?

Mr. EXON. The facts of the matter are, and I know as a member of the Budget Committee and a member of the Appropriations Committee, the Senator knows as well, the MX missile was originally produced to be a mobile missile. After it was produced, we did not have anything with which to make

it mobile, so we put it right back in the silo of the Minuteman II. The only reason we built it is we said the Minuteman II was so vulnerable to a Soviet attack that we had to make it mobile.

The MX missile has been a good missile and the tests on the MX have been excellent. What then came about was a system of moving it around the country on trains. They would be garrisoned in an airbase or some other government facility and if the Commander in Chief felt there was any threat of an all-out attack, he could order these out on the rails.

That program, basically, was dropped some time ago and the Air Force and the administration have now come down with a program that provides \$225 million in next year's budget and follow-on money for a total of \$600 million over the next 2 years to build a train on which an MX missile would be placed to test it riding around on the rails. There would be no test firings. After we took it out and drove it around, the \$600 million monster would then go right back into storage.

I know that the Senator from Tennessee supported my motion to knock that out, but I hope I have answered his question. Yes, it is a train that would run and then be mothballed.

Mr. SASSER. So in essence, if I may pursue this just for one brief moment, what the Senator from Nebraska, who is an expert on the subject—and I must confess I know very little about it—what the Senator from Nebraska is telling us, as I understand it, is we are going to spend \$600 million to build a train to haul an MX missile around and then, once the train is constructed, we sort of are going to put it in storage or a warehouse?

Mr. EXON. Put the brandnew train in storage.

Mr. SASSER. Then we would not be in a position to access the train on short notice to make the missile mobile; is that an accurate statement?

Mr. EXON. If the train were in storage and the Commander in Chief felt that there was a threat, which he could, in a short period of time, I would say—I do not know. I never asked the Air Force how long it would take. I suppose 10 days to get it out and get it greased, put an MX missile on it and start rolling it around the country. But you would only have one of them and you would also have the problem that normally we would not want to go into battle conditions with a system that had never been tested from the bed of a train.

Mr. SASSER. I thank the Senator from Nebraska. That is a very illuminating bit of information that he has given the body.

Mr. President, I wonder if I might be recognized for the purpose of modifying my amendment?

Mr. EXON. At this time, I think it only appropriate that I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico was first to seek recognition.

Mr. DOMENICI. I will be pleased to yield to the chairman of the Budget Committee if his purpose is to modify the amendment.

Mr. SASSER. I thank my distinguished friend from New Mexico.

AMENDMENT NO. 1198, AS MODIFIED

Mr. SASSER. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment and the amendment is so modified.

The amendment, as modified, is as follows:

At the end insert the following new section:

SEC. . (a) Notwithstanding any other provision of this Act, the total amount appropriated by title III under the heading "AIRCRAFT PROCUREMENT, AIR FORCE" is the amount provided under that heading minus \$3,200,396,000.

(b) Notwithstanding any other provision of this Act, the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE" is the amount provided under that heading minus \$225,000,000.

(c)(1) Notwithstanding any other provision of this Act, the total amount appropriated by title IV under the headings "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" and "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES" is the total amount provided under those headings minus \$1,100,000,000.

(2) Of the total amount appropriated by title IV under such headings after the reduction required by paragraph (1), not more than \$3,500,000,000 may be expended for the Strategic Defense Initiative and the Theater Missile Defense Initiative.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, the chairman of the subcommittee, Senator INOUE, asked the Senator from New Mexico if I would yield 30 seconds for the purpose of making an announcement. I am delighted to do that. I ask unanimous consent I be permitted to do that.

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

Mr. INOUE. I was not aware of the modification, so it may change everything.

Mr. LEAHY. Will the Senator yield to me for another 30 seconds for a request?

Mr. DOMENICI. Mr. President, I am delighted. I have been waiting a long time to talk a little bit about this amendment.

Mr. LEAHY. I will take 30 seconds, Mr. President. I request that the Sasser amendment currently pending be divided between line 6 and 7 on page 1.

Mr. STEVENS. Reserving the right to object to that, is that a unanimous-consent request?

Mr. LEAHY. No.

The PRESIDING OFFICER. Any Senator has the right to request a division of the pending question at that place and the amendment is, therefore, so divided.

Mr. LEAHY. I thank the Chair.

Mr. STEVENS. Parliamentary inquiry. Is not that amendment also divisible in one other place?

The PRESIDING OFFICER. Further division of the amendment is still possible.

Mr. INOUE addressed the Chair.

Mr. STEVENS. It is still possible.

The PRESIDING OFFICER. The Senator from New Mexico retains the floor.

Mr. DOMENICI. Does Senator INOUE desire some time?

Mr. STEVENS. Parliamentary inquiry. Did the Senator divide the amendment as modified, or the amendment that was pending?

Mr. LEAHY. No. Mr. President, if the Senator will yield, I waited until the amendment had been modified.

The PRESIDING OFFICER. The amendment, as modified, has been divided.

Mr. INOUE addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. I understand Senator INOUE desires to request something of the Chair, and I yield for that purpose.

RECESS FOR 5 MINUTES

Mr. INOUE. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes to look over the parliamentary situation and study the modification, and when the Senate reconvenes, the Senator from New Mexico be recognized.

There being no objection, the Senate, at 3:48 p.m., recessed until 3:55 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. EXON].

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

Mr. INOUE addressed the Chair.

Mr. DOMENICI. Mr. President, I want to yield without losing my right to the floor to the distinguished chairman who wants to propound something to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Hawaii.

Mr. INOUE. Mr. President, I ask for the yeas and nays on the Sasser amendment as divided into two parts.

The PRESIDING OFFICER. At this time only the first division is before the Senate which would be on the question of the yeas and nays.

Mr. INOUE. That is fine.

The PRESIDING OFFICER. Are the yeas and nays requested on the first division?

Mr. LEAHY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Parliamentary inquiry. The Senator from Vermont.

Mr. LEAHY. Mr. President, by the first part, what is it referring to? Is the Chair referring to what we would colloquially refer to as the B-2 amendment? I ask it for the edification of all.

The PRESIDING OFFICER. The Chair cannot comment on the amendment, except it is lines 1 through 6, page 1.

Mr. LEAHY. I thank the Chair. It is the amendment I was thinking it was.

The PRESIDING OFFICER. Is there a sufficient second for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the way the amendment is now structured, I believe it is fair to say that the first part of this amendment on the B-2 program, was voted on by the Senate in August, and the Senate voted 57 in favor of the B-2 program and 42 against.

Now, it seems to me, Mr. President—and I hope the Senate will listen carefully and try to understand what has happened—I do not think anything transpired to change anyone's mind with reference to the need for the B-2. If anyone is concerned about the few announcements that occurred regarding testing—clearly that is taken care of in the fencing language in the bill before us, and the fencing language in the Defense authorization bill. In other words, if those tests would ever be a problem—and I have listened attentively, attended every meeting. I do not believe they are—then obviously we would not make the procurement.

So it seems to me the vote recurs before the Senate that occurred in August when the defense authorization committee of the Senate brought their bill to the Senate and the same proponents of this amendment sought to delete the B-2 and were defeated. The defeat this year, even with what has happened in the Soviet Union, was one of the largest defeats that they have suffered in the last 2 or 3 years. It was not even close—57 to 42; 57 for, 42 against.

Now, Mr. President, what really is happening—and I have worked budgets as long as anyone here. Only Senator Muskie, had he stayed in the Senate from the starting point of the budget process, would have had more days and more weeks and more years on budgets than this Senator. I contend that we now have a new budget device to get rid of the B-2 bomber, to get rid of the SDI Program, or tailor it so it is no longer what the President of the United States wants.

Let me assure Senators—Senators SAM NUNN and JOHN WARNER, Senators DAN INOUE and TED STEVENS, who brought an authorization bill and an

appropriations bill before this Senate sequentially, as is normal that both of those bills meet every single budget requirement laid down by the Budget Act, by the 5-year economic summit, by the substantive laws that were adopted in accordance therewith. The defense bill before us today meets the budget agreement.

So we have a new device; a whole new idea—I was trying to figure out what it was. The best I can say is device. A device was brought here. And we even hear Senators saying if you vote for this amendment you can go home and tell your people that you saved money, that you reduced the budget deficit, and that you will not have to borrow so much money. Let me say you will get away with that only if there is not somebody there to tell your voters that is not true.

Is there anyone that is going to come to this floor and say we want to go home and tell our voters come 1994-95 we are going to spend less discretionary appropriated moneys—that is all those moneys that go for defense, foreign affairs, and domestic programs—we are going to cut that total and spend less than the economic summit agreed would be the total for 1994 and 1995? Have you heard anybody say that, I ask? Are you going to reduce that? Of course not.

If there is any savings, what is being said is that we want to spend it for something else. In fact, the whole argument is that there may not be enough for domestic discretionary programs. So let us cut out this, so there will be more—all of it hypothetical, speculative at this point in time.

In fact, the argument is being made that the B-2 program is a big outyear spender, a big outyear procurement item. It is. But how do you build and pay for a defense if you do not have any big outyear procurement? How do you buy battleships? I am not an expert, but it takes a few years—you spend more 3 or 4 years out than you did the first year.

So there is not anything wrong under budget practices to buy items that cost money in the outyears. It is just that today those who offer this amendment choose to take on a program they do not like. That is why it is here. They do not want the B-2. And because they do not, they found a new device to bring the issue and talk about it as if it were a budget issue.

Frankly, I hope the Senators will agree and believe the Senator from New Mexico. There is nothing in this appropriation bill that violates the economic summit, the 5-year agreement. There is nothing that violates the 1992 budget, 1993 budget, or the expected 1994-95 budgets. It is just that these two items—maybe, I will use plain old language that I hear back home—these two programs stick in the craw of a few Senators. So, since it

does, they will find a new approach and tell everybody it is going to really help balance the budget when they full well know they are going to spend every single cent on something else.

That leads to the 1992 appropriations process since this amendment would cut programs by as much as \$4.5 billion, if all of it goes through. I hope when the vote is finished, if they win, and scale back or cancel this programs on budgetary grounds that someone will come forth with a resolution, joint resolution, to be signed by the President, that says the \$4.5 billion will be applied to the deficit of the United States. That will be a real test.

In fact, somebody ought to introduce that and say let us take that \$4.5 billion that they claim they are saving, and since it is below the target and the cap on defense let us put it on the deficit. I can almost assure the Senate that before the year is out, in fact, before 6 weeks pass, that the \$4.5 billion would be spent on something else. We will go to conference and they will spend it on something else. If we do not spend it then, we will come back in a supplemental and we will say let us spend it on something else for defense or let us split it between defense and some other expenditure, and it will be used with no budget savings.

Mr. President, I am going to argue a little bit in favor of doing things reasonably and rationally. I hope I can prove shortly that this is not a reasonable and rational way to develop a defense budget—and it is unfair to the Defense Department, unfair to the Joint Chiefs, unfair to Colin Powell, and unfair to the President.

But before I do that, let me say I listened attentively for the time I was here when my good friend, Senator BUMPERS, addressed the issues here. I, obviously, cannot ignore nor do I choose to answer in detail the contentions that he made regarding domestic needs. Obviously, there are things we always need. But I would like to dispose of one issue only. And it has to do with defense spending as compared with spending on health care by the U.S. Government. So let me just do two comparisons for you.

How much did Medicare go up in the U.S. budget since 1985 though 1990? If anyone wants to guess, it went up 48 percent. Medicaid, its sister program, went up 92 percent.

Well, if we are worried about defense, let me suggest to the Chair that in the same timeframe the defense budget went up 18 percent. So health care is rising and rising rapidly.

If there is anyone wondering why we cannot pay for it, it is not because we have not spent the money. It is the fastest growing program in the budget of the United States, the fastest growing social expenditure in America. It is now at about \$750 billion a year, the largest portion of gross national prod-

uct, GNP, of any country in the free world going to health care.

So I do not think one ought to take comparisons that, if we were to cut the bomber, we could pay for certain health care for young people. Frankly, we cannot pay for health care because we do not know how to cut the spiraling costs of health care. That is it in a nutshell. Until we find a way to do that, we will leave some people out.

Let me close by giving you my version of the 5-year economic summit agreement as it pertains to defense and try to convince the Senators that it is not fair to those who have directed, those who have built, those who have been leaders in putting America's defense in the position that it is of the finest in the world. I believe we finally found out that it was our generals. It was people like Colin Powell and their predecessors who have led this country and suggested the right things to us.

Frankly, I do not think it is right for the U.S. Congress to go to an economic summit, come back and ratify a 5-year plan, come back, ratify and put in place, in statute law, the number, the dollar number, that you could spend on defense in 1991, the actual dollar in 1992, the dollar number in 1993, and then say in 1994 and 1995 we will have to sort of slug it out. But tell us how you will revamp the defense of the United States for those 5 years. They do it. They send us their best thought-out approach to big weapons systems and to manpower and everything in between. And they get rid of half a million troops, they cancel innumerable weapons systems, and we agree on most of them. Those are the experts telling us how they would spend the money we allocated to them.

Well, that seemed to be turning out pretty well for America and pretty fair for those who are experts, who built the greatest military machine the world has ever seen. And, today, we come in here with a new device to get rid of the bomber, to get rid of SDI, and we say, well, we want to change the direction of the defense budget, because in 1994 and 1995 we do not think we can afford to pay for it.

You know, in doing this we take the Colin Powells of the world for granted. They ought to be angry about this, and they ought to say, how will we ever know what you are talking about down there, if you do not at least sit still for 1 year at a time while we try to give you our best judgment on a defense plan.

I submit that if we gave new numbers to the Defense Department and said that you can spend less because we have changed our mind, in fact, we want you to spend \$4.5 billion less in the first year, and whatever this amendment does in the outyears, but you give us your recommendations—let me tell you what I think. I think they would recommend that we still buy the

B-2 bomber. I think they would yield on other systems, and they would say we want that; and I think they would yield on other systems and say they want SDI.

We do not have to give them that, but we do not even ask them. We come down here to the floor with a device to change the budget, hypothetically, speculatively, the idea being to meet some goal we do not even know about, we have not even yet agreed to and, in the process, you scale back these two weapons systems.

I have not argued, nor will I, that strategic weapons are more of what America needs, as compared to conventional weapons and conventional military force structure. But I have heard respected Senators argue this point. Senator NUNN argued this point and I asked him later, and he said that there is no question about it. Clearly, if you are preparing for what we know is a problem in the world, you would not cut the major strategic weapon system, because they address one of the most serious remaining problems that America and her friends find in the world.

That leads me to think that if you handle the military fairly and sent back the budget top line and asked what they would cut, they would not cut this B-2 bomber, even with a new budget. But today, we are going to do that if we vote for the Sasser amendment, and we are going to do it in the name of some kind of budget that has never been approved by anyone, and that is totally speculative.

I submit that it is so willy-nilly in terms of where it takes us that it is not the last one you will see. You will find Senators of the same ilk next year who will come along and find three or four more programs that do not fit the budget. But they will say it is the budget idea to spend more in domestic in the outyears, so let us cut them out.

Frankly, I do not believe that is fair to those who worked so hard to design this structure to meet the economic summit numbers. I hope the Senate will turn it down and say it is precisely what we already voted on, because you should cast aside all of the paraphernalia of budgetry and vote yes or no, as you did in August on the B-2.

I yield the floor.

Mr. INOUE. Mr. President, I have been advised that three colleagues wish to be heard on this amendment: The Senator from Vermont [Mr. LEAHY]; the Senator from Michigan [Mr. LEVIN]; and the Senator from Colorado.

Mr. SASSER. It is my understanding that the Senator from Colorado wishes to speak on the amendment. I see that the Senator from Vermont is on his feet. I anticipate that he will speak at some length. I might have a few concluding remarks, Mr. President, and I think that will be the extent of the debate on our side.

Mr. INOUE. Senator WALLOP also wishes to be heard.

I wish to advise my colleagues that, at or about 5:30 this afternoon, I will be making a motion to table the amendment.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish the B-2 bomber flew half as well as its supporters speak in its favor. The eloquent words of disguise fly better than the B-2 does. I will not make any parallel between the stealthy nature of either. But we have heard so many plans about reducing the budget lately that the simple realism that we could actually cut \$30 billion from the budget right here, today, seems to leave some of the vocal chords of the budget cutters paralyzed.

Where are the guardians of the purse when the opportunity is squarely before them? Every one of us can give the speeches to the service clubs and the chambers of commerce, and everything else, back home about how we are going to cut the budget. I have not heard a Senator go out and say, "I am there to increase budget deficits." Every one of us speaks about how we are going to cut the budget deficit.

Is it not amazing how the determination to cut spending always flies in the face of specific opportunities to do so? Right here and now, we can vote American taxpayers a \$30 billion peace dividend. All those who want peace dividend, and all those who say they want to cut the budget, here is your chance to do it—\$30 billion. Not many times does somebody get that kind of a bite out of the budget apple.

Any Senator can now vote down the B-2 that took so long to design and manufacture that its mission became obsolete by the time the first prototype hit the tarmac. The world changed faster than the ability of the B-2 to meet performance deadline. After more than a decade, the plane finally appears just as the Soviet Union disappears. We have a plane with no mission.

Today, Senators COHEN, SASSER, MCCAIN, myself, and others, are urging the Senate to halt production of the B-2 bomber at 15 planes for a savings of \$3.2 billion in fiscal year 1992, and \$30 billion over the life of the program. And we do it because there are no longer any good arguments for the B-2.

Since I offered a similar amendment in August, world events have made it more likely that the Air Force will deliver humanitarian aid rather than thermonuclear weapons to the Soviet Union. We are talking about how we can airlift food to the Soviets in the winter.

The President has brushed aside calls to reduce defense spending and transfer \$1 billion to feed the Soviet people. But the fact that such a proposal is given serious consideration is a reflection of the changing threat to our Nation.

We all know that over the past 40 years, since I was 11 years old, United States defense spending has been directed toward preparing for a conflict against huge Warsaw Pact and Soviet conventional and nuclear forces. But the Warsaw Pact is now defunct; and for that matter, the Soviet Union no longer exists.

Today's debate over the defense budget is between those planning with foresight and those who are spending in hindsight. The B-2 is a plane that was designed when the cold war was hot and the defense budget was sacrosanct.

Times have changed.

World events and a massive Federal deficit have brought our Nation to a crossroad. We can no longer afford the luxury of spending billions of dollars on a plane to defeat a diminished threat and ignore our problems here at home.

Incredibly, Air Force officials still frozen in the nuclear ice age insist that we must spend \$65 billion on a plane that is designed to bounce the rubble in the Soviet Union during a prolonged nuclear exchange.

Mr. President, proceeding with the B-2 would be questionable even if world events had not made this plane an anachronistic symbol of the cold war.

The B-2's only mission is to stealthily pick taxpayers' pockets for as long as it can.

The Air Force plans to buy 75 B-2 aircraft at a cost of \$65 billion. Incidentally, that was more than was originally planned to buy 132 aircraft only 2 short years ago. The program's cost has risen \$4 billion in just the past year alone and threatens to climb even higher if manufacturing and management does not improve.

There is nothing out there that looks very good in the B-2 picture.

The Air Force recently announced that cracks in the aft section of the plane will cost an additional \$200 million. Planes delivered late and incomplete have caused the flight test program to slip 3 years. Less than 10 percent of flight testing is complete and will not be finished until 1996, when more than 70 percent of the 75 planned B-2's will be purchased. We learned the hard way from the B1-B that making fixes on completed aircraft is expensive. We are not going to know enough about the B-2 until it is too late.

We buy them and find out afterward if they work. We are already finding they are not working anywhere near as well as predicted.

On July 27, the B-2 failed a low observability test. According to press reports, the Air Force claims that the B-2 will still reach 80 percent of its projected low observability capability, if we spend enough money to fix the problems already identified.

Mr. President, if the threat from the Soviet Union is vanishing before our eyes, why should American taxpayers

build a less capable aircraft for more money? Why not finally just face the tough decision and cancel the program now?

Even more cost problems loom ahead. Last year, Senator COHEN and I offered an amendment to suspend production of the B-2 for 1 year to review test results and determine if manufacturing could improve. That amendment was defeated by critics who argued that the suspension would add \$5 billion to the program cost.

Well, Mr. President, here we are 1 year later. No planes were produced in the past 12 months. The money was instead used to cover cost overruns. And now a provision in the appropriations bill further prohibits the release of any money until next spring.

Well, it is hard sometimes to take too seriously the arguments for the B-2 that are being made here today because the arguments change as the debate changes. Arguments used for the B-2 1 year, will be no good the next year.

The B-2 program has undergone a de facto 1 year suspension regardless of the vote that defeated the Cohen-Leahy amendment last year. I do not hear too many B-2 supporters telling the American people that the most expensive plane in the history of the world just went up \$5 billion.

So we vote not to suspend it. It turns out we suspend it anyway. The billions we approved went to cost overruns, screwups, and mistakes, and have nothing to show for it.

The B-2 is a revolutionary aircraft. I will grant you that. Just looking at it you know it is different than anything we have ever seen before. The fact it is revolutionary does not mean it is affordable. Just because something might conceivably be built does not mean that we can afford it. We can put a four-lane interstate highway past my farm house in Middlesex, VT, instead of the dirt road that goes by there. It can be done. That does not mean it makes any sense to do it. We can spend tens of billions of dollars more, and we can build a B-2 bomber, although it will never do all the things that the Air Force has solemnly sworn it would do. It certainly would not do all the things that the Air Force has piously told me in closed and open briefings it will do. We might go ahead and get something out of it, but that does that mean that we should. Does it mean it is affordable?

There is much to learn from the program, in avionics, steadiness, and the materials used to build the plane. My amendment will allow for the completion of research, development, and flight testing. We can take the knowledge gained from the B-2 so far, both the successes and the failures, and apply it to future programs.

It is fascinating, Mr. President. In 17 years here, I have served on both the

Armed Services Committee and on the Appropriations Committee. Most of my time on the Appropriations Committee, I have been on the Defense Appropriations Subcommittee. And every year, just before budget time, we hear the same speech. You can change the dates and a few numbers—numbers always go up, incidentally—about the Red threat. And we are told, both in open and closed briefings, about the terrible Red threat. We are going to spend all this money to defeat that threat. So we spend all the money and the threat goes away until the next budget hearing.

I used to ask the Secretary of Defense and the Joint Chiefs when they testified, "We have all these terrible problems, and the Soviets have this enormous defense build up." I said, "Would you trade our army for their army?" They said, "No, we will not do that." "Would you trade their navy for our navy?" "No, we will not do that." "Would you trade our air force for their air force?" "No." "Would you trade our command and control for their command and control?" "No." "Would you trade our training for their training?" "No, we would not do that."

What is so much better about them than us? Now, we found out. The Soviet Union was made up of Potemkin village including the military.

The greatest threat from the Soviet Union that faces us is hunger, mismanagement, and a coming Russian winter.

The biggest secret about the B-2 Stealth bomber is where Congress will be told it is going to be used next. That changes all the time. Today, B-2 proponents will herald the potential conventional capability of the Stealth bomber. At the rate we are going, tomorrow the Air Force may announce that the B-2 will be able to deliver overnight mail faster than any plane in the world.

Mr. President, the gulf war demonstrated that tactical aviation constitutes the core of our conventional bombing capability. Congress is enhancing these assets. This bill includes funding for 24 new battle-tested F-117's and improvements to many other aircraft.

The argument that the B-2 will save the taxpayers money is a cruel hoax. At least \$35 billion will be needed to finish the program. Air Force comparisons indicating the B-2 is a B-52 version of the F-117 are misleading. The F-117 is battle tested and on alert. The B-2 is in the embryonic stage and has years of testing and billions of dollars to go before becoming operational.

Not only is the B-2 plagued with cost and manufacturing problems but it may lack the same precision capabilities of the F-117. The Air Force announced last week that the only precision weapon planned for the B-2 in the late 1990's is plagued with problems.

Mr. President, the Senate put its faith and trust in the B-2 as recently as August. We considered the mission and the cost, we gauged the threat and, in the end, a majority of the Senate said the cost was worth it.

The distinguished Senator from New Mexico [Mr. DOMENICI] made this point earlier.

The world has changed remarkably since I offered the first amendment in 1989 to kill the B-2. It seems impossible, the number of times I came down here, that it was only 1989. But look how the world has changed. The mission of the plane no longer makes sense. The costs are always changing, never downward, always upward. And the defects that plagued the program through its history are still here today.

The B-2 is a matter of national security. I think we all agree on that. But continued funding for this program acknowledges that the Congress has failed to recognize that our security means much more than raw nuclear might. The sum total of our security is not just military power. America must look beyond military threat if we want to remain a superpower.

Stopping the spending hemorrhage on the B-2 will put the American people on notice that Congress is keeping up with world events. As threats which have required so much of our limited resources diminish, we can begin to realign our priorities and rebuild the society our military is pledged to protect.

So I hope that we will adopt this amendment. We have seen it before. Senators have voted against it in the past, but I would urge those Senators who voted against it in the past to look at not only how the world has changed, but just read the newspapers. See how the B-2 has changed. See the problems that are before us.

I understand, of course, we spent billions on it. But must we continue? It is like building that four-lane highway and saying we built all this highway, we cannot stop now. But if that road is a road to nowhere, why should we continue? And if this is a plane to nowhere, why should we continue? Americans need so many things. Why not give ourselves a peace dividend? Why not join the rest of the world in understanding that times have changed.

America still remains the number one superpower of the world, but our superpower status depends on our ability to take care of ourselves as a nation.

Mr. BRYAN. Mr. President, I rise today to support limiting the B-2 fleet to the 15 aircraft currently authorized, and halt the funding for new production of B-2 bombers. I do so for several reasons.

Although I have, in prior debates on this issue, supported the administration's and committee's position to build 75 B-2 bombers, I am no longer

able to justify building more than the 15 aircraft already authorized. The increasing cost of the program, the technical questions that will not be resolved until flight testing has progressed significantly, and the changing international dynamics we face as communism fades in the twilight of the century, all indicate that the full B-2 program is a luxury we simply can no longer afford. I am convinced the defense needs of the country can be satisfied without a large fleet of B-2's.

Within the next year, interest on our national debt will be the largest Federal expenditure. The debt burden saps funds which otherwise could meet our social, environmental, educational, and defense needs. Unless major spending reductions are achieved, I do not think the deficit problem will ever receive adequate attention.

The B-2 bomber is an enormously costly weapons system with an increasingly obsolete and obscure mission that we simply cannot afford during this time of severe budgetary constraints. I believe it is necessary at this time to reevaluate our spending priorities, and I believe that changing international circumstances allow us to reduce spending on very high-cost weapons systems, and use our limited fiscal resources to address the deficit and the many human needs in our country. This action will save \$1.03 billion in fiscal year 1992, and \$30 billion over the remaining course of the program. A fleet of 15 B-2 bombers will comprise a significant strategic asset, allow the proving of the stealth technology, and is a responsible course for the Nation to pursue.

Each additional B-2 strategic bomber would cost the American taxpayer \$860 million, and this cost could rise even higher if the delays and cost overruns that have plagued this program continue. Recent concerns over the stealth capabilities of the B-2 are only one of a series of problems that have caused the cost of the B-2 program to rise \$4 billion in just the last year. By terminating production of new B-2 bombers now, we will still produce 15 usable strategic bombers, and can save the American taxpayers over \$30 billion—money that can be used to reduce the tremendous deficit burden.

The F-117A—the Stealth fighter—proved to be a vital asset in the recent conflict in the Middle East. The bill before us appropriates funds to acquire 24 additional F-117A's—an already proven weapons system. The combination of 15 B-2 bombers, additional F-117A's, and the existing fleet of 97 B-1A's, a nearly new supersonic manned bomber, will be adequate for our foreseeable future defenses.

The importance of the B-2 strategic bomber to our Armed Forces has significantly decreased within the past year. With the dramatic changes in the Soviet Union, we have been given the

opportunity to restructure our Armed Forces in a way that realistically meets the threats we might face in the future.

We know from the gulf war that we will likely face regional conflicts requiring smaller, more mobile conventional forces—the F-117A has a more appropriate role in this type of conflict than the B-2. To the extent that the capabilities of the B-2 are needed, the 15 aircraft authorized will suffice. The gulf war also demonstrated the importance of pinpoint bombing by smart conventional weapons. In this area, the B-2 has only limited capabilities and only after modifications that would add even more to the bomber's cost.

The effective defense of the United States and American interests must not be compromised. A strong defense is as important as ever with the potential for further military action in the Middle East and the continued ethnic unrest in the Soviet Union.

However, at this time of economic difficulty for so many Americans, we need to remember that an improved economy and a reduced deficit are also vital to our country's national security. By limiting the B-2 program now, we will have taken a major step in renewing our ailing economy and reordering our national priorities.

Mr. SASSER. Mr. President, I ask unanimous consent that the vote in relation to division one of the amendment occur at 5:30 p.m., with the time remaining divided equally between myself and the distinguished chairman of the subcommittee.

Mr. LOTT. Mr. President, reserving the right to object. May I inquire about how many speakers do we have prepared to speak? I would like to get just a few minutes. I heard two or three names mentioned earlier. I have been in and out several times this afternoon. I would like to get just a few minutes wedged in here to get some remarks on the RECORD. Do we have any information about that, I ask the distinguished chairman of the Budget Committee?

Mr. SASSER. Mr. President, in response to my friend from Mississippi, we have perhaps only one more speaker on our side as proponents of the amendment. I do not know how many speakers might be on the side of the opponents. The distinguished Senator from Hawaii a moment ago indicated he wished to make a motion to table at 5:30, and I simply sought to get unanimous consent so that we could nail that time down.

Mr. LOTT. Reserving the right to object.

I yield to the distinguished ranking member of the Defense Appropriations Subcommittee.

Mr. STEVENS. Mr. President, I am all in favor of having the vote as soon as possible, but I object just temporarily, if I could ask the Senator to withhold for a minute. We are checking one thing out here.

Mr. LOTT. Reserving the right to object, I would like to inquire, am I going to have an opportunity to speak, I ask the Senator from Alaska, or perhaps the Senator from Hawaii could give me more information about the time involved here. Unlike most of my colleagues that have been speaking, I am not going to need 30 minutes or an hour. If I could get 10 or 12 minutes, I would be satisfied. I just want to make sure my time is going to be protected here.

The PRESIDING OFFICER. Does the Senator object?

Mr. LOTT. I have not objected yet, but I am going to continue to reserve until I know whether or not I am going to get a chance to speak here.

The PRESIDING OFFICER. Is there objection to the request?

Mr. STEVENS. Reserving the right to object, would not the time be divided equally in accordance with the usual form?

Mr. SASSER. That was in the unanimous-consent request.

Mr. STEVENS. I can assure my friend he will get some time.

Mr. LOTT. I withdraw my reservation.

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

Who yields time?

The Chair understands time is to be controlled by the Senator from Tennessee and the Senator from Hawaii.

Mr. INOUE. How much time does the Senator from Mississippi desire?

Mr. LOTT. Mr. President, I think 15 minutes.

Mr. INOUE. I am pleased to yield 15 minutes to the Senator from Mississippi.

Mr. LOTT. I thank the Senator for yielding me this time. I will try to be brief. There are a few points I would like to touch on that may not have been hit sufficiently to this point.

First, I want to begin by a quote from "A Tale of Two Cities" by Charles Dickens. It says: "It was the best of times, it was the worst of times, it was the age of wisdom."

Now, I think we are at that point here in the Senate today. It is perhaps the best of times, because some of the threats we worried about may be changing, perhaps even diminishing. It is the worst of times, because some of the threats are still there, just as we have seen this very day with Saddam Hussein and with the Iraqis not cooperating with our inspectors in Iraq.

But, most of all, it is the age that needs wisdom. We need to be careful how we make these decisions here today. We need to be careful not to make decisions here on the floor of the Senate in the heat of the passion of debate, but make sure we think this through very carefully and that we have a planned, orderly change, if it is called for, in our defense structure.

I think the distinguished chairman from Hawaii and our ranking member have been making this point very effectively. But it worries me when we start doing this sort of thing on the floor of the Senate when at this very time the House and Senate Armed Services Committees are supposed to be meeting in conference to hammer out some of these very issues. The strategic defense initiative certainly is going to be debated in that conference, the B-2 bomber, and a lot of other issues.

The appropriators in our body have made some difficult decisions here in this bill. They have come forward with a good bill. They made specific recommendations with regard to the B-2 and the MX rail garrison as well as SDI. Then it gets to the floor, and we try to make a dramatic change in the numbers, based on not the defense needs now or in the future, but on budgetary considerations. I understand that.

I worry about the budget. I am intrigued by those who say, let us get the budget cuts, they always say let us do it on defense. They never want to talk about so-called mandatory programs, they never want to talk about the discretionary spending programs that continue to go up.

The way we are doing this is not orderly. It is not the type of serious thought-out decision I think we should make.

I will give you an example. We started off debating an amendment that included about a \$1.1 billion cut in the B-2, a \$1 billion cut in the SDI, and \$225 million cut in MX. That is what the vote was going to be on. But for some reason all of a sudden, that has changed.

Now we have an increased cut in B-2 and the issue has been divided. We will have a vote on B-2 and then we will have a vote on SDI and MX.

So right in the middle of the debate the parameters have been changed. I just feel very strongly that that is not the way to do this sort of serious business. I confess I have some doubts about a couple of these programs and I expressed them in the Armed Services Committee.

I think we really ought to look at what the threat is. But I ask my colleagues, what has really changed since we had a vote here in the Senate on the B-2? The vote on the last week of July was 42 against the B-2, 57 for it.

You say the cold war is over, Russia is gone, communism is gone, we do not have to worry about the Soviet Union anymore. Is that true? Do we really know what is happening over there? What is happening with their military weaponry? Who is in charge? Who has the finger on the trigger? Will the republics have nuclear weapons? How much has changed? Do we even understand it yet? I have the answer: No.

Also, during this whole time when we have been committed to a budget

agreement that set caps for defense and foreign affairs and domestic spending, we have been fighting over sticking with those caps at a time when we have seen tremendous changes take place all over the world and we have the Iraqi situation.

When will we learn? They had the Scuds. We had the Patriot missile, thank goodness, to combat the Scuds. But we continue to have real needs, in my opinion, for strategic defenses; a defensive capability. It makes good sense.

We do not have to worry just about the Soviet Union. We have to wonder, will there be other Saddam Husseins? Will there be other Qadhafis? What about all these Third World countries that are developing this long-range ballistic missile capability? Are we going to have some ability to defend ourselves against a renegade commander or an accidental launch?

I think these very serious questions need to be debated in the Armed Services Committee, in the Defense Appropriations Subcommittee, yes, even in the Budget Committee. I was pleased to get on the Budget Committee this year because I thought we had serious policy debate about what the parameters would be in defense and domestic discretionary spending and all these other programs. Then I found out this amendment proposes we make budget decisions here on the floor of the Senate.

This is an irresponsible way to do this business. I urge my colleagues in the Senate on both sides of the aisle, think about this. You may want to change your vote or vote against one or two or all three of these programs. But do you want to do it like this? In a way where 1 minute we have a billion dollar cut in B-2, and the next minute a \$3 billion cut? Based on what?

Overnight, or over a few minutes, we had a tremendous change in the funding levels we are talking about.

I have some other questions. Where do the savings do? What happens to it? Are we cutting these numbers now so we will have more money to spend later on domestic programs? What is to keep some other Senator from coming in here now and filling this glass back up with expenditures in the defense area? Somebody may walk in here and say, "I want more planes built in my State," or more trucks built in my State.

Mr. STEVENS. Will the Senator yield?

Mr. LOTT. I will be happy to yield on that.

Mr. STEVENS. I think that is the problem with this amendment. I call my friend's attention to the way this is drafted. It reduces the funds available for aircraft procurement for the Air Force but it does not specify the B-2 now. It says nothing about the B-2, the way this amendment is drafted now.

What is really does is it reduces aircraft procurement for the Air Force. That is reduced by \$3.2 billion. It could be the C-17. It could be the F-15. It could be anything now.

Let me just make this comment to my friend. The House level is \$7.4 billion. The level in this bill now will be \$7.1 billion. For the first time, the allowance of the Senate for aircraft procurement for the Air Force will be lower than that of the House.

As the Senator knows, in conference we could do anything with that money. It does not say you cannot have the B-2. It is a rather—it is a budget amendment now; a device, as the Senator from New Mexico has said.

Mr. LOTT. So there certainly is not any clarity about what would be the final result with regard to the B-2 or Air Force expenditures this year, let alone any kind of understanding or clarity about what would happen with this money if, in fact, we do not commit it somewhere now.

I will tell you where it is going to wind up. It is very clear to me what is happening here. Members are anticipating in the fourth year of the budget agreement, a collision between the need to spend more money, they think, for domestic programs and defense programs. So they are trying to cut defense now so they will have more money to spend in the outyears.

If my colleagues put this in such a way, one or part of it, "we will take this money and it will absolutely go to reducing the deficit, it will not be spent in some other area," then I would have to think about that a little longer. I know the budget aspects of this are taken very seriously by the sponsor of the amendment. But we need to know what is going to happen to this money. I think I know. I think the Senate will take it and try to spend it in myriad other ways in fiscal year 1994.

One final point I want to emphasize here today. What is really going to happen with this bill, and with these issues after we vote today? If we vote for these amendments as now divided, this bill could be in jeopardy. It may not even get out of the Senate.

But let us take it beyond that. Suppose it gets out of the Senate, what is going to happen? Do you think the President of the United States will sign a bill with these cuts? I am not authorized to say this, but I would be absolutely astounded if he signed this defense bill without these three programs sufficiently funded.

So we are going to have an Armed Services authorization conference that will break down and nothing will happen. We are not going to have a Defense appropriations bill. We are going to wind up with total chaos in what is the future for the military of our country at a time when the age of wisdom is so called for.

Let us not proceed with this amendment or these amendments in this way. Let us do them through the normal committees, the normal process. Let us understand what is going to happen with the money, let us understand what our needs are for the future.

Right now I submit we do not know. We do not know exactly whether or not we are going to need even a conventional long-range bomber. One Senator today said Jimmy Carter was right when he canceled the B-1. Great. What if we did not have the B-1, and now we come along and not have the B-2? We are going to depend on the B-52's? They may be great old planes, but how stealthy are they? How capable are they?

I think we should do this in an orderly fashion. We should stick with the committee. We have some of the most competent people in this body who serve on the Defense Appropriations Committee. We are trying to work it out in the Armed Services Committee conference. Let us let the people who are in these areas fight these out and make the decisions. Let us not base it on some haphazard budget considerations at the time we are saying, oh my God, utopia is here. It is not utopia. We are going to need SDI, and we are going to need the B-2, expensive though they may be.

I thank the distinguished leaders of the committee for allowing me this brief time to put in a few remarks. I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I ask how much time I have remaining.

The PRESIDING OFFICER. The Senator has 26 minutes.

Mr. SASSER. Mr. President, so there will be no misunderstanding here with my colleagues, if this amendment prevails there will still be a B-2 Program. There will be 15 B-2's built under this amendment. That will be enough to provide one squadron of B-2 bombers, with spares. So we will have access to a modest number of B-2's.

The proponents of the B-2 bomber indicate and tell us that the B-2 can carry the bomb load of 10 F-117's; the so-called Stealth fighter.

If we have 15 B-2's, then that would be the equivalent of 150 F-117 Stealth fighters.

I remind my colleagues that we subdued the world's fourth largest military power—at least that is what some of the experts were telling us—using no more than 45, more likely 40 F-117's.

So there will be some B-2 bombers available for those who seem to think it is the end of the world that we do not have the full B-2 bomber fleet of 75, or 100 aircraft.

And we do have the fallback position of that splendid weapon, the B-1. This is one Senator who voted for the B-1. I wish that were a vote that I could re-

scind here today. I noted in the war in the Middle East, that was one weapon that nobody ever saw or heard anything about, the B-1 bomber.

Yet, it was the single most expensive weapons system that we had at that particular time.

Mr. President, some of our colleagues will say, we had a vote on this a few months ago and it was defeated; it was defeated by 8 or 9 votes out of 100 or 97 cast. What has changed?

Mr. President, a lot has changed. For example, the superpower that the B-2 was slated to engage is now no more. There is no longer a Union of Soviet Socialist Republics. That country has simply come apart.

We see the Soviets, or the Russians, or Uzbeks, or whoever they are, are now pulling their troops out of Afghanistan. We see that they are negotiating and have announced unilaterally they are going to pull all of the Russian or Soviet troops out of Cuba, to the extreme agitation of Fidel Castro. The Soviets are actually supporting our efforts to disarm Saddam Hussein.

The Soviet Union, or what is left of the Russian empire, is in a state of total disarray, verging on total economic collapse. The truth is that we are about 10,000 times more likely to be providing the Soviets with emergency food aid than we are to engage them in any sort of nuclear conflict.

I ask you then where is the threat? Are we afraid that one of the independent Russian Republics or Soviet Republics is going to launch a nuclear assault against those of us in the United States, the last remaining superpower? Is the President of Uzbekistan going to say, "Ah ha, let us nuke the Americans?" I doubt that very seriously. And if he would be mad enough to do that, is a B-2 bomber that is under development going to dissuade him at all?

I would say we would be more likely to dissuade an individual like that by saying if you do not behave yourself, we are going to cut off your economic aid. You can bet your bottom dollar the President of the United States is going to be proposing some economic aid to the Soviet Union in the very near future.

We have to change our mindset. We have to release our hold on cold war rhetoric and a cold war world view. I say to the unreconstructed cold warriors among us, it is all over. Forty-five years and it is all over. The Communist scare is gone. The red threat has evaporated. We are going to have to find something else to satisfy our paranoia.

Why should we wait until next year to act on accomplished facts? I am simply making the case, Mr. President, that we cannot afford to wait. We do not need to wait.

This morning there was some discussion about this whole amendment being anticipatory, as if that were a

term of contempt. I am reminded of the Greek mythology figure, Cassandra, who could foresee catastrophe but was powerless to prevent it.

Mr. President, we do not have Cassandra's excuse. We can see a fiscal collision coming in fiscal year 1994 and 1995. Here it is for everyone to see. These are not my figures. These are not the figures of the Senate Budget Committee. These are not the figures of the Appropriations Committee. They are the figures of the nonpartisan Congressional Budget Office which is simply giving us a warning: You have a problem, you have to deal with it. We ought to deal with it while we have the power to do so.

The B-2 has been debated over and over again on this floor. We know its purported weaknesses, and we know its purported strengths, and I am here to say that it has both. It has weaknesses and it has some strengths.

But I tried to put this issue today in a different context, in the context of what the B-2 investment subtracts from our ability to deal with our fiscal problems, and what it will probably subtract from us in our ability to invest in America. This is the context and the priorities that are forced on us by the budget summit agreement, and we ought to welcome that because it makes us make choices. That is all I am asking my colleagues to do today is to make choices.

I came to this floor when the military authorization bill was on the floor, and I indicated to my colleagues then that we could not have all these weapons systems and conform to the budget summit agreement in the out-years without making draconian cuts in personnel, and in the operation and maintenance accounts of the Department of Defense, which nobody wants to do and we ought not to be called upon to do.

When the HUD and independent agencies bill was on the floor, I came here and told my colleagues as much as I would like to have a space station, which I had supported in times past, a portion of which will be made in my own State, we simply could not afford it at this time. We had to assign some priorities. That advice was rejected.

I came to the floor when the energy and water development bill was up. I told my colleagues at that time that we could not have the super collider, as commendable as that project was, because we simply would not be able to meet the caps if we got started down that path. My advice was rejected at that time.

So I come back now and say we have a last chance and let us try to get the defense military appropriations bill to take at least one-half of the load and the problem that we are going to see in 1994 and 1995.

Mr. President, if that is being anticipatory, if that is planning ahead, if

that is trying to avoid a fiscal train wreck, then I plead guilty, because that is precisely what this whole amendment is about.

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

The PRESIDING OFFICER. The Senator has 16 minutes, 30 seconds.

Mr. SASSER. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator has 15 minutes, 30 seconds.

Mr. INOUE. Mr. President, I am pleased to yield 5 minutes to the Senator from Texas [Mr. GRAMM].

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for yielding time to me.

There are two relevant points on this amendment. One has to do with the argument about the bow wave on the budget. The other has to do with the need for the B-2 and SDI. This amendment is fundamentally wrong on both those points.

Let me start with the budget bow wave. First of all, whenever we are looking down the road to see how much money we are going to spend, we are doing the Lord's work. We do not do it enough. But I am struck by an incredible paradox: Here we are, when we have already cut defense by 25 percent over a 5-year period, when defense spending is actually \$15 billion less in this bill than we spent last year, when we have a 9-percent real cut in defense in 1 year with this bill, when every other appropriations bill is up in dollar terms, talking about a bow wave problem in the future with exploding spending and cutting the one bill that is actually declining.

If we have a bow wave, it is in the nondefense budget where there have been no cuts. In fact, we not only have spent the increases that are allowed, but we have cheated by spending \$5 billion to create new programs that go into effect on the last day of the fiscal year, creating exactly the problem that the Senator from Tennessee is talking about.

The second issue is: Do we need SDI and do we need the B-2? Even if we were going to cut defense by 50 percent next year, I argue that we desperately need SDI and we desperately need the B-2. No rational defense bill, even with a 50-percent cut, would eliminate them.

I ask my colleagues, in this time of euphoria when our colleague from Tennessee tells us that the superpower we defended against is no more, I would like to know what happened to all those nuclear weapons. Did they evaporate? Are they gone? Have they been given to us? Have they been destroyed?

The answer to all those things is no. There is one overriding threat to the

security of the United States of America, and that threat today is not conventional force. There is no conventional force on the face of the Earth that represents any peril to the United States of America, none whatsoever.

The one underlying threat to the security of this country and the life of our people is an intercontinental ballistic missile. The Soviet Union has thousands of them, and I think one of the concerns we must have is that if the Soviet Union follows the pattern that China did, with the collapse of the emperor and break up into warring factions under warlords, we have a very real threat of being blackmailed by nuclear weapons. If that happens, we have to have SDI and we have to have the B-2 to go in and destroy mobile missiles.

The second threat is a subset of the first. The second real threat that faces America today and threatens our lives is that with the development of missiles, somebody like Saddam Hussein is going to have a missile which will reach the United States of America. We should not now be cutting funds for SDI. What happened in Israel ought to be a stern lesson to all of us. The one weapon that can go in, penetrate airspace, locate missiles, and destroy them is the B-2.

So, Mr. President, first of all, if you are interested in cutting the budget, you need to look at nondefense spending, not defense spending.

Second, if we are going to cut defense, we ought to cut it in the areas where we do not face a real threat. We need B-2, and we need SDI. If we were spending half as much money, I believe we would still be funding both of these programs.

So I urge my colleagues to reject this amendment because, A, the problem it tries to solve does not exist, and B, because we desperately need SDI and the B-2.

I ask my colleagues to imagine 5 or 10 years in the future—or maybe next month—if a republic in the Soviet Union is taken over by a military faction and has mobile rockets. Imagine America being faced with the threat that Israel was faced with during the war in the Middle East. Do we not want some defense of the American homeland? I say, yes, and that is why this amendment should be rejected.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator's 5 minutes has expired.

Mr. INOUE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, I am pleased to yield 3 minutes to the Senator from Washington [Mr. GORTON].

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I think the message we have just received from the Senator from Texas is clear and convincing, and I want only to repeat one portion of that message.

The defense share of our national budget has been cut dramatically in real terms since 1985. It is down \$15 billion in real numbers this year. It is on a program for a 25 percent cut by 1995. Does that mean it is absolutely sacrosanct; that there is nothing we should do about it; that we should not ever debate it again? It does not, Mr. President. But it certainly does mean we should not debate it in this context.

If we are trying to reduce the defense budget by any greater number of dollars, we should, at the very least, have a debate over where our defense priorities should lie, and we should, at the very least, ask the contributions of the Department of Defense and the administration.

I agree totally and completely with the Senator from Texas that the last place in which we should take those cuts is in the very weapons systems which can protect us from the only threat to the security of the United States which remains in existence, and that threat is in the dissolution of the Soviet Union, the uncertain nature of the control over thousands of missiles, the fact that we do not know from 1 day to another what government has authority in a given part of the Soviet Union and what individuals have a part in that government.

To provide for defenses against the single threat against the United States is vitally important to our future. If we are to have additional cuts, they will almost certainly be in manpower. They will be in popular political constituencies such as the National Guard and our Reserve Forces, but they cannot be with respect to the security of the United States either from a threat from a dissolving Soviet Union or the potential of Third World missiles. These are the areas we should concern ourselves with, No. 1.

We should not be engaged in a debate in this Chamber today late in the session after all of the basic decisions on defense have been made and without considering at all how we should cut our defense budget if, indeed, we should cut it below the 25 percent line on which it already finds itself as a result of the budget summit last year.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, the distinguished Senator from Vermont wishes just a couple of minutes, and then I want to yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I will be very brief.

There has been some question, I notice in going around the cloakrooms and outside talking with Senators, about just exactly what this is. Senator COHEN and I and others have sent "Dear Colleague" letters out on the B-2. This is the B-2 vote. This is it.

I understand the distinguished Senator from Hawaii would make a motion to table, or somebody on his behalf would make a motion to table. In case anybody is wondering, if you have taken a position for or against the B-2 bomber, this will be the B-2 vote.

I yield back to the Senator from Tennessee.

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

The PRESIDING OFFICER. The Senator has 15 minutes 27 seconds.

Mr. SASSER. Mr. President, I yield 5 minutes, if I may, to the distinguished Senator from Washington, and then I would like to yield to the majority leader.

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

Mr. ADAMS. Mr. President, I would like to thank my colleague from Tennessee for his amendment. This amendment not only makes important changes in our military structure, but provides us with an opportunity to re-examine our Nation's priorities at a critical juncture in modern history. With the national debt hovering near \$3.7 trillion, and a deficit close to \$300 billion, this opportunity comes none too soon.

As George Bush is so fond of saying, there is a new world order. If we are going to take a leadership position in this new world order, we need to begin to take care of our own, by reducing the deficit, investing in our infrastructure, and funding essential domestic programs like housing and education. Leadership in a new world order cannot be based on old world policies and attitudes.

This body not only has a legitimate desire but a responsibility to protect the American people from foreign military threats. Let me say, unequivocally, that I share that desire. But where, I ask would ask my colleagues, does this protection start? Do we begin by protecting against the remote threat of an intercontinental ballistic missile attack? Or do we work to cut the deficit and focus on the essential services that have and will continue to provide the backbone of our nation?

With the changes we face internationally, and the national deficit we face at home, we cannot do both. Our debt is hurting us, badly and across the board. We do not have the resources to address our most pressing domestic programs, or deal with our gridlock. By cutting the debt, we pave the way towards protecting the rights held most sacred to the people of this Nation, like a woman's right to feed her children and the right of all Americans to adequate housing and education. Furthermore, scrimping on education and other fundamental programs, not to mention critical technological research and development, is killing our international strength and competitiveness.

For the future, these problems can only get worse.

If we are to address the domestic priorities that all of the Members of this body profess to want to address, we cannot afford a 50-percent increase in SDI spending from last years level, and we cannot continue to pour billions of dollars into B-2 production. This amendment would allow us to achieve savings of \$25.7 billion through 1995. These savings, which my colleague from Tennessee has addressed so eloquently here today, will reduce the deficit and protect the kinds of programs that will ensure a leadership position for this Nation into the future.

In fiscal years 1994 and 1995, domestic, international and defense spending will be lumped together under a single discretionary spending cap. As a result, programs under each of spending categories will begin to compete for fund. The Congressional Budget Office has confirmed that spending under each of these caps, taken together and permitted to grow at baseline from their fiscal 1993 levels will substantially exceed the budget cap for fiscal years 1994 and 1995.

On the surface, the amendment addresses three defense programs which cry out for reexamination: the B-2 bomber program, the strategic defense initiative, and the MX rail garrison missile. However, a number of my colleagues have addressed the specific merits of these programs, in great detail and with greater eloquence, and I will not add to that debate.

What I am talking about here is the changing nature of the international environment and the direction we as a Nation should take to best meet those changes now and into the future. Simply put, the people of this country, and our international position and competitiveness, depend on the long-term financial health of the United States.

Given this fact, I am not prepared to commit myself, nor more importantly the budget of the U.S. Government, to full production of the B-2 at this time; \$30.8 billion have already been spent on the bomber, and we have very little to show for that incredible investment. As the world's largest debtor Nation we cannot afford to go ahead with the Air Force's plan to buy 75 of these planes at a total cost of \$65 billion.

Nor am I prepared to keep pouring money into SDI, a program which has already absorbed a staggering \$20 billion into SDI research and development. I am astounded by the amount of additional moneys which have been authorized for an SDI system which could, if expanded along the guidelines set forth by the committee, rival the original SDI proposal. It is incumbent on this body to cut this proposal. This amendment offers an exceptional compromise that will ensure protection that is fiscally sound.

Let's work realistically toward a limited, single-site defense system that

will not throw the ABM treaty to the wind. Let's limit the B-2 to the 15 airplanes already authorized and terminate the remainder of the program. Let's put the MX on the shelf, where it is headed anyhow whether or not we put it in a new train. Finally, let's begin to allocate the resources that our current domestic crises are crying out for.

When my constituents in Washington State ask me, and they do ask me in hundreds and sometimes thousands of letters and phonecalls each day, why their schools are underfunded and why their health care and other benefits have been cut off, they don't want to hear about the national debt and the threat of the "Evil Empire." They want to know what I am doing to help them and to help the country. This amendment, which I support wholeheartedly, helps us to reexamine our priorities, cut the deficit, and help the people and the country prepare for the modern world.

The "Evil Empire," such a long-standing and convenient rationale for big-ticket military items, no longer exists. Our economy and deficit, as a result of our competition with the Soviet Union for military superiority, are in shambles. The amendment offered by my colleague Senator SASSER is not only a positive but critical step toward bringing this Nation in line with current events and leading the world in the future. The new realities of the real world in which we live demands an honest and prudent assessment of our actual defense needs. This amendment puts us firmly on course in the proper direction. I urge my colleagues to support this important measure.

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

The PRESIDING OFFICER. The Senator has 10 minutes remaining, and the Senator from Hawaii has 6 minutes and 59 seconds.

Mr. INOUE. I yield 30 seconds to the Senator from Missouri.

Mr. BOND. Mr. President, throughout the time I have served in this body, Members have been debating whether or not to go forward with the B-2 bomber program. I cannot even remember the number of times we have come to the floor to debate the program and to vote on cancellation. Fortunately, reason has prevailed each time.

The arguments that B-2 opponents have raised have changed over the years as opponents attempt to find the one silver bullet that will finally kill the program. At first, of course, we heard that we could not afford the B-2—that it was just simply too expensive to deploy. Then we were told that we do not need the plane because other weapons such as cruise missiles, ballistic missiles and older bombers would do just fine. After that the argument focused on the fact that the world has changed and that the role of the B-2

has been eliminated. And now we are being told that will not work—that it will not live up to its stealth claims.

Mr. President, I think it is worth taking a few minutes to examine these arguments and explore how they hold up to the facts.

First, can we afford the B-2?

There is no denying the fact that the B-2 is an expensive weapon—the most expensive single aircraft to be deployed in our history. It is not, however, the most expensive program now planned by the Pentagon—the advanced tactical fighter, for example, will cost much more.

Further, when compared to the costs of past strategic bombers, the B-2 is not out of line. As a percentage of the total defense budget, the cost of the B-2 is less than the cost of the B-1B; and it similar to the cost of the B-52.

It is also important to keep in mind that the Government has caused much of the price increase through constant changes in budgeting as well as the decision to reduce the size of the aircraft buy.

More important, however, in considering the cost of the B-2 program is to take into account what we will get for our investment. When we do that it is clear that the B-2 will save not only countless dollars, but lives as well.

The main role of the B-2 will be to serve as a deterrent—not only to whomever ends up controlling the tens of thousands of nuclear weapons now aimed at our Nation, but also to the Saddam Husseins and Mu'ammar Qadhafis of the world who might be tempted to strike the United States or its allies. If only one conflict is avoided because an aggressor fears retaliation by U.S. B-2's, then our investment will have been worthwhile.

If, however, we are forced to use these planes in combat; and history teaches that we are likely to have to do so—whether it is to stop a Saddam Hussein from overturning a defenseless neighbor or to put a stop to the terrorist attacks of a Mu'ammar Qadhafi or to protect the United States against a full-scale nuclear attack—then our investment in the B-2 will be proven even further.

We have all seen the charts that have been presented by Air Force briefers showing how two B-2 could be used to replace the 75 aircraft now needed for a conventional air strike or even the 10 aircraft needed for an F-117 strike. The savings in operations and maintenance of the B-2's is reason enough for procuring them. More important, however, is the fact that dozens fewer servicemen and women would have to put their lives at risk if we had the B-2 available. That is where the real savings are realized.

A second argument that we hear in support of terminating the B-2 program is that we can perform its mission with other weapons—we can meet

our nuclear needs by using submarines and missiles, and we can meet our conventional needs with cruise missiles and older bombers.

This simply is not the case.

Our nuclear missile and submarine forces are critical. In fact, I would argue that our submarine force is really the backbone of our nuclear arsenal. However, it would be a mistake to give up the ability to deploy a manned, recallable nuclear component. And that is what we will be doing if we vote for this amendment. Our B-52's are approaching retirement age and that leaves only a very small B-1 force.

On the conventional side, weapons such as the Tomahawk cruise missile proved that they play a critical role in our defense operations, but they are not suitable for all missions. For example, there would be no way to deploy a cruise missile—which must be preprogrammed prior to launch—to attack mobile missile platforms such as those used by Iraq to launch Scuds against Israel and Saudi Arabia.

We proved the versatility of stealth in the gulf war. The F-117 was the star of that conflict. Other weapons such as the Tomahawk are important, but they cannot be relied upon to fulfill all missions.

A third argument that we are hearing more and more in the wake of the failed coup in the Soviet Union, is that the changed world situation has obviated the need for the B-2—that with the demise of the Soviet Union, we no longer need a stealthy, long-range bomber.

That, I would argue, is shortsighted and dangerous thinking.

If anything, Mr. President, the breakup of the Soviet Union and other changes that we are seeing throughout the world increase the need for the B-2. The end of the cold war, though a major victory for the United States and the West, means it is more not less likely that we will be faced with conflicts around the globe. The gulf war is the perfect example of the type of unexpected conflict we could face at any time, and the changes in Eastern Europe and the Soviet Union greatly increase the number of possible flashpoints.

The United States, as the only remaining superpower in the world, will need to be prepared to deal with these conflicts when they arise, and the B-2 bomber is one weapon that is well suited for responding.

In the gulf, we were fortunate that a network of high-quality airbases and ports were available to our Air Force and that our aircraft carriers could get close enough to join in the battle. We were lucky that time. Unfortunately, we are unlikely to be so lucky in the future.

Our network of overseas bases is constantly shrinking. The recent loss of Clark Air Base in the Philippines and

the likely loss of Subic Naval Station as well, are just the most recent illustrations of this problem. Furthermore, the problems the Navy is experiencing in deploying a new attack aircraft throw into question the ability of our aircraft carrier fleet to serve as the sole platform for projecting air power around the world.

What this means is that we need a long-range bomber that can be deployed from the United States or its territories, evade the sophisticated air defense networks that many Third World nations now have, drop its bombs and return to base.

The B-2 is that aircraft.

Finally, Mr. President, in the past week we have had to endure countless calls for cancellation of the B-2 because of a shortfall in one low observable test recently. The short answer to this argument is, baloney.

The B-2, unlike many procurement programs, has and will continue to undergo extensive testing on all aspects of its performance. It is safe to say that the B-2 is the most tested aircraft in history.

The test in question was just one in a long line of ongoing tests, all of which have been met without problem. Many of us attended classified briefings last week in which senior Pentagon officials explained to us just how insignificant the shortfall is.

The bottom line is that the B-2 is the stealthiest airplane that has ever been built by a wide margin. To argue otherwise is simply disingenuous. The report on the recent test was simply an example of the Air Force attempting to be responsible by keeping us advised on an ongoing program. For us to over react and blow the issue far out of proportion is truly irresponsible.

I will end my comments here because I know that many more of my colleagues wish to speak on this issue. We should reject this amendment. The Appropriations Committee, under the excellent leadership of the Senator from Hawaii and the Senator from Alaska has crafted a compromise that ensures we will have an opportunity to consider this issue again before procurement continues, and there is simply no reason to rush to act today. The consequences of a mistake are just too great.

I hope Senators will cut through the obvious political posturing that is taking place in this debate and instead consider the critical underlying national security issues at stake in this debate. If they do so, there is no question that they will oppose the amendment before us.

Mr. President, stealth worked. The B-2 is the stealthiest aircraft. It is our best deterrent and it will be our best conventional weapons against another terrorist like Saddam Hussein or a Mu'ammarr Qadhafi.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, is there anyone, I ask the distinguished chairman of the Defense Appropriations Committee, who wishes to speak?

Mr. INOUE. Mr. President, I yield 5 minutes to the Senator from California [Mr. SEYMOUR].

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

Mr. SEYMOUR. Thank you, Mr. President. My thanks to the distinguished chairman.

Mr. President, I rise in opposition to the pending amendment to terminate production of the B-2 advanced technology bomber. The distinguished Senator from Vermont reminded us all that this is a vote on the B-2. Mr. President, I remind the Members, my colleagues, that we had that vote. We had the vote on the B-2. We had it barely 6 weeks ago when this Chamber addressed exactly the same amendment during consideration of the Defense Authorization Act. At that time, barely 6 weeks ago, we rejected this amendment on a solid majority vote, 57-42.

So what is new about this issue that would compel the Senate to reconsider it a second time within barely 67 weeks? The answer, Mr. President, is nothing.

Let me mention what has not changed since we spent an entire day debating the future of the B-2 bomber on August 1 of this year.

The B-2 is still the most tested military aircraft in history. Its components, systems, and subsystems have endured more than 868,000 hours, or a century's worth of rigorous testing, the B-2 still gives the American people the most flexible, accurate, and survivable strategic air system ever developed.

Despite wild assertions to the contrary, Mr. President, the B-2 remains affordable.

The President has made this aircraft his top acquisition priority for the Air Force even though the defense budget will decrease by 25 percent over the next 4 years.

The President has made the B-2 the most prominent example of the type of weapons system we can buy now and will need later, precisely at the same time the budget goes down and the threats to the U.S. security change.

In addition, although many of my colleagues do not want to hear the simple economics lesson, it is an indisputable fact that the B-2 will become cheaper if the program goes into full production. Opponents of the B-2 have held the goal of reducing the unit cost of this aircraft hostage to their own rhetoric about phantom billion dollar weapons draining the Treasury and eroding our competitiveness. In fact, Mr. President, the B-2 had made an enduring contribution to the viability of the American aircraft industry, perhaps the sector of our economy most vulnerable to the innovations and competition overseas.

Over 900 new materials and manufacturing processes have emerged from the B-2 production line.

Furthermore, the B-2 heavily depends upon composite materials, a technology that holds the key to the future of America's commercial aviation industry. None of these circumstances have changed in the last few weeks since the Senate last expressed its will on this issue.

Today the proponents of this amendment want Senators to believe that a recent test of the B-2 stealthiness represents an erosion of the aircraft's ability to evade enemy radars and penetrate enemy air defenses. Yet, as we seem obligated to do all too often on this matter, we must plow through the inflated claims to grasp the truth.

No military aircraft ever passes all of its capability tests during the early stages of production and the most recent example of this fact also happened to become the success story of the skies during Operation Desert Storm.

Had we substituted the F-117 tactical stealth fighter for the B-2 in this amendment, the F-117 would never have flown so successfully over Baghdad. Sixty of these aircraft hit 3,000 targets in the Persian Gulf.

Several years ago the Air Force found dramatic differences between the F-117's performance and the initial expectations of its stealthiness. The F-117, representing only 2 percent of all of the air assets used in Operation Desert Storm, eliminated more than one-third of the Iraqi military targets. But once upon a time the Defense Department had to cancel the flight testing program for this system because of defects in its operation.

As Secretary of the Air Force Donald Rice stated just last week in a speech at the Air Force Association:

Though the F-117 test program couldn't be talked about at the time because stealth was revolutionary and shrouded in secrecy, much worse problems occurred in its development. Both prototype vehicles crashed but full-scale development proceeded. The first production aircraft crashed, and all flight testing was halted. What if we had stopped the stealth program back then? The F-117's successes in the skies over Baghdad would never have happened.

To give up the B-2 now would be to give up on the best technology America has created to meet the full spectrum of military threats. None of us wants to enter this Chamber years from now and blame each other for losses in some future Desert Storm war. The risk of this potential tragedy lies in the future, but our capacity to avoid it comes today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I yield 1 minute to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I think it is time for the U.S. Senate to catch up with events, and events in the world are such that the Soviet Union simply is not a threat for which you need a penetrating bomber. It is just not, Mr. President.

The B-2 is not a bomber designed for a conventional role. Can you bomb Panama, or Grenada, or Iraq, or any other imagined country, with the B-2? Sure, you can. But you can also bomb it with that big fleet of B-1's which are supposed to still be able to penetrate the Soviet Union—they were sold to us as that—and with that huge flock of B-52's we have, Mr. President. We can save \$30 billion which is badly needed, if we agree to this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, the distinguished majority leader wishes to speak on this matter, and I do not see him in the Chamber at the moment. If the distinguished chairman of the subcommittee has nobody else to speak, then I will suggest the absence of a quorum while we await the majority leader's arrival.

Mr. LEVIN. Will the Senator withhold that request?

Mr. SASSER. I am pleased to withhold it.

Mr. LEVIN. I am wondering if the floor managers would yield 1 minute to me for a comment and a question?

Mr. INOUE. We have no time.

The PRESIDING OFFICER. The manager has 32 seconds remaining. The proponent has 7 minutes 47 seconds.

Mr. INOUE. I ask unanimous consent for 5 additional minutes, which I will yield to Senator LEVIN.

The PRESIDING OFFICER. The request is for 5 additional minutes.

Is there objection? Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. LEVIN. I wonder if the manager will yield to me for a comment and a question of him and the Republican manager.

Mr. STEVENS. I will be happy to do so.

Mr. INOUE. Please do.

Mr. LEVIN. I am someone who has supported the B-2 in the past. Recently, we were able to add an amendment on the authorization bill that would restrict the obligation of funds unless the B-2 was able to prove, through flight testing, that it could meet certain tests.

However, the announcement recently of its failure to meet a low observability test raised a question as to whether or not meeting that test was included in the prior language. I am afraid that it is not included in the prior language, and so I will be sending an amendment to the desk which would add that requirement, before any of the B-2 funds could be obligated.

I am wondering whether or not the managers of the bill can give me their comments as to whether or not they will support an amendment on this bill which would require that before any funds can be obligated for the procurement of the B-2, that the certification, which is referred to in the proviso in the appropriations bill, contain an assurance that the original radar cross-section performance objectives of the B-2, have been successfully demonstrated from flight testing?

Mr. INOUE. Mr. President, if the Senator will yield, I am, as a Member of the Senate, prepared to accept that. But I cannot speak for every Member here.

Mr. LEVIN. I understand. I am wondering if the Senator from Alaska could comment on whether or not he would support that amendment.

I will also ask Senators NUNN and WARNER, who are not here; I will ask them, privately, whether or not they also can support this amendment. It is a very important question in my deliberation as to whether or not I vote to terminate the program now, or whether or not we wait until a later point when there is that affirmative vote that the appropriations bill provides for to provide for the obligation of this funding.

I wonder if the Senator from Alaska can comment?

Mr. STEVENS. I have the statement by Secretary Rice saying no one is saying the airplane is less stealthy than it was going to be. They ran one flight test, and got a measurement and one element did not show improvement. That is the sum total of the information available.

The Senator is saying we should add to the certification requirements in the Armed Services Committee bill a requirement that says these moneys cannot be spent unless the Secretary certifies that this aircraft would meet 100 percent of the—

The PRESIDING OFFICER. The Senator is advised that the additional time that was agreed to by unanimous consent has now expired.

Mr. STEVENS. I ask unanimous consent for 1 more minute.

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

Mr. STEVENS. Unless the Secretary can certify that it would meet 100 percent of the estimated projected requirements for the ultimate year of its life; is that what the Senator means? If the Senator means that, I will agree to it.

Mr. LEVIN. I understand.

Mr. STEVENS. Does it meet its military objectives as originally outlined in the negotiations that were conducted between the Department of Defense and the contractor in 1981? Then I would agree.

Mr. LEVIN. My amendment is very clear on that point. It says that in

order to obligate these funds without further approval of the Congress, the Secretary would have to give assurance that the original radar cross-section performance objectives of the B-2 bomber have been demonstrated from flight testing.

Mr. STEVENS. I am advised that that is the 1981 approach. I would have no objection. If the Senator is now saying the projections that were made last year now cranked in some new information, then I could not agree.

We are getting very close to really going over a line I do not like to start with, and that is the classification line. But if it is the original objectives the Senator seeks, I am advised that it is acceptable.

The PRESIDING OFFICER. The additional minute has expired.

Mr. LEVIN. I thank the Chair.

The PRESIDING OFFICER. The proponents of the amendment have an additional 7 minutes and 22 seconds.

Mr. SASSER. Mr. President, I yield such time as he may consume to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I have just come from a meeting with Senator DOLE and several other Senators, with the President of the Ukrainian Parliament, President Kravchuk. He spent an hour telling us, forcefully, and in unmistakable terms, that the Ukraine is independent, will be legally and formally independent, and is and will be a separate nation.

He confirmed what we have read and heard, that the Soviet Union, as we have known it for the past three-quarters of century, no longer exists. The second largest of the Soviet republics, with 52 million people, the presence of several hundred nuclear weapons, the industrial and agricultural heart of much of the Soviet Union, is not a part of the Soviet Union, according to the President of that Republic.

Yet here just a few feet from where we met we debate policy as though his words had not been uttered, as though the Ukraine had not previously declared its independence, as though the Soviet Union still exists in the form in which it existed 2, 20, 40 years ago. The most difficult thing for human institutions to do is to change the assumptions on which they act and to change the policies based upon those assumptions.

Continuation with this program as proposed by the proponents of the B-2 program is a continuation of policy based upon assumptions and facts which no longer exist. It is unwise and wasteful in the extreme.

Over the past several months we have heard a lot of debate and there has been a lot of publicity about the base-closing process through which we went, a necessary exercise, although painful to many in this Chamber. I wonder how

many Senators and how many Americans realize that the total net savings, the total net savings for 5 years from all of the base closings in this country will be \$800 million, less than the cost of one B-2 bomber—less than the cost of one B-2 bomber. We are talking about aircraft which now costs \$865 million apiece.

And we are told that 15 are not enough, we must have 75. For what? To penetrate the air space of Uzbekistan? Or penetrate the air space of Armenia? The Soviet Union no longer exists. They are telling us it no longer exists, and the events confirm their words. And we continue with a wasteful policy that will cause the expenditure of some 75 or more billions of dollars at a time when we have desperate needs in our society. The total costs of the elementary and secondary education package, which will shortly be presented to the Senate, is less than \$850 million. Does anyone here believe that the United States will be better off if we have 75 B-2 bombers instead of 74 and devote the cost of one of them to improving schools in our society? I believe to ask the question is to answer it.

All across this world events are occurring at a rapid rate which are changing the reality of the threats which we face, and yet our policy remains as though in a deep freeze, unwilling to let in and consider the reality of the world around us. Those who talk about the budget, those who talk about spending, ought to consider the extraordinary cost of what we are discussing in relation to the perceived benefit. Let us for once let the real world into this Chamber. Let the realities that exist in the world into our deliberations. Let the realities in the Soviet Union be part of our consideration, and let us for once take an action that looks to the future not to the past.

I urge my colleagues to support the amendment of the Senator from Tennessee. Not only is it wise, not only is it right, it has the ultimate benefit, and we all know it, of representing that most uncommon of qualities, common sense. Everybody here knows that we do not need 75 B-2 bombers to penetrate Soviet air space, and everybody here knows that we cannot afford \$75 billion and who knows how many more dollars in the future for this exercise. Even if this amendment is approved, there will be a compliment of 52 B-2 bombers to meet whatever perceived threat exists. Let us get our priorities straight. Let us devote our resources where they are needed. Let us have a strong and secure defense but not a wasteful one. I urge my colleagues to support the distinguished Senator from Tennessee. His amendment makes common sense.

Mr. SASSER. Mr. President, May I inquire how much time is remaining?

The VICE PRESIDENT. The Senator from Tennessee has 4 minutes and 3 seconds.

Mr. SASSER. Mr. President, I express my appreciation to the distinguished majority leader for the very eloquent address he has made to the Senate this evening.

I find it very persuasive, although I might say I was already persuaded, but I have the impression that many of our colleagues who heard it here in this Chamber found it very persuasive.

Mr. SANFORD. Mr. President, since it was first made public in the fall of 1988, the B-2 bomber program has been one of the most controversial issues before the Senate. In the past, I voted for continued development of the B-2 bomber. I did so because I believe that we must have a strong defense; that many useful research results could come from the B-2; and that, if it performed as advertised, it would serve a very important purpose in addressing a Soviet nuclear threat.

However, in voting for the B-2 in the past, I have always expressed strong concerns about the plane's ability to meet the specifications required of it. Indeed, on August 2, 1990, I said on the floor of the Senate that "I may very well by next year have adequate new information to cause me to vote against additional authorization." Well Mr. President, I have adequate new information and the time is now to vote against the B-2.

The progression of events that have led me to this position is clear. While the airplane has gone through an aggressive testing program, it is far from completing its testing schedule. The recent reported failures in the low observable testing have caused me great concern as to the results of further testing. I realize that every test will not be successful. However, I am concerned that there will be substantial costs involved in fixing the problems associated with test failures and that the plane will never function as advertised.

The dual role of the B-2 in a conventional and nuclear conflict were strong points in its favor made by the Air Force. Given that the nuclear role would involve a war with the Soviet Union, it is fair to say that the chances of that happening have been drastically reduced. The B-1 was cancelled in 1977 when the cold war was still hot. That was a wise decision. Unfortunately, the B-1 program was brought back during the Reagan years but has proved such a disappointing failure that even its strongest supporters are now saying the bomber system should have remained cancelled. Are we making a similar mistake here?

The main threat for which the plane was designed has been severely diminished over recent months. We simply cannot afford to spend excessive billions of dollars for a plane which no

longer has a clear mission. The B-2 is expensive and will only get more expensive. Therefore, I will support the amendment offered by the chairman of the Budget Committee, Mr. SASSER, that would save \$16 billion in fiscal years 1994 and 1995 by cutting the B-2, funding SDI with increases for inflation only, and cancelling the MX Rail Garrison Program. I will also support the amendment offered by Senator LEAHY that would halt production of the B-2, leaving us with the full 15 airplanes that are already built or in the pipeline.

The budget agreement adopted last year attempts to limit what we spend by capping categories of spending over a 5-year period. This is the first year we are actually moving through the normal appropriations process, from start to finish, under these caps.

But there is a hitch in the plan. For whatever reason, the cost estimates for defense spending in the outyears of the budget agreement were on the low side. Our defense spending was not put on automatic pilot, and in fact, unless we take some action now to further reduce what is already in the pipeline, we will exceed our capped defense spending by as much as \$100 billion in the last years of the budget agreement. A vote to further reduce defense spending, to avoid breaching this discretionary spending cap, is a vote to live within the budget agreement. If we continue on our current defense spending path, we limit our options in future years. We will either be forced to make very hard choices that will include substantial cuts in active duty military personnel, or we can break the budget agreement and add substantially more to the debt.

We cannot vote to waste money. I believe in spending for defense but not wasting for defense. We are neglecting our children. We need money for so many things. We cannot afford waste.

Mr. President, I am firmly convinced that it is in the best interest of the country to halt the production of the B-2 bomber. While the technical matters surrounding the B-2 are complicated, the concept of getting your money's worth is not. If something is expensive, does not work as advertised, and serves no useful purpose, the American consumer will not buy it. It is a simple concept that should be applied to the B-2.

Mr. DOLE. Mr. President, I commend my colleagues on the Appropriations Committee and particularly the chairman and ranking Republican of the Defense Subcommittee, Senators INOUE and STEVENS, for their hard work and thoughtful consideration in crafting this important bill.

This bill fully recognizes the world in which we live. It recognizes the changes that have occurred in Eastern Europe. It reflects the fiscal realities we face, and respects the budget agreement. But most importantly, this bill

does not entertain wishful thinking—it recognizes the realities of this dangerous and uncertain world.

Ironically, the cold war offered a level of stability that we no longer enjoy. The so-called new world order presents us with even greater challenges because it tests our commitment and vigilance in new ways. We must now maintain our security against undefined contingencies and less certain threats—but threats nonetheless. Thus, I urge caution against any rush to cut U.S. defense dollars in the wake of the postcoup Soviet Union. We cannot know the future. And our actions here today should not be based on a guess or a hope of what might happen tomorrow, or next week, or next year. Our responsibility is to ensure that America is secure against any outcome or any challenge that may arise.

There are those here who assume that the disintegration of communism in the Soviet Union eliminates the need for U.S. strategic programs. Their crystal ball tells them that the future is so secure that we can kill the B-2 bomber, gut SDI, and melt down our defenses.

Well, it seems to me that the case for SDI and the B-2 bomber is stronger now than before the Soviet coup. Developments in the Soviet Union argue clearly and strongly in favor of these systems. To put it very simply, there is more uncertainty now than before. As the Soviet Union decentralizes, we move into a situation in which more than one government in the Soviet Union could share authority over its nuclear weapons. We need to keep in mind that three Republics, in addition to Russia, have strategic weapons on their territory—Byelorussia, Kazakhstan, and the Ukraine. Moreover, should decentralization lead to severe and widespread destabilization, the threat of accidental or unauthorized launches could increase significantly.

Now, I am not trying to create panic, but this evolving and uncertain situation needs to be addressed—in addition to the increasing proliferation of ballistic missiles and nuclear weapons technology around the globe. We simply must have a more flexible deterrent, and we simply must have the ability to defend America against the threat of ballistic missiles.

It seems to me that we have in our reach the insurance policy we need to protect ourselves—namely ballistic missile defenses. We cannot afford to put SDI on the backburner at this time.

These same threats demand that our strategic posture be far more flexible than any time in history. And the B-2 bomber is the only system that can provide that flexibility.

We have debated the merits of the B-2 time and time again. In my view, the

need for the B-2 bomber has not been diminished by the changes in the world. If anything, it has increased.

To be sure, America has domestic needs. But the budget agreement provides for those needs. And it provides for our security in this changing world. I urge my colleagues to reject these transparent attempts to gut our defenses to pay for budget-busting pet programs. And I caution my colleagues not to base their decisions on wishful thinking. The world is not safer—just more uncertain.

Mr. THURMOND. Mr. President, I rise to join those who speak in opposition to the amendment which would terminate the B-2 bomber program.

Mr. President, our Nation is currently reformulating its military strategy. We are doing this not because of our past failures, but because of our recent successes. Communism, along with its expansionist threat, has all but disappeared thanks to this Nation's nuclear deterrence and strong military capabilities. The emerging threat, sometimes unexpected as the conflict in the Persian Gulf, stems from the rise in power of Third World countries. To meet this threat we must adjust our thinking and our military force structure.

The B-2 bomber, whose genesis stemmed from the ever-increasing sophistication of the Soviet air defense systems, will play a major role in this new strategy. The Soviet Union is not the only nation that has modernized its air defense systems—virtually every nation has. Iraq's sophisticated air defense system initially precluded us from using our B-52's. We succeeded in rendering this system useless primarily because of our Stealth technology. Only after the F-117 Stealth fighters knocked out strategic air defense headquarters and communication sites were our conventional fighters and B-52's able to operate in the theater with relative immunity.

Mr. President, as everyone will acknowledge, Operation Desert Storm was a glorious success. A key factor in our success was the fact that our forces had bases available in Saudi Arabia and Turkey. In future conflicts, we may not have the luxury of such bases. We may have to build bases to receive our forces, or in a worst case scenario assault across the beaches. In either case, we will lose precious response time.

Our only option to quickly react to a crisis in these circumstances is the Nation's long range bombers, which devastated the Iraqi forces after the destruction of the Iraqi air defense systems. Currently, our only long range conventional bomber is the B-52, which first flew in the early 1950's and the last of which came off the assembly line in the mid-1960's. The B-52, despite its upgrades and sophisticated electronic jammers, cannot survive the fu-

ture air defense threat—it is very doubtful that any conventional aircraft could.

Mr. President, the only aircraft that will provide this Nation with the capability to deliver conventional bombs, on short notice, over a long distance, with relative immunity is the B-2 bomber. Its proven stealth capability will allow it to penetrate any known air defense systems and deliver a bomb load that exceeds that of any bomber in the free world.

The critics say that the B-2 was not designed for a conventional role and that the Air Force is changing its mission because it no longer has a nuclear role. I say that the critics are wrong on both counts.

Chairman ASPIN of the House Armed Services Committee, which advocated stopping the production of the B-2, stated in a speech to members of the Electronic Industries Association:

Buying the B-2 for conventional missions makes sense. Ten B-2's could have delivered twice the payload of the 42 F-117's we used in the gulf war. That is a total of 160 precision guided 2,000-pound bombs as opposed to the 84 weapons carried by the 42 F-117's. And that is a pretty big silver bullet.

In terms of the nuclear mission I would like to quote from a Rand Corp. briefing on the B-2:

*** given that the lifetime of bombers is about 30 years, it would be foolhardy to assume that deterrence of Soviet nuclear attack need no longer be motivation in our bomber force planning. The Soviet Union remains capable of devastating us with a nuclear attack. The 30-year political outlook for the U.S.S.R. is, to say the least, uncertain.

Mr. President, terminating the B-2 program would deny this Nation the ability to modernize its aging nuclear and conventional bomber fleet. We would enter the next century with a major flaw in our defense posture—the inability to quickly influence a crisis in any part of the globe. In my judgment, neither this Congress nor the American people should condone such a weakness in our Nation's military posture. I urge my colleagues to vote against this amendment and provide continued funding for the B-2 bomber, to protect this great Nation we all love.

Mr. SASSER. Mr. President, I am prepared to yield back the remainder of my time, if the distinguished chairman of the subcommittee is prepared to yield back the remainder of his time.

We yield back our time, Mr. President.

The VICE PRESIDENT. All time is yielded back. The question is on division No. 1 of the amendment of the Senator from Tennessee. The yeas and nays have been ordered.

Mr. INOUE. Mr. President, I move to table.

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

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Hawaii to lay on the table division 1 of the amendment of the Senator from Tennessee. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY], is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—51

Akaka	Durenberger	McConnell
Bentsen	Exon	Murkowski
Bingaman	Fowler	Nickles
Bond	Garn	Nunn
Boren	Gore	Pressler
Brown	Gorton	Robb
Burns	Gramm	Rudman
Chafee	Hatch	Seymour
Coats	Heflin	Shelby
Cochran	Helms	Simpson
Craig	Inouye	Smith
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stevens
Dixon	Levin	Symms
Dodd	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner

NAYS—48

Adams	Graham	Mitchell
Baucus	Grassley	Moynihan
Biden	Harkin	Packwood
Bradley	Hatfield	Pell
Breaux	Hollings	Pryor
Bryan	Jeffords	Reid
Bumpers	Johnston	Riegle
Burdick	Kennedy	Rockefeller
Byrd	Kerry	Roth
Cohen	Kohl	Sanford
Conrad	Lautenberg	Sarbanes
Cranston	Leahy	Sasser
Daschle	Lieberman	Simon
DeConcini	McCain	Wellstone
Ford	Metzenbaum	Wirth
Glenn	Mikulski	Wofford

NOT VOTING—1

Kerrey

So the motion to lay on the table division 1 of amendment No. 1193, as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Senator from Hawaii, the manager of the bill, is recognized.

Mr. INOUE. Mr. President, I move to divide the pending amendment at line 3 of page 2. In other words, dividing SDI and MX.

The VICE PRESIDENT. The Senator has the right to divide the amendment. The request has been made?

Mr. INOUE. I so request it.

The VICE PRESIDENT. The amendment is divided.

The Senate is not in order. Those Senators that desire conversation, please retire from the Chamber. The Senate is not in order.

The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, I ask unanimous consent that section C, that is the SDI provision, be taken up first, and section B, the MX be taken after that.

The VICE PRESIDENT. Is there objection?

Mr. BUMPERS. Reserving the right to object.

The VICE PRESIDENT. The Senator from Arkansas reserves the right to object.

Mr. BUMPERS. I should defer to the Senator from Tennessee. Can the distinguished Senator tell us what the meaning of this is?

Mr. INOUE. We have been advised that this would be the most important amendment, and I was about to propose another unanimous-consent request; that on the SDI, we have a 1-hour debate—it has been cleared by the leadership—equally divided, and on the MX, 30 minutes equally divided.

Mr. BUMPERS. Further inquiring of the Senator, is this the second division of the amendment of the Senator from Tennessee? Is that what we have done?

Mr. INOUE. That is right.

Mr. BUMPERS. I have no objection, Mr. President.

The VICE PRESIDENT. Is there objection?

Mr. EXON. Reserving the right to object.

The VICE PRESIDENT. The Senator from Nebraska reserves the right to object.

Mr. EXON. The motion before the Senate is to divide the issue, or is the motion before the Senate on the time agreements that you just stated?

The VICE PRESIDENT. The issue has already been divided. The unanimous-consent request is to have the SDI vote first.

Mr. INOUE. SDI first, 1 hour equally divided; MX second, half hour equally divided.

Mr. STEVENS. Reserving the right to object.

The VICE PRESIDENT. The Senator from Nebraska reserves the right to object.

Mr. EXON. I do reserve the right to object. I do not know who is controlling time. If the Senator from Nebraska could have 10 minutes on each of these amendments, I would not object.

The VICE PRESIDENT. Is there an objection?

Mr. INOUE. I can assure him 10 minutes.

Mr. SASSER. Reserving the right to object.

The VICE PRESIDENT. There is a unanimous-consent request by the Senator from Hawaii.

Is there objection?

Mr. SASSER. I object, Mr. President.

The VICE PRESIDENT. Objection is heard.

Mr. SASSER. I will withdraw the—

The VICE PRESIDENT. Does the Senator from Tennessee seek recognition?

Mr. SASSER. Yes, I seek recognition.

The VICE PRESIDENT. The Senator from Tennessee is recognized.

Mr. SASSER. Let me propound a question to the Senator from Hawaii. There was confusion around and I could not hear. Is the Senator proposing we debate—the SDI portion of my remaining amendment first?

Mr. INOUE. The Senator is correct.

Mr. SASSER. An hour equally divided.

Mr. INOUE. The Senator is correct.

Mr. SASSER. And then following the disposition of the SDI amendment, we would turn to the rail mobile amendment.

Mr. INOUE. The Senator is correct.

Mr. SASSER. At 30 minutes equally divided on that.

Mr. INOUE. Equally divided.

Mr. SASSER. I have no objection.

Mr. STEVENS. Reserving the right to object, if the Senator from Hawaii will repropose his agreement.

Mr. INOUE. Mr. President, I ask unanimous consent that the SDI amendment, section C, be taken up first, after debate of 1 hour equally divided; following the disposition of that amendment, section B be taken up, the rail garrison MX, 30 minutes discussion equally divided.

Mr. STEVENS. Reserving the right to object.

Mr. DOLE. Mr. President, I have no objection except after the 30 minutes, I understand they are going to debate the second amendment and have that vote in the morning.

Mr. STEVENS. That was my request also. That is the understanding and I want to make sure it is—

Mr. INOUE. I so amend my unanimous-consent request.

Mr. STEVENS. I want it understood the vote on section B would occur tomorrow morning at a time determined by the majority leader.

The VICE PRESIDENT. Is there an objection?

Mr. BUMPERS. Reserving the right to object.

The VICE PRESIDENT. The Senator from Arkansas reserves the right to object.

Mr. BUMPERS. Are we going to vote on SDI tonight and then MX in the morning?

Mr. INOUE. Yes.

Mr. BUMPERS. Are we quitting then, may I ask the majority leader?

Mr. MITCHELL. Mr. President, as I understand the suggestions made in the aggregate by the Senator from Hawaii, the Senator from Alaska, and the distinguished Republican leader, it is

that we have 1-hour debate on SDI and we vote on that.

Mr. STEVENS. On or in relation to it.

Mr. MITCHELL. On or in relation to the SDI amendment, so you can make a motion to table if the Senator so chooses; that there would then ensure 30 minutes of debate on the MX, and the vote on that would occur tomorrow morning at a time to be set by the majority leader following consultation with the managers and the Republican leader. I would expect 10 o'clock would be a reasonable time for that, although I have not discussed it.

Mr. WALLOP. Reserving the right to object and I shall object unless the motion on SDI is to table.

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

The VICE PRESIDENT. Is there objection?

Mr. STEVENS. The way the amendment is drawn, it would not be subject to amendment. The tabling motion is a device which might give us an opportunity to offer another amendment. But I am advised by the Parliamentarian the way the amendment is drawn, it would not be subject to amendment or further debate in any event. But there would be an opportunity to have another amendment to protect our rights. That is the way the amendment is drawn. It is in the second degree.

Mr. WALLOP. Mr. President, I direct the question, there would in fact therefore be an opportunity to amend it?

Mr. STEVENS. Not to amend his amendment but to amend the bill to protect the interest of the parties who seek to preserve this system.

The VICE PRESIDENT. Is there an objection to the unanimous-consent request made by the Senator from Hawaii?

Mr. SYMMS. Reserving the right to object, may I ask a question?

Mr. STEVENS. Parliamentary inquiry, Mr. President, so the Parliamentarian will respond. It is the understanding of the Senator from Alaska that if the motion to table fails, there would be required a vote on the pending amendment but that it is possible to offer a separate amendment to deal with the same issue and reach a different conclusion without the right to amend this amendment.

The VICE PRESIDENT. That opportunity would not be precluded. Is there an objection?

Mr. STEVENS. Again, the Senator wishes to note, and the parliamentary inquiry is, this amendment would not be subject to any further debate and amendment in the event a motion to table fails?

Mr. SYMMS. Reserving the right to object.

The VICE PRESIDENT. The Senator is correct.

Mr. WALLOP. Would the Chair be so forthcoming as to explain why no fur-

ther debate would be permitted after a tabling motion?

Mr. SYMMS. How are the rights of those of us who are for SDI protected if the motion is not—

The VICE PRESIDENT. The Chair would like to respond to the Senator from Wyoming. It is the interpretation of the Chair that would not be allowed under the unanimous-consent request as stated.

Mr. WALLOP. Could the Chair be more specific as to what portion of the unanimous-consent request will require that no further debate be permitted?

Mr. SYMMS. Reserving the right to object.

The VICE PRESIDENT. The interpretation is that when a unanimous-consent agreement like this is agreed to and a motion to table is offered, that when time limit is agreed to, that is the final time limit, and the proposition must therefore be disposed of.

Mr. STEVENS. Another inquiry, please.

Mr. SYMMS. Mr. President, I will object to that.

Mr. STEVENS. May I make an inquiry first?

If this agreement were changed to be an hour equally divided prior to a motion to table this SDI section, would that then be subject to debate following that if the motion was not agreed to?

The VICE PRESIDENT. Yes, it would.

Mr. STEVENS. I ask my friend to make that change.

Mr. INOUE. I so change my unanimous-consent request.

Mr. WALLOP. I withdraw my objection.

Mr. SYMMS. I withdraw my objection.

The VICE PRESIDENT. Is there an objection?

Hearing no objection, it is so ordered. Mr. Leahy addressed the Chair.

The VICE PRESIDENT. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I just note for everybody, on the preceding vote, 51 to 48, it was the vote on the B-2 amendment, again, so there would be no confusion. It is basically the same issue that Senator COHEN and I and Senators MCCAIN, GLENN, and others had brought up before.

I would suggest to my colleagues, without prolonging the debate, that there were far more votes to stop the B-2 today than there were just a few weeks ago. This reflects the extreme concern people of our country have for a program which no longer seems to have a mission but continues to have the same escalating costs.

Mr. INOUE addressed the Chair.

The VICE PRESIDENT. Who yields time? The Senator from Hawaii.

Mr. INOUE. Mr. President, I ask that on this debate the chairman of the Budget Committee and the chairman of

the Defense Appropriations Subcommittee be authorized to allot time.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. INOUE. Mr. President, I am pleased to—

The VICE PRESIDENT. Who yields time?

Mr. INOUE. I yield 4 minutes to the Senator from Mississippi [Mr. COCHRAN].

The VICE PRESIDENT. The Senator from Mississippi [Mr. COCHRAN] is recognized for a total of 4 minutes.

Mr. COCHRAN. Mr. President, I thank the distinguished managers of the bill for yielding time to me on this SDI amendment.

Let me just make a couple of observations. As a member of the Defense Appropriations Subcommittee, I was pleased to see the funding provided in this bill for many of the important aspects of a strategic defense initiative. It seems to me that if we looked at the entire defense appropriations bill and tried to identify the most important part of that bill, we would have to conclude a ballistic missile defense system is the most important. It is clearly essential if we are serious about protecting our Nation's security under the current situation in the world today.

I include in that observation the fact that we have conclusive evidence of a proliferation of ballistic missile systems throughout the world. We know of the manufacture and the exportation of the capability, the technology, to deliver weapons of mass destruction, with warheads, including biological, chemical, even nuclear warheads, over large distances, over distances never before imagined in this hemisphere, as well as in the Middle East and in Asia.

The examples are available to any Senator who would like to have a briefing from the intelligence community about the numbers of countries that are now capable of manufacturing, or acquiring through purchase, Scud-type missiles that were used in the war in the Persian Gulf or other similar systems. They would readily see the need, in order for us to protect ourselves against attacks from such systems, of a ballistic missile defense capability. And we do not now have that capability.

Those who assume the Patriot system is all we need to protect ourselves are, of course, inaccurate and erroneous in that assumption. The fact is we need to take advantage of the emerging technologies we are working on now in the strategic defense initiative research program to help ensure that we have the capability to defend against attacks from those kinds of systems.

If you look at the Soviet Union, which continues to modernize its strategic missile systems, in spite of the changes there that are very encouraging, some of which are caused by the

economic decline and fall of the Soviet system, we are still confronted with a very real threat from intercontinental ballistic missiles against which we have absolutely no defense. The research and development program that is funded in this part of the defense appropriations bill is absolutely critical if we are to develop such a missile defense system.

I hope the Senate will carefully analyze the risk that we take, the jeopardy in which we put our American citizens, if we fail to proceed in a very committed way to look into the research possibilities, to develop and deploy a ballistic missile defense system which fully protects our citizens.

I hope, Mr. President, we will not vote for the Sasser amendment that has been divided on this issue but that we will reject it and say to the American people we take very seriously the obligation we have under the Constitution to provide for the common defense of the United States of America and make sure in so doing we fully explore the technologies that are available for us to deploy a system to achieve that goal.

Mr. MCCAIN addressed the Chair.

The VICE PRESIDENT. Who yields time?

Mr. SASSER addressed the Chair.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield myself 5 minutes.

The VICE PRESIDENT. The Senator is recognized for 5 minutes.

Mr. SASSER. Mr. President, the amendment that is before the Senate this evening would provide \$3.5 billion for ballistic missile defense activities. Now, that is a \$600 million increase over last year. Both this funding level and its allocation would be virtually identical to the amendment offered by the distinguished Senator from Arkansas [Mr. BUMPERS] in his amendment that received 46 votes earlier this year prior to the dramatic developments in the Soviet Union.

The Senator from Arkansas has been a leader in this area, and we simply incorporated his amendment into our overall amendment before it was divided earlier this evening.

Now, the \$3.5 billion is identical to the amount provided by the House in its defense authorization and appropriations bills.

The SDI funding level contained in this amendment would be sufficient to provide for a robust research program on so-called limited ground-based anti-ballistic missile systems. That is the system which has been touted in this Chamber at great length by the chairman and ranking member of the Armed Services Committee.

The committee's recommended level of \$4.6 billion represents a 50-percent—50-percent—increase over last year's level. Now, such an increase is un-

matched in any other area of the budget and completely unjustified in light of fiscal and international realities. Fiscally, we face a \$348 billion deficit and a budget agreement that is placing ever tightening constraints on discretionary spending. This is precisely the kind of program I have been talking about all day long. We have to start assigning some priorities.

Unless we can do that, I do not see how Senators can go home and make their speeches to the Rotary Club and say how much they detest these large budget deficits and talk about how they want to do something about them, and then come along and vote for every one of these large programs, knowing full well the outyears are going to enlarge the deficit and break the budget summit agreement caps.

Now, let us look at where we are in world history at the present time. There has been a collapse of the Warsaw Pact. There is no question about it. The Soviet Union is gone and there is a greatly reduced likelihood of Soviet attack with ballistic missiles.

The Congress must rank the threats that face this country in the order of the relative dangers they pose for this Nation.

How, I ask you seriously, does the threat of a rogue missile attack from the President of the Ukraine, the President of Uzbekistan match the threat of the decay in the inner cities in this country where you cannot walk the streets in safety, where criminals control some of the streets of the greatest cities in the country? That is where the threat is. Or how about the collapsing roadways, bridges? Are we serious that the possibility of a missile from Libya, from Pakistan, from North Korea, really weighs equally in the balance with the dangers caused by cancer-causing pollutants in our environment, by crime in our neighborhoods, by a health care system that is bankrupting the people of this country?

Those are the dangers that are threatening not only our Government but they are threatening our very culture, our very democracy. Under these circumstances, I do not see how we can justify the nearly 20-percent increase that my amendment provides for for SDI, let alone the 50-percent increase requested by the committee bill.

Mr. President, the distinguished senior Senator from Arkansas knows much more about this subject and this weapons system than I. So at the appropriate time, I will defer to him, and I will yield the floor at this juncture.

The VICE PRESIDENT. Who yields time?

Several Senators addressed the Chair.

Mr. INOUE. Mr. President, I yield 2 minutes to the Senator from Arizona.

The VICE PRESIDENT. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, this issue has been debated for many years

at great length. I am just going to take 2 minutes.

I think it is important to respond to the statement just made by the Senator from Tennessee who said that he had no concern about Pakistan or North Korea launching a missile.

He should be worried, Mr. President. He should be deeply concerned because North Korea, Pakistan, India, Syria, and Iraq all have had those capabilities. And he should be deeply concerned because there are American troops within range of the missile capability that they have, and the nuclear warheads that they either have developed or are in danger of developing.

So I hope the Senator from Tennessee would be deeply concerned, and I will be glad to give him the information, including the latest that we found out about how very, very close Iraq was to the acquisition of a nuclear weapon which they could have put on a Scud missile. That would have changed the entire Persian Gulf war.

So I am sorry that the Senator from Tennessee is so ill informed on this issue about whether the—

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

Mr. MCCAIN. I would like to continue.

The VICE PRESIDENT. The Senator from Arizona has the floor.

Mr. MCCAIN. Mr. President, I am sorry the Senator from Tennessee is so ill informed about the greatest threat to world peace that exists today, the proliferation of weapons of mass destruction and the means to deliver them.

I would be more than happy to provide the Senator from Tennessee with the information that leads us to be convinced of the gravity and the absolute criticality that we have to devote our efforts on two tracks. One addresses the issue of proliferation, by exposure, by sanctions, and by elimination of the weapons of mass destruction, weapons of mass destruction and the means to deliver them; and have a viable defense so that we can protect American citizens, wherever they are throughout the world, including our fighting men and women who are deployed throughout the globe.

So I appreciate the Senator's concern about poverty, about crime in the streets, about homelessness, and all of those other issues.

By the way, we have heard for years and years of those who wanted to cut the defense budget—during the entire last decade. But the Senator should also be very concerned about the threat, the threat, the real one, that exists today of nuclear weapons of mass destruction and the means to deliver them.

I hope the Senator will take the time to gain the appropriate information on that issue.

Mr. President, I believe my time has expired.

The VICE PRESIDENT. Who yields time?

Mr. INOUE. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The VICE PRESIDENT. The Senator from Wyoming is recognized for 5 minutes.

Mr. WALLOP. Mr. President, I thank the Senator from Hawaii.

Mr. President, one of the most disheartening things about debates on the national interest is how little truly accurate information bothers to intrude itself on the process.

We have heard from the chairman of the Budget Committee essentially what amounts to disinformation about the threat to America, and about the capability that the United States has developed to confront those threats.

One of the things that Americans have told themselves, always promised themselves, is that whatever else the Soviets were, they were not irrational; they would not do anything foolish.

Now we find at the end of the coup that the coup plotters were themselves so intoxicated they could not make rational decisions. And only because the missile forces commanders had not engaged in this coup were the launch codes available to President Gorbachev, and not available to the coup plotters. Only because of that. That is too thin a margin of safety to pin the future of a nation on.

General Powell, Chairman of the Joint Chiefs, on September 22 of this year, I say to my friend, was asked this question in San Diego:

Do you believe it is safe now to assume that the Soviet threat is gone forever?

General Powell answered:

I feel threatened when somebody has capability and the intent to use that capability. What I have seen happen in the Soviet Union is that the intent has gone very far down, almost to nil. They want to be our friends. They're reaching out in ways that were unimaginable until recently.

At the same time, however, they have a large military capability. Their Armed Forces are more than 3 million men strong. They have nuclear weapons that can destroy the United States in 30 minutes. They still have five brand new strategic weapons under development. Our responsibility is not to make judgments about intent, but about capability, and to make sure that we are never in an inferior position.

My statement to the Senate is that the chairman of the Budget Committee is making certain that we will always be in an inferior position.

The Senator from Arizona was also absolutely correct in saying that the only things that threaten Americans now, really and truly, are proliferating missiles of nuclear capability, and the capability to deliver them.

What happens when we put together a defense bill? For the first time, the Senate has gotten to the point where it has admitted that it is in the interest of America to deploy missile defenses.

I have quarrels with some of the constraints that we put on that. For in-

stance, we would protect Americans if there is an accident. And we would protect Americans if the Third World launches a missile; God forbid that Saddam Hussein would kill an American. And we would protect Americans if the launch is unauthorized, though who is going to verify the authority of whoever ordered the launch while those missiles are coming is beyond this Senator. But the one thing we will not do is to protect people from threats that are delivered to us on purpose by the Soviet Union.

What the Senator from Tennessee is seeking to do is to make certain that we cannot protect ourselves even from the most minimal of those threats, or the most likely events to take place, the threat of the proliferation of missiles of nuclear capability in the Third World.

So what he will do is waste the technological advances that have come so far. How is it possible for any Member of this Senate to go to an American in his home and say: "We know how to protect you, but we have just made the decision that you are not worth protecting"?

That, in effect, is the consequence of the amendment that is offered to us. Knowing how to protect Americans, we are still about to tell them that we have made a decision that it is in their interest not to be protected; that it is somehow in their interest, because our wisdom says that even though an enemy can hit you with these missiles if we do not defend against them, we will allow you to carry that threat unopposed; we will allow you, Americans, to be shot at at will by people who possess these capabilities because somehow or another it makes you safer to be vulnerable to missile shots than to be protected from them. Somehow or another, money spent instead for a domestic agenda will make you much happier, even though you are at a greater risk.

Mr. President, I thank the Chair.

The VICE PRESIDENT. Who yields time?

Mr. BUMPERS addressed the Chair.

The VICE PRESIDENT. Who yields to the Senator?

Mr. INOUE. May I, in behalf of the Senator from Tennessee, yield whatever time he needs?

Mr. BUMPERS. Mr. President, Senator SASSER has left the floor, and asked me to control the time on this side. I ask unanimous consent that I be given permission to control the time while Senator SASSER is off the floor.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, how much time do the proponents of the amendment have?

The VICE PRESIDENT. Exactly 24 minutes, 26 seconds.

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

The VICE PRESIDENT. The Senator is recognized for 10 minutes.

Mr. BUMPER. Mr. President, this evening after the vote on the B-2, which was very close—it would have been closer if Senator KERREY had been here—49 to 51—I keep thinking about how bizarre, in this Senator's mind, this debate has become.

I was personally, and I think most of the world was, immensely gratified when the coup failed in the Soviet Union. All I could think about was how, if they democratize, if this thing goes well, it could save this country hundreds of billions of dollars over the next several years in defense spending. And now, all of a sudden, we hear what an ominous thing the coup is. We not only get no benefit; we have to prepare because the Soviet Union has shown itself to be so unstable.

Nobody is suggesting that this country unilaterally disarm. We are taking a page from the President's book when he said there is a new world order. That is what the President said, and the President said that before the coup.

I hear all these sorts of diversions and distractions about the Third World threat. I can tell you that, by the turn of the century, nobody outside of Israel, Brazil, and India would threaten this Nation with an ICBM. Who here believes that Brazil, or India, or Israel is going to be a threat to this country around the turn of the century?

Then I hear about these short-range missiles. General Monahan testified before this subcommittee in response to a question from Senator HARKIN as to whether a space-based interceptor system would be effective against a short-range missile. General Monahan said, no; Brilliant Pebbles, for example, is not effective against short-range missiles.

You know who the short-range missiles could affect—our allies in Europe. And they are not even asking up to go through with this. On the contrary, their primary concern has been the abolition, the violation of the ABM Treaty. And they are the ones who suffer the possible threat of short-range missiles.

Mr. President, let me make this crystal clear before I go any further. I favor a limited SDI. But having said that, I do not believe that we ought to give the family jewels away to build it, when it is not effective against the intercontinental bombers; it is not effective against cruise missiles; it is not effective against depressed trajectory missiles; it is not effective against the plane of a terrorist flying out of Cuba; it is not effective against the clandestinely introduced nuclear device concealed in this country, concealed in a bale of marijuana.

Why would we embark on something that could cost hundreds of billions of dollars, a system that is totally ineffective against many of those systems?

And try as we might, I have never been able to get the Defense Department to tell us how they are going to deal with that threat. We only talk about missiles coming in from outer space. As the Senator from New York [Mr. MOYNIHAN] said, we never debate those missiles coming under the Brooklyn Bridge and, believe you me, a cruise missile with a 50-kiloton warhead will ruin your whole afternoon. The Soviet Union has hundreds of them on aircraft platforms, navy platforms. They can hit any coastal city in the United States. As a matter of fact, they can almost cover the entire continental United States and SDI is worthless against them.

Yet, we go headlong jeopardizing the future of this country with a debt that continues to soar. We all remember when Jimmy Carter was practically ready to be impeached, because it looked as though his deficit was going to run \$50 billion. Well, the world was up in arms. The day before yesterday, the Post and the Times reports that this year's deficit is going to approach \$300 billion.

Mr. STEVENS. Will the Senator yield for 1 second?

Mr. BUMPER. One second. It is up.

Mr. STEVENS. Does the Senator realize that what he has just said is not correct—that the defenses against cruise missiles as part of the missile defense system, which is part of—

Mr. BUMPER. A theater missile defense system, Mr. President.

Mr. STEVENS. It is in SDI. It is cut by this figure.

Mr. BUMPER. Is the Senator telling me that the Patriot is good against the cruise missile?

Mr. STEVENS. A super Patriot might be, yes.

Mr. BUMPER. SDI might be effective against it some day. But I am talking about right now. I am talking about what we spent in the past several years. We have spent over \$24 billion. Do you know where we are? Almost where we started. In 1984, \$1.2 billion; 1985, \$1.6 billion; 1986, \$2.9 billion; 1987, \$3.7 billion; 1988, \$3.9 billion; 1989, \$3.95 billion; 1990, \$3.8 billion; 1991, \$3.1 billion; 1992, if this amendment fails, \$4.6 billion.

You tell me what our technology is. I will tell you about the ones we tried that have failed. There were the early warning satellites, BSTS, and I do not know how many billions spent, which has been dropped; the space-based interceptor has been dropped in favor of Brilliant Pebbles. And the Defense Science Board 2 years ago said Brilliant Pebbles is so risky, we ought to hold onto the space-based interceptor for a couple more years. The SDI office ignored that. The midcourse sensor satellites, SSTS's which would try to pick out the real warheads from the millions of decoys, that it could very well have to sort out, is gone, after

many millions being spent on it. The command control communication systems are being changed, because Brilliant Pebbles relies on different systems.

The only system, Mr. President, that still is in SDI that was there in 1988 is the ground-based interceptor missile, and that has undergone two major conceptual changes since 1988. Brilliant Pebbles did not even exist in the middle of 1988. It was just hinted at in June 1988.

Now it is the rhetorical centerpiece of SDI. This is the same Brilliant Pebbles that General Monahan, head of SDIO, head of the whole Strategic Defense Initiative Office, said: It is not even a weapon. It was just a concept 2 years ago.

Even Doctors Edward Teller and Gregory Canavan state in a paper in an English journal, *Nature*, a good publication—I get that in my house and recommend it to you—Brilliant Pebbles may be vulnerable to nuclear ASAT's, that the Brilliant Pebbles might need their own decoys.

Let me ask you this.

Mr. WARNER. At some point will the Senator entertain a question?

Mr. BUMPER. Let me finish the statement and I will be glad to.

SAM NUNN, our distinguished colleague from Georgia, told the Washington Post last year, "I see the Brilliant Pebbles as a program, as a program in search of some kind of rationale."

I will tell Senator NUNN this, you cannot kill it. You cannot kill anything around here. And next year the deficit is not going to be \$300 billion, the deficit is going to be \$362 billion and headed north. You cannot do anything about it around here.

These things take on a life of their own.

I yield myself 5 additional minutes.

The VICE PRESIDENT. The Senator is recognized for an additional 5 minutes.

Mr. BUMPER. I have been supporting Secretary Cheney on the V-22. I am a marine, the Senator from Virginia is a marine, and the Senator from Tennessee is a marine. The Marine Corps wants the Osprey worse than they want to go to heaven. I want to support them. But I was so proud of Dick Cheney when he found something he could unilaterally do, I supported him.

People, especially on this side of the aisle, often browbeat him because they cannot kill anything. Lord knows, we cannot kill anything here. I applauded him when he killed the A-12. And, frankly, I thought he was wrong about the Osprey, but I voted with him just to prove that he had some support over here if he was willing to bite the bullet and occasionally try to cut something over there.

Mr. President, here we have spent \$25 billion on SDI, and we are back virtually at square one. I do not know

what it takes. I will submit this: I made a statement this afternoon, Mr. President. I am sort of proud that I thought of it because I thought it was so appropriate, about how Harry Truman used to take polls, not for the benefit of trying to figure out how to vote, but to figure out how much work he had to do to bring the American people along.

I think it was Arthur Vandenberg. When the President said we are going to spend \$18 billion to rebuild Europe, Arthur Vandenberg said, "You are out of your cotton-picking mind. You are asking the taxpayers of America to put up \$18 billion to rebuild, for example, Germany and Italy who have just killed hundreds of thousands of fine American young men?"

Harry Truman said, "That is exactly what I am saying. And if we do not do it, all of Western Europe is going to go Communist."

Do you think about the courage it took to do that? And he did not go out and throw his finger up in the wind and take a poll to find out how this would sit with the American people. He did it because he was absolutely convinced it was essential, essential to peace and stability in the world. And Arthur Vandenberg saw the light and joined him, and that was the sort of the beginning of the bipartisan foreign policy in this country which we have largely pursued since then.

Today we take polls, to say are we spending more or less, or about the right amount on defense? And back in your Cloakroom and back in my Cloakroom you hear people cite these polls. I saw a poll where 64 percent of the American people want this. That is tantamount to getting the vote, I can tell you.

So, Mr. President, I reiterate what I said this afternoon. We are not debating the entire \$291 billion defense bill here. We have been debating 2 percent of it. I am going to vote for the bill. The debate all day long, including this debate, deals with less than 2 percent of the defense budget.

People say we are weak on defense. We are not committed to a strong defense. I am not only committed to a strong defense, I have another ace in the hole. I am committed to a sensible, strong defense, the biggest bang for the buck. Do not waste anything you do not need, and spend every dime you have to spend to protect your interest.

The Soviet Union is in disarray, could not fight their way out of a paper bag admittedly. Nobody is going to suggest unilateral disarmament or letting our guard down because there is instability in the Soviet Union. But that is no excuse to continue telling my 2-year-old grandson, "We are going to saddle you with a debt that will guarantee you live in a Third World nation."

That is what we continue to do here. And it is as Russell Long used to say

on taxation: "Do not tax me; do not tax thee, tax that man behind the tree." Around here it is, do not cut SDI, do not cut the B-2, cut something else. So, we go merrily along not cutting anything and saddling this country with an apocalyptic future.

Here is a chance to do something. There is a mentality developed around here because of the magnitude of the deficits, \$300 billion in the year ending this month, \$362 billion next year, and people say what is a billion dollars? With a deficit of \$300 billion what is \$1 billion?

Well, as old Everett Dirksen used to say, it is a pretty good piece of change. Here is a chance to at least say to the American people we have not lost all of our faculties, we are taking \$1 billion out of a \$4.6 billion budget.

Do you think the SDIO Program is going to suffer because we cut them from \$4½ to \$3½ billion? Of course you do not.

I yield the floor, Mr. President.

THE VICE PRESIDENT. Who yields time?

Mr. INOUE. Mr. President, I yield 3 minutes to the Senator from Virginia.

THE VICE PRESIDENT. The Senator from Virginia is recognized for 3 minutes.

Mr. WARNER. Mr. President, I would like to reply to my distinguished colleague. Many times we have gone toe to toe on this floor. I want to ask him a question but I want to lay a foundation.

He mentioned polls. Does the Senator realize that in 1987 a reputable polling company, at the request of the Committee on Present Danger, which is recognized by all of us as being one that is authoritative and reputable, ran the following questions to the American public: I would like to ask the Senator some questions about defense.

This is May 11, 1987, pages 11962-11963 of the CONGRESSIONAL RECORD. "I would like you to tell me if you think the statement is true or false. The United States currently has a system to defend against nuclear missile attack. Do you think that is true or false?" Sixty-four percent said it was true.

The American people tonight think we have in place that system. We do not. The best thing we have tonight is the Patriot System, a system that the Presiding Officer knows well and had a material hand in improving.

I say to my good friend we have been fortunate in this country, indeed throughout Europe and the Western World since the close of World War II, when the Soviet Union acquired this technology to the doctrine of mutual deterrence to avoid any, any firing of a single missile. That doctrine is predicated on the solid foundation that there exist persons in each country that possess those weapons, primarily in the Soviet Union and the United

States, who can sit down and make a rational formulation, a sensible judgment to use or not use these systems, and it has worked.

But we saw in the recent coup where those who seized the reins of government in the Soviet Union for but a brief period at times were totally intoxicated, out of their minds. We saw that some of those people not only were out of their minds, they blew their minds away and committed suicide.

I say to my friend the doctrine of mutual deterrence learned a lesson.

Tonight the U.N. observer team is struggling to determine the extent to which Iraq possesses today and tomorrow and in the future a capability to use these weapons. I do not put Saddam Hussein or his lieutenants in the category of having a rational mind. I say to my friend, the time has come when the free peoples in this world have to move to defend themselves and initially against accidental attacks, unintended attacks, unintended fires. And that is precisely what the Armed Services Committee did over a period of time.

I ask the manager if I could have another minute and a half.

Mr. INOUE. Yes.

THE VICE PRESIDENT. The Senator is recognized.

Mr. WARNER. The Armed Services Committee carefully reviewed a program that this Senator and other Senators in a bipartisan way, joined by the chairman of the committee, carefully formulated over a period of time. It was the best debate, Mr. President, that any of us have seen in that committee in the period of a decade-plus that most of us have served on it. And finally a bipartisan consensus was reached, and that is what is before the Senate at this time.

The time has come when rational people here in the legislature of this country must make a decision to go forward, and that program is in place if it is properly funded. We ask that this decision by our committee and now endorsed by the Appropriations Committee, to let it stand.

Mr. BUMPERS addressed the Chair.

THE VICE PRESIDENT. Who yields time?

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

THE VICE PRESIDENT. The Senator from Hawaii has 12 minutes and 26 seconds, and the Senator from Arkansas has 7 minutes and 20 seconds.

Mr. INOUE. Mr. President, I yield 10 minutes to the Senator from Nebraska.

Mr. SASSER. Mr. President, if the Senator from Arkansas continues to control the time, I would ask him to reserve a period of time for the distinguished Senator from Ohio.

Mr. BUMPERS. Mr. President, I yield 5 minutes to the Senator from Ohio.

Mr. EXON. Mr. President, the Senator from Nebraska has been extremely patient.

The VICE PRESIDENT. Who yields time?

Mr. INOUE. I yield 10 minutes to the Senator from Nebraska.

The VICE PRESIDENT. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair, and I thank the managers of the bill.

I say to the proponents of the amendment before us, I am also opposed to you on this amendment as I had indicated earlier. I am delighted to see that we have now divided this down and I hope that the Senator is not successful with this amendment.

But this Senator will be actively supporting the third division on the amendment on the MX rail garrison that is going to follow and I understand we are going to have a vote on in the morning. Certainly, as I have said before, I think that is a program that we should cut out, and I believe that the failure of the Appropriations Committee to take that action was the only mistake that I have seen so far in the deliberations that they have made. Overall, they did a good job.

Let me also say that, if I understand it correctly, the amendment that will be offered as the third part of the amendment is exactly the same amendment, word for word, that this Senator offered before the August recess to cut out the MX funding. Is that correct?

Mr. SASSER. I did not hear the Senator.

Mr. EXON. The question was, as I understand it, the following amendment, the MX amendment coming up next, is the same amendment that this Senator offered and lost by one vote on just before the recess, is that correct?

Mr. SASSER. Yes. I cannot vouch for the fact that it is word for word, but the thrust of the amendment is identical to the one that the Senator from Nebraska offered earlier, which I think failed by one vote.

Mr. EXON. That is right. I think it will not fail by one vote if we work on that in the morning.

The pending amendment to reduce research and development funding for the Strategic Development Initiative program I think is wrong. It has already been addressed by other Members. I just listened to my colleague from Virginia who outlined a very detailed discussion that we had and a compromise that we came to at that juncture in the authorizing committee.

As I said, in July of this year, the Senate Armed Services Committee approved a plan to develop and deploy by fiscal year 1996 a cost-effective, ground-based antiballistics missile defense system capable of protecting the United States against limited ballistic missile threats, including accidental or unauthorized launches and Third World attacks. This system would be de-

ployed at Grand Forks, ND, and would be compliant with the 1972 ABM Treaty.

I would simply point out that some remarks that have been made tonight by opponents of the continuation of the funding level recommended by the appropriations and authorizing committees seem not to understand that what has been done in the appropriations and authorizing committees is exactly what they say they want; that is, a less expensive system that does not break out of treaties and gives us some ground-based protection for the future.

A funding level of \$4.6 billion for the SDI Program was adopted and subsequently approved by the full Senate. The Senate Appropriations Committee has likewise funded at the same level.

The House figure, however, is \$3.4 billion. This amendment would place the Senate figure at essentially the same amount. And since we usually compromise in conference on such figures, we can assume a final probably for SDI around \$3.9 billion.

We would think, listening to the headed debate here tonight and the full-scale attack on the SDI Program, that really what the opponents want to do is kill the program outright. But, instead, we are arguing here about an amount of money of \$300 million, one way or the other. So to put this in perspective, the amendment offered by the Senator from Tennessee is not a total strike. Maybe it would hurt the program, but it would certainly not totally derail it.

The limited SDI architecture approved by the Senate during consideration of the authorization bill in August is by no means set in stone. For that matter, the decision to actually field such a system has not been made, nor can it be made at this time. Not enough is known about the cost and technical capability of the Grand Forks system to make a final go-no go decision today. These questions can only be answered with continued research and development. But we do know enough about ground-based ballistic missile technology advances to know that the prospect of fielding such a limited system is promising. And, in light of the Persian Gulf war, we certainly know enough about the emerging Third World nuclear and ballistic missile threat to justify the future deployment of this SDI architecture. Even if present efforts to curb nuclear and ballistic missile technology proliferation are 100-percent successful from this point on—which of course, is highly unlikely—enough Third World nations have already gained the rudimentary capabilities necessary to hold at risk in the future the lives of Americans to missile attack.

As I said earlier on this subject, Mr. President, I think if we have this kind of a limited facility then we would certainly put a very valuable weapon in

the hand of any future commander if that future commander should receive a threat from a Third World dictator. This program is designed to take care of some limited attacks, with 95- to 98-percent assurance.

The SDI Program funded in the appropriations bill looks to defend against an increasingly dangerous future where the Saddam Hussein's of the world do not act in accordance with rationality or international law.

It is important for my colleagues to understand that the Grand Forks SDI system is not designed to blunt a Soviet nuclear attack. Because of the limited number of missile interceptors and its single-site location, such a ground-based system cannot blunt or deter the strike force under the control of the Soviets even after full implementation of the START Treaty. The SDI architecture approved by the Senate is compliant with the ABM Treaty. It is not the unrealistic shield concept first proposed by then-President Reagan. To pursue such a system would violate the ABM Treaty and, most importantly, undermine the concept of nuclear deterrence by suggesting that the United States has the ability to destroy the Soviet Union without fear of retribution.

I have never supported such a destabilizing, irresponsible pursuit. In contrast, the Grand Forks system concept is designed to protect against accidental or unauthorized limited launches and Third World attacks. For this reason, Mr. President, the recent developments in the Soviet Union and the end of the cold war are irrelevant to the consideration of whether we should be funding a research and development plan to field an SDI system at Grand Forks by 1996. This is important for my colleagues to keep in mind in the flurry of debate over this program. The Soviet Union—which, parenthetically, has a fully operational ABM system, I would remind all, such as what is suggested at Grand Forks—is not the threat being defended against by the Senate SDI plan. A limited ground-based missile defense system will defend against an increasingly unstable, multipolar world where despots and dictators will have the ability to project death and destruction well beyond their borders. The appropriations funding level reported out of committee puts us on a path to meet this non-Soviet threat. It is an installment on an insurance policy, of sorts, for the protection of not only Americans today but those of the future, and gives any future Commanders in Chief some ability to maintain peace which they do not have and would not have without some such limited ground-based SDI system.

Mr. President, I reserve the remainder of my time, and I yield the floor.

Mr. GLENN. If the distinguished Senator from Arkansas would yield to me for 5 minutes.

The VICE PRESIDENT. The Senator from Ohio is recognized for 5 minutes.

Mr. GLENN. Mr. President, quite contrary to the last speaker, I am not trying to kill this program. But I do think we have to ask ourselves some very logical questions. When we come to SDI, what still needs research and what is truly ready for deployment at the present time? That is a question that we have faced ever since the beginning of the whole SDI concept.

If we review that concept going clear back, we were told at each step along the way we should start deploying some of this whole strategic defense initiative concept from its earliest days. And looking back, we know that at each step along the way that would have been absolute folly.

I have taken a particular interest in this whole SDI project, going back to where it was first proposed. I thought it had a lot of promise at one time. But when it got into the technical details of it, the original concept, the astrodome concept as it was called, and we had all the mirrors up there in space and they were going to reflect lasers and directed energy weapons were going to be in space and so on, the project became so complex I began to have doubts about it. There were people even at that time who wanted to go ahead with modest deployment. So we got started on the system.

I had real doubts about the technical ability to put up such a system. And because of that doubt I went out to the laboratories where the scientists were working on all these things—on directed energy weapons, on lasers, and on neutral particle beam projectors, on the weapons that were necessary to make that whole astrodome concept, that protection for the whole United States, for all our citizens—that would make it work.

I have gone out to those laboratories at least once a year, sometimes twice a year, and talked to the scientists working in those areas. When I went out first on the astrodome concept and I talked to them about the directed energy weapons and when they would be available so we would know when we could deploy them, the first thing they would say is, well, maybe 10 years, maybe 15. Some of them would even say, I do not know whether we can do it or not. We are not even sure.

That proved to be true. So it was not too long before we got off of that whole astrodome concept. Remember, then, we were going to have space-based interceptors. That was one of the other concepts.

Once again you go to the people out there in the laboratories and they technically were not sure whether that could be made to work or not.

Then we went to another one, the phase I. We were supposed to start de-

ploying some things there even though we did not have them invented yet.

Then we went to Brilliant Pebbles, and some of the scientists had real questions about Brilliant Pebbles. Others think it is good. But others think the thousands upon thousands of them that would be required to give the real security that we need are more than we have the capability of doing right now.

So then we came back. At each step along the way the program was scaled back some. At each step along the way we still did not have the technology to make the whole thing work.

I am one who, at each step along the way, has supported every bit of research money for these programs. And I continue to support the research men for these programs. I think that is what is important. But I also am against these early deployment schemes that we have had at each step along the way and which we have now. Because that is the quickest way to lose a lot of money and get very, very little real protection, as I see it.

I think this \$3.5 billion in here is adequate for more research that we need. We now went back. Then as another step, we went to theater-based defense. The President scaled that way back to where we are just going to have a small area instead of having something like the whole United States or a particular area of the world which we would target for our defense.

So now we are talking about going with a deployment of a really reduced system which, in effect, turns out to be sort of a big, super big Patriot-type thing in one little area of the country. We talk about that as giving us new increased security against accidental launch of the Soviets or unauthorized launch from the Soviets. I just do not think that is realistic because if this system we are talking about deploying that is going to protect the whole United States, we are talking about many, many hundreds of billions of dollars to place similar systems all over the United States. Even if we could afford it, we are not sure that the technology of it would work all that well.

I continue to support full research money for this program. That research money has been increased by some \$600 million in what the distinguished Senator from Tennessee would propose. There is \$3.5 billion.

The VICE PRESIDENT. The Senator's 5 minutes has expired.

Mr. BUMPERS. How much time do I have remaining?

The VICE PRESIDENT. Two minutes.

Mr. BUMPERS. I yield the Senator an additional 30 seconds.

Mr. GLENN. So the question to me is whether we deploy or whether we keep research dollars in there, which is what we should be doing and not waste them on a too early deployment, which is exactly what has been proposed through

astrodome, space-based interceptors, phase I, Brilliant Pebbles, theater-based defense now partial deployment at Grand Forks.

What we need is the money in research. I support all that. I do not suppose money for deployment in any way, shape, or form at this point any more than I have in the past. That is the reason I will support this amendment and urge my colleagues to do the same.

The VICE PRESIDENT. Who yields time?

Mr. INOUE. Mr. President, I yield 1 minute to the Senator from Texas.

The VICE PRESIDENT. The Senator from Texas is recognized for 1 minute.

Mr. GRAMM. Mr. President, I do not remember what night it was, what day of the week, or what day of the month, but I remember exactly the event that defeated this amendment. This amendment was defeated on CNN about 7:30 at night when Americans turned on their television and watched in horror as the people of Israel put up plastic around their windows and wet towels around their doors. They saw people killed with incoming Scud missiles, listened to babies cry, saw panic, and decided that as God is our witness, we are never going to let this happen to the United States of America.

If this amendment were adopted, we would face that threat in the future. We are not going to face that threat, because this amendment is going to be defeated. We are going to build and deploy not the astrodome concept, but the capacity to defend ourselves against limited attacks from Third World lunatics—and we have living proof they exist. We will also defend ourselves against the very real possibility that if the Soviet Union broke up into warring factions with war lords, that somebody might try to blackmail the West.

It is 2 percent of the budget, our colleague from Arkansas says. But it is a critical 2 percent.

I want the American homeland defended, and it is going to be defended because we are going to build SDI.

I yield back the remainder of my time.

The VICE PRESIDENT. Who yields time?

Mr. INOUE. I yield 30 seconds to the Senator from South Carolina.

The VICE PRESIDENT. The Senator from South Carolina is recognized for 30 seconds.

Mr. THURMOND. Mr. President, I rise in opposition to the Sasser amendment. Senator SASSER's amendment would reduce funding for the SDI program by \$1.1 billion at a time when we are about to make critical decisions on the deployment of an antiballistic missile system to protect the American people from missile attacks.

Mr. President, during the Persian Gulf conflict we saw live in our homes, the dramatic psychological and politi-

cal impact a missile attack can have on a nation. Despite the success of the Patriot missile system and the dedication of vast resources to find the mobile Scud missile systems, we could not stop the Scud attacks on Israel and the forces in Saudi Arabia. Indeed, the greatest loss of life from a single event occurred during the Scud missile attack on a U.S. barracks, killing 28 Americans.

One of the most important lessons of the Persian Gulf war is that we must develop an effective defense against ballistic missile attacks, both for our forward deployed forces and for the protection of our citizens.

The Defense authorization bill for fiscal year 1992 set a goal to deploy an antiballistic missile system, including one or an adequate additional number of ABM sites and space based sensors, capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles. To support this goal plus robust funding for continued research and development of Brilliant Pebbles space-based interceptors and other follow-on technologies necessary to provide future options for protecting the security of the United States and our allies, the bill authorized \$4.6 billion for fiscal year 1992. The Appropriations Committee supported this request in the bill we are now considering.

Mr. President, as I stated in my previous statement on the Senate floor earlier today, for the past 8 years, taxpayers have spent approximately \$22 billion on SDI research without a clear concept of where the program was heading. The Defense authorization bill that the Senate passed last month takes the bull by the horns and recommends a blueprint and timetable for developing a cost effective and operationally effective defense against accidental or unauthorized missile launches or ballistic missile attacks by a terrorist government. Senator SASSER's amendment will gut this bipartisan plan and preclude the Nation from deploying the missile defense it needs to protect its citizens.

Mr. President, I urge my colleagues to vote against this amendment. The Nation needs a ballistic missile defense now, more than ever before.

Mr. INOUE. Mr. President, I yield the remainder of my time to Senator STEVENS of Alaska.

The VICE PRESIDENT. The Senator is recognized for 1 minute and 6 seconds.

Mr. STEVENS. Mr. President, we made the Patriot missile from an anti-aircraft missile into an antimissile missile. We now propose a Patriot upgrade which will be cut by this amendment. We propose a ballistic missile defense system. We have proposed an anticruise missile system. We have tried to provide the kind of urging for the Department of Defense to meet the challenges that we face.

I might say in closing I want to remind the Senate, my friends and I were in—there were four of us, as a matter of fact—in Israel when the last Scud attack took place. What the Senator from Texas just said is very vivid when you really witness it from the receiving end. I would not like to see that happen.

My friend from Arkansas has mentioned his children. I will mention my children and my grandchildren. This bill will affect them a great deal more than it will affect any of us, and I believe they should have the same defense that the people of Israel had and the people of Saudi Arabia had to unarm potential missiles fired against this country.

I hope this amendment is defeated.

Mr. BUMPERS. Mr. President, if somebody wants to offer an amendment that the Senate favors Patriot missiles, I will concede the vote. It will pass 100-0. The \$300 billion in SDI that will be left if this amendment passes is probably twice as much as we spent over the last 10 years developing the Patriot missile. Everybody favors a theater missile defense. Everybody favors Patriot. A Superpatriot. Whatever. That is not the debate.

Bill Crowe, a man of some military knowledge—at least President Reagan thought he had some knowledge—said he thought \$3.5 billion was more than enough, and if this amendment were to be adopted, we would still have a 13-percent increase over last year's SDI budget. How many programs can you point to in this budget or the entire U.S. budget that has a 13-percent increase? That is what there is here if this amendment is adopted.

We keep appropriating money as though we are building SDI instead of groping around trying to find the technology to build it. We have spent \$24 billion. We still do not know what we are going to do. We still have not settled on a technology—\$3.5 billion "ain't" beanbags.

After all the weeping and wailing and gnashing of teeth in this body on base closing, all of that which devastated my State, \$800 million, and here we are trying to cut \$1 billion out of a \$4.5 billion program. I promise the program will not be diminished.

Mr. SHELBY. Mr. President, I rise today to speak in strong opposition to the amendment offered by the Senator from Tennessee to cut SDI funding in fiscal year 1992 by \$1.1 billion. Like the amendment that the Senate has just defeated, this issue has already been voted upon during the debate on the Defense authorization bill.

Time after time the Senate has defeated attempts to alter the program designed by the Senate Armed Services Committee. There were five separate votes on the Defense authorization bill. They were all defeated. They were defeated because this is a bipartisan ef-

fort. It is a major breakthrough for the strategic defense initiative. For the first time we have defined a program that will offer protection to the American people from nuclear missiles. A cut of \$1.1 billion will gut this program. It will lead to a return to the status quo. A situation in which the American people have absolutely no defense against a nuclear attack.

Last year the Congress put the strategic defense initiative on the right path. We emphasized the need to move forward with a program that would emphasize limited protection systems and theater missile defenses. We funded programs and projects that could provide an early development option against limited attacks. We called for the development of programs and projects that take into consideration both the current numerical limitations of the 1972 ABM Treaty and modest changes to those numerical limitations. We foresaw the need for the development of deployable and rapidly relocatable anti-tactical ballistic missile [ATBM] defenses for forward deployed and expeditionary U.S. Armed Forces. The action taken by the Appropriations Committee is a logical extension of the decision made by the Congress last year.

Mr. President, lessons learned from the Gulf war taught us that strategic defenses are not only possible, but can be successful as well. Now more than ever, we need to deploy strategic defenses to guard the United States and our troops abroad against ballistic missile threats. The direction provided by the appropriations bill and Nunn - Warner - Cohen - Exon - Thurmond - Shelby amendment will ensure that a defense against limited ballistic missile attacks will be a reality this decade. It is a logical extension of our efforts last year to refocus SDI. We need to move forward, not backward on SDI. I urge my colleagues to reject this amendment.

The VICE PRESIDENT. All time has expired. The question is on agreeing to the third division of the pending amendment.

Mr. INOUE. Mr. President, I move to table.

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

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table division 3 of the amendment of the Senator from Tennessee amendment No. 1193. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY], is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

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

[Rollcall Vote No. 207 Leg.]

YEAS—50

Bentsen	Exon	Nunn
Bingaman	Garn	Packwood
Bond	Gorton	Pressler
Brown	Gramm	Robb
Burdick	Hatch	Roth
Burns	Heflin	Rudman
Coats	Helms	Seymour
Cochran	Hollings	Shelby
Cohen	Inouye	Simpson
Craig	Kasten	Smith
D'Amato	Lott	Specter
Danforth	Lugar	Stevens
Dixon	Mack	Symms
Dodd	McCain	Thurmond
Dole	McConnell	Wallop
Domenici	Murkowski	Warner
Durenberger	Nickles	

NAYS—49

Adams	Glenn	Mikulski
Akaka	Gore	Mitchell
Baucus	Graham	Moynihan
Biden	Grassley	Pell
Boren	Harkin	Pryor
Bradley	Hatfield	Reid
Breaux	Jeffords	Riegle
Bryan	Johnston	Rockefeller
Bumpers	Kassebaum	Sanford
Byrd	Kennedy	Sarbanes
Chafee	Kerry	Sasser
Conrad	Kohl	Simon
Cranston	Lautenberg	Wellstone
Daschle	Leahy	Wirth
DeConcini	Levin	Wofford
Ford	Lieberman	
Fowler	Metzenbaum	

NOT VOTING—1

Kerrey

So the motion to lay on the table division 3 of amendment No. 1193 was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. INOUE addressed the Chair.

The VICE PRESIDENT. The question now is on division 2 of the amendment in which there are 30 minutes of debate equally divided.

Mr. INOUE. Mr. President, I request that the Senator from Tennessee manage 15 minutes, and I will manage the other 15 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. INOUE addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Hawaii is recognized.

ORDER OF PROCEDURE

Mr. INOUE. I ask unanimous consent that the debate on this amendment commence at 10 a.m. tomorrow and that the vote be held at 10:30.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INOUE. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily to permit us to consider seven amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1197

(Purpose: To provide funding for the cleanup of uncontrolled hazardous waste contamination affecting the sale parcel at Hamilton Air Force Base, CA)

Mr. INOUE. Mr. President, I send to the desk an amendment on behalf of Senator CRANSTON of California, and request its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUE], for Mr. CRANSTON, proposes amendment numbered 1197.

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

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

The amendment is as follows:

At the appropriate place in the bill, add a new section as follows:

SEC. . (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed \$10,800,000, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of \$4,500,000 shall be returned by the General Services Administration, and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

(c) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of \$15,000,000 in connection with the total cleanup of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.

Mr. CRANSTON. Mr. President, this amendment implements a September 25, 1990, agreement between the Department of Defense, the General Services Administration, and Hamilton Partners, a California partnership, which settled a dispute created by the 1985 sale of a parcel of land at Hamilton Air Force Base, CA, containing a contaminated landfill site. The contaminated site was known to the Department of Defense and the General Services Administration before the sale, but was not disclosed to Hamilton Partners.

Specifically, this amendment funds the cleanup of the landfill site and the withdrawal provision of the September

25, 1990, agreement. The withdrawal provision allows Hamilton Partners to withdraw from the sale at any time during the cleanup of the site and require DOD to reimburse Hamilton Partners for all development expenses incurred. The total to date is approximately \$20 million.

The withdrawal provision was included and funded in the fiscal year 1990 Department of Defense appropriations bill and again in the fiscal year 1991 Defense appropriations bill. It is included in the House-passed fiscal year 1992 Defense appropriations bill, but not in the Senate version on the floor today.

Mr. President, the consequences of not having the provision in the Senate version are significant. Funding of the withdrawal provision lapses on September 30, regardless of whether or not there is a continuing resolution. Under the terms of the September 25, 1990, agreement, Hamilton Partners must exercise their rights to withdraw before the close of business tomorrow, Thursday, in order to preserve their rights to withdraw under the fiscal year 1991 Defense appropriations bill. Hamilton Partners have been advised by their attorneys that absent enactment of the fiscal year 1992 Defense appropriations bill or identical provisions in the House and Senate versions of the bill, they have a fiduciary responsibility to the financial partner's stockholders to exercise the withdrawal provision.

Withdrawal would be most unfortunate. All the work that Hamilton Partners have put into their development project over the past 6 years would come to an end. The future use of the former Hamilton Air Force Base property would be uncertain. The Department of Defense would have to reimburse Hamilton Partners approximately \$20 million for its expenses to date. And the Defense Department would still have to clean up the site.

Mr. President, the managers of the bill have been most helpful on this matter in previous years. I hope the amendment can be agreed upon by the managers of the bill.

Mr. INOUE. This matter has been cleared by both sides.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1197) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. INOUE. Mr. President, I believe that the distinguished chairman of the Appropriations Committee has an amendment.

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

AMENDMENT NO. 1198

(Purpose: To provide a substitute for section 8018 relating to the purchase, storage, and use of petroleum products in Israel)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1198.

Mr. BYRD. 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 63, strike out lines 4 through 19, and insert in lieu thereof the following:

SEC. 8018. Funds made available by this Act shall be available to the Department of Defense for purchasing and storing petroleum products in Israel in order to meet emergency and other military needs of the United States as agreed to in a memorandum of agreement between the United States and Israel which should be concluded promptly on terms and conditions acceptable to the governments of both countries: *Provided*, That any memorandum of agreement entered into as described in this section shall be transmitted to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives and shall not take effect until 60 days after the date of the transmittal to such committees: *Provided further*, That in the event of a wartime emergency or a state of heightened military readiness on the part of Israel, all or part of the stock purchased pursuant to this section may be withdrawn and used by the armed forces of Israel (1) with the agreement of the governments of the United States and Israel as provided for in the memorandum of agreement, (2) with notification of the Congress in accordance with section 652 of the Foreign Assistance Act of 1961, and (3) subject to the requirement that the government of Israel promptly and fully reimburse the government of the United States for each such withdrawal in accordance with the terms of the memorandum of agreement: *Provided further*, That section 8110 of Public Law 101-511 is hereby repealed.

Mr. BYRD. Mr. President, the bill before us contains a provision which would allow the Secretary of Defense to use funds appropriated by this bill to establish a stockpile of petroleum products in Israel primarily for the use of U.S. Armed Forces in that region. The committee report states that the committee "believes that Israel is able to provide a secure, ready and well-maintained source of POL for deployed United States forces and should be developed as a secure logistical hub for United States forces operating in the Middle East and Europe." Furthermore, in the event of an emergency, the provision would allow Israel to tap into the United States supplies for its needs.

The purpose of this provision is straightforward and persuasive, but I am concerned that the original language submitted by the Department of Defense is unnecessarily vague. The

Department according to the provision, is to negotiate the terms of the arrangement between the United States and Israel in a memorandum of agreement. I have been working with Senator INOUE to insert some additional direction and certainly in the amendment, and offer a modification of it today. In essence, the modification would require that the stockpile be purchased by the United States for our uses in the region, and permit Israel to tap into the reserve under certain circumstances. However, it requires that Israel reimburse the United States for that stock that it withdraws. Otherwise, we would be establishing here a new foreign assistance program, which would normally be made through the Foreign Operations Subcommittee in its annual aid bill. It would be a program which would be of unknown but potentially very large dimensions, because the provision does not have any cap on it in terms of the amount of oil that is stockpiled nor the amount of money which is to be used to build the stockpile.

In addition, Mr. President, we have all experienced frustration over our inability to view and understand the terms of memoranda of agreement between the Department of Defense and other nations. In this case, then, the new provision requires that any MOA that is concluded be first submitted to the Congress and not be implemented until 60 days after such transmittal. In this way, the appropriate committees would have an opportunity to comment on the terms of the MOA if they had any concerns with them.

It is my understanding that the two managers are willing to accept the amendment; therefore, I will not take further time of the Senate.

Mr. INOUE. Mr. President, the Senator is correct.

Mr. STEVENS. The Senator is correct.

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

The amendment (No. 1198) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1199

(Purpose: Study for joint military and civilian airport at Manhattan, Kansas)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mrs. KASSEBAUM, proposes an amendment numbered 1199.

Mr. STEVENS. 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 9, line 24, before the period, add: "Provided further, That of the funds appropriated under this heading, \$250,000 shall be available only for the conduct of a study on the need for and feasibility of a joint military and civilian airport at Manhattan, Kansas."

Mr. STEVENS. This is an amendment that we agreed to take in committee, which pertains to a request from the Senator from Kansas [Mrs. KASSEBAUM] and I ask that it be adopted as it was in the committee.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1199) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1200

(Purpose: Funds for the Submarine Laser Communications project)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. GORTON (for himself and Mr. SEYMOUR), proposes an amendment numbered 1200.

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

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

The amendment is as follows:

At the appropriate place in the bill, under the heading, Research, Development, Test and Evaluation, Navy, add: "Provided further, That of the funds appropriated under this heading, \$10,000,000 shall be available only for the Submarine Laser Communications project".

Mr. STEVENS. This is an amendment to bring the account that is in the bill up to the authorized level as we thought it had been. It is a matter that pertains to a laser item in the bill.

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

The amendment (No. 1200) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1201

(Purpose: To clarify the definition relating to disadvantaged small business concerns by reason of their employment of severely disabled individuals)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. DOLE, proposes an amendment numbered 1201.

Mr. STEVENS. 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 93, line 22, insert "operated on a for-profit or non-profit basis" after "business entity".

Mr. STEVENS. Mr. President, this is a very technical amendment that carries out the intent of the Senator from Kansas [Mr. DOLE] that deals with a definition of a business entity and makes certain that it covers both profit and nonprofit entities, which was the original intent.

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

The amendment (No. 1201) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1202

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUE], for Mr. FORD (for himself and Mr. MCCONNELL) proposes an amendment numbered 1202.

Mr. INOUE. 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 41, line 6, insert the following: Insert before the period: *Provided*, That of the funds appropriated under this heading, \$5,134,000 shall be available only for the Gun Weapon System Advanced Technology Program".

Mr. INOUE. Mr. President, the amendment by my good friend, the senior Senator from Kentucky, restores \$5,134,000 to the Navy's Gun Weapon System Advanced Technology Program. Our committee deleted these funds due to Navy information indicating the results of this research would not be available until the 21st century.

In view of increasingly tight defense budget constraints, the committee believed that higher priority programs with more near-term benefits should be funded, and that this program was premature.

Since our action, I am happy to report that the Navy has provided us with new information showing that this program also has the objective of

developing immediate and near-term improvements in existing Navy gun weapons systems. This new information enables our committee to support this funding for fiscal year 1992.

The committee also has been able to identify a funding offset for this appropriation from within the existing amounts allocated for Navy research, development, test, and evaluation. The Navy has indicated a reduced funding requirement for the supersonic low altitude target [SLAT] project in the Target Systems Development Program element. In accepting this amendment, the committee directs that the funds provided to the Gun Weapon System Advanced Technology Program by this amendment shall be reallocated from the SLAT project.

The committee thanks our colleague for offering this amendment to fund this advanced naval gun technology initiative.

Mr. FORD. Mr. President, the amendment I am proposing today is a simple one which provides \$5.134 million for the Navy's Gun Weapon System Advanced Technology Program, a research program created to prevent obsolescence in the Navy's gunfire capabilities. It is anticipated that the gun systems of the future may need to be capable of long ranges and use nonballistic projectiles, characteristics which have yet to be developed.

But the program would do more than develop technologies for the 21st century. It is also designed to develop immediate and near-term improvements in the existing gun weapon systems for naval surface fire support and ship defense missions.

To reduce development time and costs as much as possible, the Navy intends to take research from existing Army artillery and advanced gun programs—highly commendable thinking which I hope will be a trend setter for all services.

A final reason why the money in question should be restored is that the work on the program will be done at the Naval Ordnance Station [NOSL] in Louisville, KY. This is a first for the NOSL and it is a high compliment that the Navy would have such confidence in the facility. If I do say so myself, we have one of the most excellent work forces around at our ordnance station. These folks perform work done nowhere else in the Navy or in the world, for that matter. When the Navy guns run into trouble, who do they call?—the Louisville Naval Ordnance Station. It is only fitting that the people with the most experience with and knowledge of naval gun systems should be the ones to develop the systems of the future.

Mr. President, I thank the distinguished chairman and the ranking member of the Defense Subcommittee, my friends Senators INOUE, and STEVENS, for their acceptance of my amendment.

Mr. MCCONNELL. Mr. President, for those of us who favor a strong defense, we are challenged by the task of maintaining a military force that is lighter and more lethal. For this reason, I am extremely pleased Senators INOUE and STEVENS support the amendment the senior Senator from Kentucky and I offer, which restores funding for the Navy's Gun Weapon Systems Advance Technology Program.

As we draw down our naval ship strength, we must increase our firepower. This program guarantees that surface warships will meet tomorrow's challenges with more powerful guns and smarter munitions. The outstanding merits of this program were described in an August 1991 editorial for Defense News entitled "Smart Dollars for Guns."

I should also point out that the Gun Weapon System Advanced Technology Program received full funding by the Senate and House Armed Services Committees in the Defense authorization bill, and by the House Appropriations Committee in its DOD bill. This unanimous support demonstrates the strength and need for this program.

Finally, let me say that the weapons, technology and the equipment are only as good as the people who operate and use them, and I am really proud of the team we have at the Station in Louisville. Thanks to their skills and performance, the men and women who serve our Nation at sea will be ready for any contingency of crisis, operating safe, effective weapons.

Mr. President, I ask unanimous consent that the editorial I referred to be printed in the RECORD.

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

[From Defense News, Aug. 12, 1991] SMART DOLLARS FOR GUNS

Starting with about \$5 million in the 1992 budget, the U.S. Navy is conducting a worthwhile project to significantly improve the firepower of its surface warship guns.

One notable aspect of this program is that the Navy intends to take advantage of existing technologies used by other services, making the Navy project a smart investment of research and development dollars.

The Advanced Gun Weapon System Technology Program will look at exotic 21st century technologies such as electrothermal or electromagnetic power sources for the Navy's guns as it retires its two remaining battleships, the USS Missouri and the USS Wisconsin.

The Navy, no longer envisioning a 600-ship fleet, must find creative ways to boost the punch of what remains.

Smart cruise missiles are one alternative that worked beyond expectation during the Persian Gulf war. But they are expensive.

Navy guns with a longer reach that can aim at air defense sites or enemy radar will be a valuable asset as battleships and aircraft carriers are retired in leaner times ahead.

Navy officials in charge of the program say they see future shipboard gun systems hitting enemy targets 80 miles to 100 miles

ashore, compared with the roughly 15-mile range of the 5-inch Mk 45 gun system deployed aboard most Navy combat ships today.

One of the brightest spots in this new program is the commitment on the Navy's part to take as much research as possible from existing Army artillery and advanced gun programs.

Vice Adm. Robert Kihune, chief of surface warfare, says if another service has a system that can satisfy requirements, there is no reason why it cannot be used by the Navy.

It might seem like an obvious way to save money but that kind of thinking has been lacking in the past.

The Navy's Advanced Gun Weapon System Technology Program may lead the way to more approaches like that from the Navy and the other services.

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

The amendment (No. 1202) was agreed to.

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

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

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 33,
LINE 23

Mr. INOUE. Mr. President, I ask unanimous consent to consider and adopt the excepted committee amendment on page 33, line 23. As an explanation, this was the amendment which was excepted for Senator LEAHY. Senator LEAHY no longer wishes to withhold action on this amendment. This matter was taken up on the B-2 amendment.

The excepted committee amendment on page 33, line 23, was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1203

Purpose: To further limit the use of funds for the procurement of B-2 bomber aircraft until the Secretary of Defense assures Congress that the original radar cross section performance objectives of the B-2 bomber aircraft have been successfully demonstrated from flight testing

Mr. LEVIN. Mr. President, I send an amendment to the desk which I understand has been cleared.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1203.

On page 34, line 10, before the period at the end insert the following: "Provided further, That, none of the funds provided under this heading shall be available for procurement of the B-2 bomber unless the certification referred to in the first proviso contains the

Secretary's assurance that the original radar cross section operational performance objectives of the B-2 bomber have been successfully demonstrated from flight testing".

Mr. LEVIN. Mr. President, this amendment would add a requirement to the B-2 certification provision in the Defense appropriations bill for fiscal year 1992, in order to address a recent problem which was disclosed relative to the B-2 testing.

We have recently learned that the B-2 suffered a test failure in July that related to low observability. In that test the bomber was more easily detected than originally anticipated and, more importantly, more detectable than the original performance specification required for the B-2's radar cross section.

I offered an amendment to the Defense authorization bill that was passed by the Senate on August 2, 1991, and which is incorporated by reference in the pending bill on page 34. My amendment requires that no funds for the fiscal year 1992 defense budget can be obligated for procuring new B-2 bombers until after the Secretary of Defense certifies that the B-2 has actually demonstrated its critical performance characteristics from flight testing and that it will be able to accomplish its original mission.

There is a problem that needs to be addressed since that flight test. First of all, the milestones set forth in the law first in 1989 and incorporated in a document known as the systems maturity matrix—and here I am referring to the unclassified one—do not require the B-2 specifically meet its required radar cross-section specification before we obligate funds for fiscal year 1992. The whole point of the B-2 bomber is its low observability and stealthiness. The small radar cross section is the hallmark of the B-2. If it cannot meet its required radar cross-section specification, we might very well not want to buy the B-2. In that case I do not think we ought to buy it. Even if it does meet the RCS specification and we proceed with the program, I tend to agree with Dr. William Perry, the father of the B-2 program, that we do not need more than 20 or 30 bombers for a final B-2 bomber force.

The second problem, Mr. President, is that it appears that one possible but unacceptable approach to addressing this low observability problem would be for the Air Force simply to lower the standards for B-2 performance—specifically the current radar cross-section specification—so that the plane can be certified to accomplish its mission.

In Defense Secretary Cheney's letter to the chairman and ranking minority member of the Appropriations Subcommittee on Defense, he suggests that the current B-2 performance may be sufficient. After describing the current B-2 problem, he says, "However, the test results conducted to date indi-

cate that the B-2 is more survivable than any other airplane in the world."

That comment suggests that the Defense Department might accept lowered mission requirement or performance specification criteria for the B-2 program. I hope that is not true, and I am determined to do everything that I can not to permit the B-2 goalpost to be moved, or the original Senate radar cross-section operational performance objectives of the B-2 to be reduced.

So, Mr. President, this combination of problems represents a certification loophole which is large, and which should be closed, and that is why I offer the amendment, and that is why I urge our colleagues to support it.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, this amendment has been discussed with the managers of the bill and I find it acceptable.

Mr. STEVENS. Mr. President, I inquire from the Senator from Michigan, it is my understanding that the Senator as a proponent of this measure has discussed it with Senators NUNN and WARNER and they have approved.

Mr. LEVIN. The Senator is correct. Mr. STEVENS. It is also my understanding that the Senator from Michigan had a discussion with the Air Force concerning modification; is that correct?

Mr. LEVIN. I did not. I believe that some of the Senator's staff may have had discussions with the Air Force. I did not.

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

The PRESIDING OFFICER (Mr. BRYAN). The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I am indebted to the Senator from Michigan for his patience. This is the amendment we previously discussed. It is my understanding now that with the word "operational" in there, it is the standards that we previously discussed as being those that were the operational standards required in the original conferences on the B-2. I believe they date back as far as 1981; is that correct?

Mr. LEVIN. They are the original operational performance objectives which I believe date to 1981.

Mr. STEVENS. I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 1203) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEVIN. I thank the Chair and I yield the floor.

Mr. INOUE. Mr. President, I believe my colleague from Alaska wishes to be recognized.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMITTEE AMENDMENT ON PAGE 63, AS AMENDED

Mr. INOUE. Mr. President, I ask unanimous consent that the committee amendment on page 63, as amended, be agreed to.

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

So the amendment on page 63, as amended, was agreed to.

Mr. INOUE. Mr. President, this was the amendment that was just submitted by Senator BYRD.

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

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

The motion to lay on the table was agreed to.

TRANSPORT OF CHEMICAL WEAPONS TO JOHNSTON ATOLL

Mr. AKAKA. Mr. President, I would like to commend my colleague, Senator INOUE, for his leadership in bringing forth this legislation we are considering today.

If I may, I would like to direct a question to the distinguished floor manager on an issue which is of utmost importance to the State of Hawaii and the Pacific.

As the senior Senator from Hawaii knows, the transport of chemical weapons to Johnston Atoll has raised great concerns in the Pacific. Last year, we worked together to protect the Pacific people and our environment by including a provision in the fiscal year 1991 DOD appropriations bill which prohibited future shipment of chemical weapons to Johnston Atoll. In addition, the bill restricted further studies on the transport and destruction of chemical weapons stored in the continental United States.

Mr. President, as the Senator is well aware, this concern is raised each time there is a decision to destroy additional chemical weapons. When the U.N. Security Council issued its cease-fire agreement calling for the destruc-

tion of all Iraq chemical and biological weapons, the people of the Pacific held their breath in fearful anticipation that their home would become the world's chemical weapons incinerator. However, we were protected by the provisions which we passed last year.

Unfortunately, the House has included a provision in the defense authorization bill which seeks to once again require the Army to reconsider its decision where to destroy U.S. chemical munitions.

Unfortunately, the House has included a provision in the defense authorization bill which seeks to once again require the Army to reconsider its decision where to destroy U.S. chemical munitions.

Mr. President, I would ask my dear friend and colleague whether provisions to ensure the safety of the Pacific have been included in the committee bill.

Mr. INOUE. Mr. President, I am fully aware of the concerns raised by my friend from Hawaii. I want to assure him that the committee has included provisions which protect the Pacific from future shipments of chemical weapons and prohibits further studies regarding the transport and destruction of chemical munitions stored in the continental United States.

The committee provisions reaffirm the intent of the Department of Defense to destroy our chemical munitions in the safest manner possible and will block any effort to derail the Army's chemical demilitarization program.

Mr. AKAKA. I appreciate the concern expressed by the distinguished Senator and am pleased by his reply. I wish to express my heartfelt mahalo to him for his efforts in this matter.

LEGAL OPINION BY THE CONGRESSIONAL RESEARCH SERVICE ON THE PRESIDENT'S WAIVER AUTHORITY

Mr. AKAKA. Mr. President, I would like to take this opportunity to return, for a moment, to the issue of Iraq's chemical weapons and the exemption provision provided to the President in times of war.

It is the opinion of the American Law Division staff of the Congressional Research Service that the Johnston Atoll chemical agent disposal system [JACADS] site could not be used for the destruction of Iraqi chemical and biological weapons, and I kindly ask that the opinion issued by the American Law Division be printed in the RECORD following this statement.

Mr. President, this opinion will add to the legislative history of Congress' intent to protect the Pacific from becoming the world's chemical weapons dumping ground.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, April 16, 1991.

To Honorable Daniel K. Akaka.

From American Law Division.

Subject Effect of Cease-Fire Persian Gulf Conflict on President's Waiver Authority Under Section 8107 of Public Law 10-511.

This is in response to your request regarding the effect of the cease-fire in the Persian Gulf conflict on the President's waiver authority under Section 8107 of P.L. 101-511. More specifically, your question concerns whether, in the event the United States becomes responsible for demilitarizing Iraq's chemical and biological weapons, the President could still exercise his waiver authority under Section 8107(d) to use funds appropriated or made available by P.L. 101-511 to transport such munitions to Johnston Atoll for destruction.

Section 8107 provides in pertinent part as follows:

(a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

Subsection (b) excepts from that limitation chemical munitions withdrawn from Germany and obsolete World War II chemical munitions found in the Pacific theater of operations. Subsection (c) makes clear that the limitation is not intended to apply to any court decision involving the President's authority to transport chemical munitions to Johnston Atoll under any other law. Finally, Subsection (d) of §8107 provides that "[t]he President may suspend the application of subsection (a) during a period in which the United States is a party."

Section 8107 was not part of the House-passed version of the Department of Defense Appropriations bill¹ but was added by the Senate Appropriations Committee² and subsequently accepted in conference by the House.³ The only discussion of the provisions, other than a minor technical change noted in the report of the conference committee,⁴ occurred in the report of the Senate Appropriations Committee, as follows.⁵

SEC. 8077. Transportation of chemical weapons.—Prohibits the expenditure of funds by the Department of Defense to transport any additional chemical weapons to Johnston Atoll after the completion of the European retrograde program. The general provision affirms assurances by the Secretary of Defense that Johnston Atoll would not become a repository for the destruction of all U.S. chemical weapons. Waivers have been included in this provision which will allow the transportation of chemical weapons discovered in the Pacific region and further grants the President waiver authority in time of war.

Notwithstanding the paucity of legislative history, the scope of Section 8107 seems clear. It bars the use of any funds provided by the FY91 DOD appropriations act, except in specified instances, to transport chemical munitions to the Johnston Atoll for storage or demilitarization. The President may waive that restriction but only "during a period of war in which the United States is a party."

¹ See H. Rept. 101-822 (Oct. 9, 1990) and 136 CONG. REC. H 9488-H 9522 daily ed. Oct. 12, 1990.

² S. Rept. 101-521 (Oct. 11, 1990), p. 265.

³ See H. Conf. Rept. 101-938 (Oct. 24, 1990), reprinted at 136 CONG. REC. H 13556, 13563 (daily ed. Oct. 24, 1990) (amendment No. 351).

⁴ Id.

⁵ S. Rept. 10-521, *supra*, p. 265.

In Resolution 687 the Security Council on April 3, 1991, decided as a condition of a formal cease-fire in the Persian Gulf conflict that Iraq would have to "unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of—all chemical and biological weapons and all stocks of agents and all related sub-systems and components and all research, development, support and manufacturing facilities." Under the Resolution a Special Commission formed under the auspices of the Security Council is to carry out the task of destroying, removing, or rendering harmless Iraq's chemical and biological weapons capability. Except for a directive to "tak[e] into account the requirements of public safety," the Resolution is silent on the means by which that task is to be done. Iraq communicated its acceptance of Resolution 687 soon after its adoption, and the Security Council announced that a formal cease-fire was in effect as of April 11, 1991.

Thus, at this point it is not at all clear what role, if any, the United States will play in eliminating Iraq's chemical and biological weapons capability. Nonetheless, for purposes of determining whether the President's waiver authority could be exercised, the critical questions appear to be whether the United States involvement in the Persian Gulf conflict constituted a "period of war" within the meaning of §8107(d), and, if so, whether that "period of war" has been brought to an end. If it has, then by the terms of the limitation the President would no longer have the authority to waive the restriction of §8107(a).

The first question would appear to have an affirmative answer. Iraq instituted a war of aggression against Kuwait on August 2, 1990, and the international community responded with a host of measures, ultimately including the use of military force, to restore Kuwait's sovereignty. The United States clearly was a party to this conflict, even though it never formally declared war on Iraq.⁶ That would seem sufficient to trigger the condition set for the President's waiver authority in §8107(d), *i.e.*, "a period of war in which the United States is a party."

Less clear is the answer to the second question. Iraq entered into a provisional cease-fire with the allied forces on February 28, 1991. The United Nations Security Council set forth the conditions of a formal cease-fire in Resolution 687 on April 3, 1991; Iraq accepted those conditions on April 8; and the Security Council declared a formal cease-fire to be in effect on April 11. The Security Council stated in Resolution 687 that it remained "seized of the matter [in order] to take such further steps as may be required for the implementation of this resolution and to secure peace and security in the area," and subsequent events have made clear that not all arrangements between the international community and Iraq have been finalized. But the military conflict itself appears to have been brought to an end.

If Section 8107(d) referred to a "state of war," then it is doubtful that it could be said to have been brought to an end. A state of war requires formal, explicit termination, and that event may not occur until some years after actual hostilities have ceased.⁷ Under traditional rules of international law

a cease-fire does not ordinarily terminate a state of war.⁸

But Section 8107(d) does not seem to use "period of war" in that sense. It does not, of course, use the phrase "state of war," nor does it condition the President's waiver authority on what might be considered the traditional formality of a war's inception, *i.e.*, a declaration of war. The phrase "period of war" seems to be used in a more pragmatic sense of a time of ongoing military hostilities.

Moreover, the Persian Gulf conflict does not fully fit traditional rules of international law concerning war. Rather, the response to Iraq's aggression has been conducted under the auspices of the United Nations Security Council. In accordance with the United Nations Charter, the Security Council determined that Iraq's invasion constituted "a breach of international peace and security" and decided what measures should be taken "to restore international peace and security." Ultimately, that involved the use of military force. But in accordance with the Charter the effort is to restore international peace and security, not to wage a war in the traditional sense. Indeed, the Security Council never referred to the conflict as a "war." Thus, it is doubtful that a formal peace treaty with Iraq will ever eventuate.

Consequently, although the matter is not certain, the better construction would seem to be to interpret the phrase "period of war" in §8107(d) in a pragmatic or colloquial sense as referring to a time of ongoing military hostilities. Given the conclusion of actual hostilities in the Gulf conflict, that construction would mean that the condition precedent to the existence of the President's authority to waive the restriction set in §8107(a) no longer is met. As a consequence, the waiver authority would not currently be available.

I hope the above is responsive to your request. If we may be of additional assistance, please call on us.

DAVID M. ACKERMAN,
Legislative Attorney.

COMBAT DF PROGRAM

Mr. RUDMAN. Mr. President, I would appreciate a few moments to turn the chairman's attention to a Navy program called Combat DF. This program, which is critical to battle group signal intelligence gathering, has proved to be invaluable to the Navy. The Combat DF system is integral to shipboard tactical data systems.

I am aware that the committee report has reduced this program in fiscal year 1992 due to delays in the procurement process. Indeed, Mr. President, this program has experienced delays in the past, but I am informed by the Navy that issues concerning this program have been resolved and that the program is back on track. It is imperative that funding be restored for the Combat DF Program. Installation of these systems revolve around the Navy's overhaul schedule which requires intricate timing for the installation and repair of countless shipboard systems in a very short timeframe so the ships can be returned to sea duty as quickly as possible to ensure our Nation's high level of operational readi-

ness. If these funds are not restored, not only will the Navy not be able to field these critical systems, but it could also prove to be disruptive to the Navy's overhaul planning process which requires significant amounts of advance planning to ensure a smooth and timely overhaul. Both the chairman and I come from States that have a Navy base involved in the repair and overhaul of ships, and so, we both have firsthand knowledge of the complexity of the ship overhaul business and the disruption that occurs when needed equipments do not arrive on schedule at pierside for installation. I request that the Senator from Hawaii reconsider the committee's recommendation to reduce Combat DF funding.

Mr. INOUE. I thank the Senator for raising this issue about the Combat DF Program. When the committee first considered this reduction, there was some apprehension at doing so due to the importance of this program to the Navy. In recommending this adjustment, I also directed staff to look into this program further to ascertain whether or not progress had been made in straightening out program difficulties. Since the time of our initial recommendation, my staff informs me through their sources in the Navy, that the program has recently received a detailed review and that it is sailing smoothly once more.

Mr. RUDMAN. Mr. President, in light of the program being back on track, is the chairman aware of any way to restore funding?

Mr. INOUE. I can assure my distinguished colleague and good friend from New Hampshire that we have found a way to support the Combat DF Program without disrupting other programs which are also critical to the Navy. It has come to my attention that due to other program changes, the Navy has fiscal year 1991 funds available to apply toward the Combat DF Program. When this bill is finally approved and sent to conference, I will take action to realign \$9,117,000 of prior year assets within the Navy to fully fund the Combat DF Program during fiscal year 1992. This will ensure that the program remains on track.

Mr. RUDMAN. I thank the distinguished Senator from Hawaii for his favorable consideration in this matter.

RED WATER CONTAMINATION TREATMENT

Mr. BUMPERS. Mr. President, I would like to inquire of the distinguished chairman of the Defense Appropriations Subcommittee if he would engage me in a colloquy concerning the red water contamination problem that the committee's report discusses in the section on environmental restoration.

Mr. INOUE. I would be happy to accommodate my good friend from Arkansas.

Mr. BUMPERS. Mr. President, we have all heard of the serious dimensions of the problem of cleaning up our

⁶ See P.L. 102-1 (Jan. 12, 1991).

⁷ See, *e.g.*, P.L. 181, 82d Cong., 2d Session (1951) terminating the state of war between the United States and Germany.

⁸ Greenspan, *The Modern Law of Land Warfare* (1969), at 589.

military facilities. The costs of decades of neglect of this problem are finally falling due, and I commend the chairman for his leadership in addressing this serious problem. It is important that we proceed with the Environmental Restoration Program and clean up our military installations.

One of the problems this program addresses is water and soil contamination arising from the production of TNT and related substances. This form of pollution is known as red water contamination. The committee report expresses concern over the slow pace the Army is taking in conducting pilot scale testing of the most promising technologies for red water remediation of the 30 it reviewed in a detailed study completed early last year, "Technology Evaluation for Treatment/Disposal of TNT Red Water."

Mr. INOUE. My friend from Arkansas is correct. The committee took note of this study and recommends that the Army initiate during fiscal year 1992 a pilot scale test program on those top-ranked technologies identified in the secondary evaluation of the Army's study with the goal of optimum treatment and destruction of red water and subsequent sidestream effluents in order to comply with applicable State and Federal environmental regulations.

Mr. BUMPERS. I thank the distinguished chairman. It is my understanding that the elimination and destruction of nitrates, nitrites, amines, ammonia, and other nitrogen compounds which exist in the various waste streams of the various technologies is of particular importance in assessing these technologies. The elimination of these biologically active nitrogen compounds will assure that secondary pollution problems such as ground water contamination, NO_x smog, algae bloom, and subsequent eutrophication do not occur as a result of restoration efforts.

Mr. INOUE. It is my understanding that the elimination of these nitrogen compounds is an important consideration, as my colleague has said. It is my hope that the Army will conduct pilot scale testing of the four top technologies it has identified and proceed to pick the best one and get about the serious task of cleaning up the years' worth of red water contamination.

Mr. BUMPERS. Mr. President, I agree with my distinguished colleague from Hawaii and share his views about the need for action. I thank my good friend, and I thank the Chair.

ARTIFICIAL IONOSPHERIC MIRROR FOR SURVEILLANCE OF LOW OBSERVABLES (AIM-LO)

Mr. HOLLINGS. Mr. President, I am most concerned about the future cruise missile threat to our forces. I believe we must have the most rigorous and extensive anti cruise missile capability possible. Too little attention has been given to this type of missile defense. In this regard, the Air Force Geophysics

Lab [AFGL] has done some preliminary conceptual work on a program to counter cruise missiles and other low observables. The system is referred to as the artificial ionospheric mirror for surveillance of low observables [AIM-LO]. The AIM concept involves the use of ground-based radio frequency units to create patches of ionization—mirrors—in the atmosphere—at about 70 km altitude—which can be used as reflectors of radar signals for over-the-horizon detection of cruise missiles and other airborne targets.

The concept is unique in that unlike conventional systems constrained by the ionosphere, AIM would seize control of the propagation environment and shape it to reflect properties to achieve desired surveillance requirements. Will it work? No one knows. But I think the Department of Defense should be given a chance to take a detailed look at the technology and make an evaluation of it.

To this end, I ask my chairman and good friend, and the distinguished Senator from Alaska if the upcoming conference could require that the appropriate Department of Defense agency conduct an assessment of this concept.

Mr. INOUE. Mr. President, I thank the distinguished Senator from South Carolina for raising this issue to the attention of the committee. We have examined the concept embodied in the artificial ionospheric mirror for surveillance of low observables [AIM-LO] and think that it deserves further study by the Defense Department.

The Office of the Under Secretary of Defense for Acquisition has a joint service office responsible for overseeing and coordinating the development of technologies to counter the low observable capabilities of potential adversaries. This Joint Counter Low Observables Office is the appropriate organization to conduct this assessment of the AIM-LO concept.

In response to our good colleague's initiative, the committee will do its utmost in conference to obtain congressional direction that this office assess the AIM-LO concept from the perspectives of operational utility, cost-effectiveness, military effectiveness, technological risk, comparison with alternative technologies and systems for accomplishing this mission, and a review of previous and existing work to develop this technology. The committee furthermore will seek to direct that this assessment be submitted to the Congress no later than February 15, 1992.

Mr. STEVENS. I agree with the chairman, and will work with the Senator from South Carolina to ensure this matter is addressed during the conference on the bill. I understand this technology has a wide range of applications, and encourage its development.

Mr. HOLLINGS. Mr. President, I want to thank my distinguished friend

and chairman, Senator INOUE, and my good friend, Senator STEVENS, for their help on this matter and I want to commend them again for their strong leadership here in the Senate and the Congress on shaping Defense policy.

GAY MEN AND LESBIANS IN THE MILITARY

Mr. ADAMS. Mr. President, we are considering the Department of Defense's request for more than \$270 billion in fiscal year 1992. This money will go toward force modernization and the purchase of the most technologically advanced equipment available.

DOD is intent on acquiring state-of-the-art weapons, so why does the Department cling to an antiquated and bigoted personnel policy? I am talking about the policy Secretary Cheney recently referred to as "a bit of an old chestnut": The exclusion of gay men and lesbians from military service.

This outdated position has denied our country outstanding talent. It has literally destroyed tens of thousands of careers and cost taxpayers millions of dollars in witch hunts. Unpublished studies for DOD have concluded that gays are a "negligible security risk," and indeed, gays are not banned from civilian Defense Department positions. A 1989 Gallup poll showed that 60 percent of the American public support the inclusion of gays in the military. But when the subject of gay soldiers is raised, DOD trots out the same old tired rationale it used to stonewall the admission of both blacks and women to the armed services.

This policy may cause Washington State to lose a truly outstanding officer, Col. Margarethe Cammermeyer. She has served since 1986 as the State chief nurse of the Washington State National Guard. She was in line to become chief nurse for the U.S. National Guard when she honestly replied to a question about her sexual orientation, prompting the 6th Army to begin discharge proceedings against her. I fear that despite the efforts of her superiors and colleagues to retain her and my own intervention with the Secretary of the Army, we will lose this exceptional officer.

Colonel Cammermeyer has served our Nation and all Americans with distinction for 26 years. She was awarded the Bronze Star for service in Vietnam, and has received the highest awards from the Surgeon General for her professionalism. Unfortunately, Colonel Cammermeyer is only one of many patriotic American soldiers who may witness an entire career ended simply because of her sexual preference. Witch hunts are going on at this very moment at military bases across the Nation, like Ft. Lewis in Tacoma, where investigators have bugged telephones and intimidated and threatened officers. All this for a policy that doesn't have a shred of concrete evidence to support it.

Mr. President, it is time for the Defense Department to discard this policy and recruit its personnel on the basis of performance and patriotism, not sexual preference.

REGARDING THE C-17

Mr. D'AMATO. Mr. President, more than 2 months ago, in a letter dated July 18, 1991, I raised some disturbing questions surrounding the C-17 with the Department of Defense [DOD] Under Secretary for Acquisition.

I informed the Under Secretary that the Air Force appeared to have waived C-17 specifications guaranteed by warranty in return for concessions at least three times since the McDonnell-Douglas Corp. signed a full-scale engineering development [FSED] contract in 1985. I noted that no explanation has been offered as to why these waivers were required and granted, what performance versus mission requirement tradeoffs were considered, and what concessions were gained for the relief granted.

I requested that the DOD provide me with information concerning the specific warranties provided in the original C-17 FSED contract and each specific modification to those warranties and the reason(s) therefore.

In closing, I reminded the Under Secretary that Congress has supported the C-17 on the basis of its unique mixture of capabilities, and that, if, in fact, those capabilities will not be achieved, or have been seriously compromised, it may behoove us to consider other options to C-17 production before we are in too deeply to pull out.

Time passed. My aides were assured on a number of occasions that a response was being staffed. As it turns out, however, that was not true. Only last week, after 2 months, and, coincidentally, after the C-17 had lumbered into the sky 19 months late, my letter was dropped into the lap of the Air Force for a response.

I cannot help but notice the double standard that has become all too common in the Pentagon. When I, as a member of the Defense Appropriations Subcommittee, attempt to responsibly pursue my oversight duties I am given to understand, in no uncertain terms, that I should mind my own business when the course of my investigation is at variance with the desires of the Pentagon. When, however, it is a Pentagon pet rock that is threatened, generals, admirals, and other high officials, have fallen all over themselves to brief me.

The message has not been lost on this Senator.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES—MESSAGE FROM THE PRESIDENT—PM 77

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the requirements of section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j-2(j)), I transmit herewith the fourteenth annual report of the National Institute of Building Sciences for fiscal year 1990.

GEORGE BUSH.

THE WHITE HOUSE, September 25, 1991.

ANNUAL REPORT OF THE FEDERAL PREVAILING RATE ADVISORY COMMITTEE—MESSAGE FROM THE PRESIDENT—PM 78

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with section 5347(e) of title 5 of the United States Code, I transmit herewith the 1990 annual report of the Federal Prevailing Rate Advisory Committee.

GEORGE BUSH.

THE WHITE HOUSE, September 25, 1991.

ANNUAL REPORT ON MINE SAFETY AND HEALTH ACTIVITIES—MESSAGE FROM THE PRESIDENT—PM 79

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 511(a) of the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 958(a)), I transmit herewith the fiscal year 1989 annual report on mine safety

and health activities as submitted by the Secretary of Labor.

GEORGE BUSH.

THE WHITE HOUSE, September 25, 1991.

MESSAGES FROM THE HOUSE

At 11:13 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 73. Joint resolution designating October 1991 as "National Domestic Violence Awareness Month";

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month"; and

S.J. Res. 125. Joint resolution to designate October 1991 as "Polish-American Heritage Month".

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2181. An act to permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by the State of Ohio;

H.R. 2370. An act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes;

H.J. Res. 303. Joint resolution to designate October 1991 as "Crime Prevention Month"; and

H.J. Res. 332. Joint resolution making continuing appropriations for the fiscal year 1992, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 199. Concurrent resolution commending the people of the Union of Soviet Socialist Republics and their democratically elected leaders for the continuing courage and commitment to freedom.

ENROLLED BILL AND JOINT RESOLUTIONS
SIGNED

At 3 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 1106. An act to amend the Individuals With Disabilities Education Act to strengthen such act, and for other purposes;

S.J. Res. 126. Joint resolution to designate the Second Sunday in October of 1991 as "National Children's Day";

S.J. Res. 151. Joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day"; and

H.J. Res. 233. Joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day", and authorizing display of the National League of Families POW/MIA flag.

The enrolled bill and joint resolutions were subsequently signed by the Vice President.

At 6:42 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the

bill (S. 1722) to provide emergency unemployment compensation, and for other purposes, with an amendment; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. DOWNEY, Mr. FORD of Tennessee, Mrs. KENNELLY, Mr. ANDREWS of Texas, Mr. ARCHER, Mr. VANDER JAGT, and Mr. SHAW as managers of the conference on the part of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 972) to make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643, May 29, 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. MILLER of California, Mr. RICHARDSON, and Mr. RHODES as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2654. An act to require the clear and uniform disclosure by depository institutions of interest rates payable and fees assessable with respect to deposit accounts.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 23. Joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

The enrolled joint resolution was subsequently signed by the Vice President.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2370. An act to expand the boundaries of Stones River National Battlefield, Tennessee, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2654. An act to require the clear and uniform disclosure by depository institutions of interest rates payable and fees assessable with respect to deposit accounts; to the Committee on Banking, Housing, and Urban Affairs.

H.J. Res. 303. Joint resolution to designate October 1991 as "Crime Prevention Month"; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 199. A concurrent resolution commending the people of the Union of Soviet Socialist Republics and their democratically elected leaders for the continuing courage and commitment to freedom; to the Committee on Foreign Relations.

The following bill, received from the House of Representatives for concur-

rence on September 17, 1991, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2967. An act to amend the Older Americans Act of 1965, to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes; to the Committee on Labor and Human Resources.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, September 25, 1991, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 1106. An act to amend the Individuals with Disabilities Education Act to strengthen such act, and for other purposes;

S.J. Res. 126. Joint resolution to designate the Second Sunday in October of 1991 as "National Children's Day"; and

S.J. Res. 151. Joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1532. A bill to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes (Rept. No. 102-161).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:
John J. Easton, Jr., of Vermont, to be General Counsel of the Department of Energy.

(The above nomination was reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EXON (for himself, Mr. BURDICK, Mr. DODD, and Mr. STEVENS):

S. 1750. A bill to amend title XIX of the Social Security Act to improve the provision and quality of services to individuals with mental retardation or related condition; to the Committee on Finance.

By Mr. ADAMS:

S. 1751. A bill to amend title III of the Public Health Service Act to provide for the es-

tablishment of a program regarding certain preventable cases of infertility, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUE (for himself and Mr. MCCAIN):

S. 1752. A bill to provide for the development, enhancement, and recognition of Indian tribal courts; to the Select Committee on Indian Affairs.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. CHAFEE, Mr. RUDMAN, Mr. SMITH, and Mr. PELL):

S. 1753. A bill to authorize the Small Business Administration to participate in the purchase of eligible securities issued by qualified commercial banks or qualified mutual savings banks; to the Committee on Small Business.

By Mr. SIMON (for himself and Mr. HATCH):

S. 1754. A bill to amend the United States Commission on Civil Rights Act of 1983 to reauthorize the Commission, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON:

S. Res. 184. A resolution to recommend that medical health insurance plans provide coverage for periodic mammography screening services; to the Committee on Labor and Human Resources.

By Mr. LUGAR:

S. Con. Res. 64. A concurrent resolution congratulating the Government and people of Greece, and the municipal government and people of Athens, on the occasion of the 2,500th anniversary of the establishment of democracy in the city of Athens; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself, Mr. BURDICK, Mr. DODD, and Mr. STEVENS):

S. 1750. A bill to amend title XIX of the Social Security Act to improve the provision and quality of services to individuals with mental retardation or related condition; to the Committee on Finance.

MEDICAID COMMUNITY AND FACILITY HABITATION SERVICES AMENDMENTS

Mr. EXON, Mr. President, I am joined today by my colleagues, Mr. BURDICK, Mr. DODD, and Mr. STEVENS in introducing legislation that will reform the Medicaid system with respect to payment for services for citizens with mental retardation and other developmental disabilities. It is the Medicaid Reform for Americans with Mental Retardation and Developmental Disabilities Act of 1991.

I have been concerned about this matter since my days as Governor of Nebraska. Many people have contacted me about this on both sides of this issue. I believe this legislation is a step toward compromise.

This legislation provides for community habilitation and supportive serv-

ices as an optional, statewide service. This will allow us to assist individuals in acquiring, retaining and improving self-help, socialization and adaptive skills necessary to function successfully in a home or community-based setting and includes prevocational training education, supported employment, respite care, and other services as each State determines.

If your State is like the State of Nebraska, you have a waiting list for community-based services and institutional services as well. Currently, services for our citizens with mental retardation and other developmental disabilities are a have-or-have-not situation and this bill will help to alleviate that. This bill includes a quality assurance section for community programs and I have been told that this is an area which needs to be addressed.

The second part of this Medicaid Reform for Americans With Mental Retardation and Developmental Disabilities Act of 1991 concerns habilitation facilities, or large institutions for persons with mental retardation. Let me interject right here that many times I have visited Nebraska's State-operated institution, the Beatrice State Developmental Center, and have met many of the 467 residents and their families. From firsthand experience I can tell you that these sheltered residential facilities, where a completely trained staff is always available, are necessary for some persons with profound or severe retardation, the medically fragile, and those with severe behavior problems. We have a waiting list for this facility and several of those people are tube-fed.

This bill includes provisions to maintain these facilities and develops standards for admission, medical and dental services, recordkeeping, clients rights, licensing, life safety codes, and many other considerations, including an active treatment plan for each resident.

Community-based and habilitation facilities must develop individual programs which state specific objectives necessary to meet the individual needs. Each individual program plan shall be prepared by an appropriate interdisciplinary team and shall be periodically reviewed and revised by the team. Participation by the individual and parents is encouraged.

Families must be allowed to make decisions which are appropriate for them. Some persons are better served in large residential facilities, the majority are better served in community-based facilities or in their own homes. Appropriate services must be made available to all. The bill we are offering allows States to use their Medicaid money for both community-based and larger facilities.

Mr. President, I ask that following my remarks a copy of the bill be printed in the RECORD.

As I have stated before, I strongly support this measure which will go a long way toward solving the problem of inadequate services or the lack of services for Americans with mental retardation and other developmental disabilities.

I urge my colleagues to support this legislation.

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

S. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Medicaid Community and Facility Habilitation Services Amendments of 1991".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY HABILITATION AND SUPPORTIVE SERVICES

Sec. 101. Community habilitation and supportive services as optional, statewide service.

Sec. 102. Quality assurance for community habilitation and supportive services.

Sec. 103. Eliminating prior institutionalization requirement under waiver authority.

Sec. 104. Annual report.

TITLE II—QUALITY ASSURANCE FOR HABILITATION FACILITY SERVICES

Sec. 201. Requirements for habilitation facilities.

Sec. 202. Survey and certification process.

Sec. 203. Enforcement process.

Sec. 204. Effective dates.

Sec. 205. Annual report.

TITLE III—APPROPRIATE PLACEMENT FOR INDIVIDUALS WITH MENTAL RETARDATION OR RELATED CONDITION

Sec. 301. State preadmission screening and annual client review requirements.

Sec. 302. Revision of utilization review provisions.

TITLE IV—PAYMENT FOR COMMUNITY HABILITATION SERVICES AND HABILITATION FACILITY SERVICES

Sec. 401. Payment for community habilitation services.

TITLE V—EMPLOYEE PROTECTIONS AND MISCELLANEOUS

Sec. 501. Employee protections for closure and reductions in capacity.

Sec. 502. Use of State developmental disabilities agency in certain Medicaid administrative functions.

TITLE I—COMMUNITY HABILITATION AND SUPPORTIVE SERVICES

SEC. 101. COMMUNITY HABILITATION AND SUPPORTIVE SERVICES AS OPTIONAL, STATEWIDE SERVICE.

(a) **PROVISION AS OPTIONAL, STATEWIDE SERVICE.**—Section 1905(a) of the Social Security Act, as amended by sections 4711(a) and 4712(a) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396d(a)) is amended—

(1) by striking "and" at the end of paragraph (24),

(2) by redesignating paragraph (25) as paragraph (26), and

(3) by inserting after paragraph (24) the following new paragraph:

"(25) community habilitation and supportive services (as defined in section 1931(a)) for individuals with mental retardation or related conditions (as defined in subsection (q)) without regard to whether or not individuals who receive such services have been discharged from a nursing facility or habilitation facility; and".

(b) **DEFINITION OF COMMUNITY HABILITATION AND SUPPORTIVE SERVICES.**—Title XIX of such Act, as amended by sections 4401(a), 4711(b), and 4712(b) of the Omnibus Budget Reconciliation Act of 1990, is amended—

(1) by redesignating section 1931 as section 1933, and

(2) by inserting after section 1930 the following new section:

"COMMUNITY HABILITATION AND SUPPORTIVE SERVICES

"SEC. 1931. (a) COMMUNITY HABILITATION AND SUPPORTIVE SERVICES DEFINED.—In this title, the term 'community habilitation and supportive services'—

"(1) means services designed—

"(A) to assist individuals in acquiring, retaining, and improving self-help, socialization, and adaptive skills necessary to function successfully in a home or community-based setting,

"(B) to assist individuals in participating in community or other activities; and

"(2) includes (except as provided in paragraph (3)) such prevocational, education, supported employment, and other supportive services, including transportation, functional assistive technologies and devices, and respite care services, as the State determines to be necessary and effective in promoting the individual's capability to engage in major life activities with other individuals, including employment and participation in community activities; but

"(3) does not include—

"(A) special education and related services (as defined in paragraphs (16) and (17) of section 602 of the Education of the Handicapped Act (20 U.S.C. 1401 (16) and (17), respectively) which otherwise are available to the individual through a local educational agency, and

"(B) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730);

"(4) does not include room and board, consisting of nonpersonnel costs directly attributable to—

"(A) the purchase of food on behalf of clients,

"(B) the cost of property,

"(C) the purchase of household supplies not otherwise employed in the provision of covered services,

"(D) utility expenses, and

"(E) costs of facility maintenance, upkeep, and improvement, other than such costs for modifications or adaptations to a facility required to assure the health and safety of residents or to meet the requirements of the applicable life safety code, and

"(5) does not include payments made, directly or indirectly, to members of the family of the individual receiving such services."

(c) **INDIVIDUAL WITH MENTAL RETARDATION OR RELATED CONDITION DEFINED.**—Section 1905 of such Act (42 U.S.C. 1396d) is amended by inserting after subsection (p) the following new subsection:

"(q) The term 'individual with mental retardation or related condition' means an individual with mental retardation or an individual who has a severe, chronic disability that—

"(1) is attributable—

"(A) to cerebral palsy or epilepsy,

"(B) to any other condition, other than mental illness, found to be closely related to mental retardation because such condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for such persons;

"(2) is manifested before the person reaches age 22;

"(3) is likely to continue indefinitely; and

"(4) results in substantial functional limitations in 3 or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living."

(d) CONFORMING AMENDMENTS.—

(1) Section 1905(d) of such Act (42 U.S.C. 1396d(d)) is amended—

(A) by striking "the mentally retarded or persons with related conditions" and inserting "individuals with mental retardation or related condition";

(B) by striking "mentally retarded individuals" in paragraph (1) and inserting "individuals with mental retardation", and

(C) by striking "the mentally retarded individual" in paragraph (2) and inserting "the individual with mental retardation or related condition".

(2) Section 1915(c) of such Act (42 U.S.C. 1395n(c)) is amended—

(A) in paragraph (4)(B), by striking "habilitation" and inserting "community habilitation and supportive", and

(B) by striking paragraph (5).

(3) Section 1919(e)(7)(G)(ii) of such Act (42 U.S.C. 1396r(e)(7)(G)(ii)) is amended by striking "mentally retarded or a person with a related condition (as described in section 1905(d))" and inserting "an individual with mental retardation or related condition".

(4) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) (as amended by sections 4711(d) and 4755(c) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "(21)" and inserting "(25)".

(5) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)) (as amended by section 4711(d)(2) of the Omnibus Budget Reconciliation Act) is amended by striking "through (21)" and inserting "through (25)".

(f) EFFECTIVE DATE.—The amendments made by this section apply to services furnished on or after January 1, 1992, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(g) NO ABROGATION OF FREEDOM OF CHOICE.—Nothing in this section shall be construed as abrogating the right of Medicaid clients to freedom of choice, under section 1902(a)(23) of the Social Security Act, with respect to the providers from whom they can receive covered services.

SEC. 102. QUALITY ASSURANCE FOR COMMUNITY HABILITATION AND SUPPORTIVE SERVICES.

Section 1931 of the Social Security Act, as inserted by section 101(a) of this Act, is amended by adding at the end the following new subsections:

"(b) INDEPENDENCE, PRODUCTIVITY, AND INTEGRATION.—The objectives of community habilitation and supportive services are to expand opportunities for independence, productivity, and integration into the community for individuals with mental retardation and related conditions.

"(c) INDIVIDUAL SERVICE PLANS.—

"(1) REQUIREMENT.—Community habilitation and supportive services must be pro-

vided in accordance with an individual service plan (in this section referred to as an 'ISP') which states specific objectives necessary to meet some or all of the client's needs, as identified in the comprehensive functional assessment conducted under subsection (d). In addition, the ISP shall include a description of the medical care service needs of the client, as identified by the client's physician. Nothing in this paragraph shall be construed as requiring a State to make available medical assistance under this title for all types or elements of community habilitation and supportive services. If a State provides such medical assistance for some or all such types or elements and an ISP identifies such types or elements with respect to a client, the medical assistance shall be made available under this title for those types and elements for that client under the ISP.

"(2) PREPARATION.—Each ISP for a client shall be prepared, before the date community habilitation and supportive services are first provided to the client under this title, by an appropriate interdisciplinary team and shall be periodically reviewed and revised by such a team after each assessment under subsection (d).

"(3) REQUIRED PARTICIPATION IN DEVELOPMENT OF ISP.—In developing an ISP for a client, the team shall notify, and provide for and encourage the participation of, the client, the client's parents (if the client is a minor), and the client's legal guardian (if any).

"(4) PERMISSIVE PARTICIPATION OF PARENTS OF ADULT CLIENTS.—If a client is not a minor, a parent who is not a legal guardian of the client may participate in developing the ISP, unless the client has objected to the parent's participation.

"(5) AVAILABILITY.—A copy of each ISP must, consistent with the client's right to confidentiality described in section 1932(c)(1)(A)(iv), be made accessible to all relevant providers, including other providers who work with the client, and to the client's parents and legal guardian (if any).

"(d) COMPREHENSIVE FUNCTIONAL ASSESSMENT.—

"(1) REQUIREMENT.—The State must provide that each individual who receives community habilitation and supportive services under the State plan under this title must have had a comprehensive functional assessment and must have such an assessment periodically reviewed. Such an assessment and review must be conducted by an interdisciplinary team. Such an assessment and review must identify each client's developmental and behavioral management needs.

"(2) FREQUENCY.—

"(A) ASSESSMENTS.—Such an assessment must be conducted before the receipt of community habilitation and supportive services under this title.

"(B) REVIEWS.—A review of each such assessment shall be performed in no case less often than once every 12 months.

"(3) USE.—The results of such an assessment or review shall be used in developing, reviewing, and revising the client's ISP under subsection (c).

"(e) MINIMUM REQUIREMENTS FOR SERVICES.—Community habilitation and supportive services provided under this title must meet such requirements for clients' rights and quality, consistent with the objectives described in subsection (b), as are published or developed by the Secretary under subsection (i). Such requirements shall include—

"(1) minimum qualifications for personnel providing such services,

"(2) guidelines for such minimum compensation for personnel as will assure the availability and continuity of qualified personnel to provide such services for clients of various levels of impairment, and

"(3) a specification of clients' rights, including the rights described in clauses (i) through (iv), (vi), (vii), and (xi) of section 1932(c)(1)(A).

"(f) MINIMUM REQUIREMENTS FOR RESIDENTIAL SETTINGS.—

"(1) CLIENTS' RIGHTS AND ADMINISTRATION.—A residential setting in which one or more community habilitation or supportive services are provided must meet the requirements of—

"(A) section 1932(c)(1) (relating to clients' rights), and

"(B) section 1932(d) (relating to administration and other matters),

in the same manner as such requirements apply to habilitation facilities under such section; except that, in applying the requirement of section 1932(d)(2) (relating to life safety code), the Secretary shall provide for the application of such life safety requirements (if any) that are appropriate to the residential setting.

"(2) DISCLOSURE OF OWNERSHIP AND CONTROL INTERESTS AND EXCLUSION OF REPEATED VIOLATORS.—A residential setting—

"(A) must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3)) in the setting, and

"(B) may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under this title or who has had such an ownership or control interest in one or more residential settings which have been found repeatedly to have provided care of substandard quality in the setting.

"(3) CONTINUATION OF ACTIVE TREATMENT FOR CERTAIN CLIENTS UPON CONVERSION FROM A HABILITATION FACILITY.—If part or all of a facility converts from a habilitation facility to a residential setting, each client who was a resident of the portion of the facility so converted at the time of the conversion and who, under the client's individual program plan at such time, required continuous active treatment (as defined in section 1932(b)(2)(A)), the residential setting must continue to provide for (or arrange for the provision of) continuous active treatment (as so defined) so long as such client resides in the setting and continues to require such active treatment. Nothing in section 1902(a)(10)(B) shall be construed as requiring medical assistance made available under the previous sentence to be made available to individuals not described in such sentence.

"(4) DOCUMENTATION OF RECEIPT OF MEDICAL CARE SERVICES.—A residential setting must include, in the clinical records of each client, documentation of the provision of medical care services to the client. Nothing in this paragraph shall be construed as requiring a State to make available medical assistance under this title for all types or elements of Medicare care services for such clients.

"(g) SURVEY AND CERTIFICATION PROCESS.—

"(1) RESPONSIBILITIES OF THE STATE.—

"(A) IN GENERAL.—Subject to paragraph (2), under each State plan under this title, the State shall be responsible for certifying the compliance of providers of community habilitation and supportive services, and of residential settings in which such services are provided, with the requirements of subsections (e) and (f).

"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and clients in residential settings in which community habilitation and supportive services are provided, and the parents (if the client is a minor) and legal guardians (if any) of such clients, in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF CLIENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF CLIENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of providers of community habilitation and supportive services and residential settings under this subsection, for a process for the receipt, review, and investigation of allegations of client neglect and abuse (including injuries of unknown source) by personnel providing such services and of misappropriation of client property by such personnel. Such process shall provide for documentation of findings relating to such allegations with respect to an individual, for inclusion of any brief statement of the individual disputing such findings, and for inclusion, in any disclosure of such findings, of such brief statement (or of a clear and accurate summary thereof). The findings relating to such allegations shall be made available, on request, to the State protection and advocacy system established under part C of the Developmental Disabilities Assistance and Bill of Rights Act and to other appropriate agency or agencies with whom a client, parent, or guardian may file a complaint respecting client abuse and neglect and misappropriation of client property.

"(D) CONSTRUCTION.—The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

"(2) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall be responsible for certifying the compliance of State providers of community habilitation and supportive services, and of State residential settings in which such services are provided, with the requirements of subsections (e) and (f).

"(3) FREQUENCY OF CERTIFICATIONS.—Certification of providers and settings under this subsection shall occur no less frequently than once every 12 months.

"(4) SURVEYS AND REVIEWS.—

"(A) SURVEYS OF RESIDENTIAL SETTINGS.—The certification under this subsection with respect to a setting must be based on a survey. Such survey for a residential setting must be conducted without prior notice to the setting. Any individual who notifies (or causes to be notified) a residential setting of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed \$2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conduct such surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(B) SURVEY PROTOCOL.—Surveys under this paragraph shall be conducted upon a protocol which the Secretary has provided for under subsection (1).

"(C) PROHIBITION OF CONFLICT OF INTEREST IN SURVEY TEAM MEMBERSHIP.—A State and the Secretary may not use as a member of a

survey team under this paragraph an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the provider or residential setting being surveyed (or the person responsible for such setting) respecting compliance with the requirements of subsections (e) and (f) or who has a personal or familial financial interest in the provider or setting being surveyed.

"(D) TRAINING REQUIRED.—No individual shall serve on or after January 1, 1994, as a member of a survey team under this paragraph or paragraph (5) unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary under subsection (1)(3).

"(E) REVIEWS OF PROVIDERS.—The certification under this subsection with respect to a provider (other than with respect to a residential setting) must be based on a periodic review of the provider's performance.

"(5) VALIDATION SURVEYS AND REVIEWS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of residential settings in each State, within 2 months of the date of surveys conducted under paragraph (4) by the State, in a sufficient number to allow inferences about the adequacy of each State's surveys conducted under paragraph (4). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (4). If the State has determined that an individual setting meets the requirements of subsection (e) and (f), but the Secretary determines that the setting does not meet such requirements, the Secretary's determination as to the setting's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) SPECIAL SURVEYS AND REVIEWS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a provider or setting with any of the requirements of subsections (e) and (f), the Secretary may conduct a survey of the setting or a review of the provider and, on the basis of that survey or review, make independent and binding determinations concerning the extent to which the setting or provider meets such requirements.

"(6) INVESTIGATION OF COMPLAINTS AND MONITORING HABILITATION FACILITY COMPLIANCE.—Each State and the Secretary shall maintain procedures and adequate staff to investigate complaints of violations of requirements by providers of community habilitation and supportive services or by residential settings in which such services are provided.

"(7) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys, reviews, and certifications made under this subsection respecting providers and settings, including statements of deficiencies and plans of correction,

"(ii) copies of cost reports (if any) of such providers and settings filed under this title,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO PROTECTION AND ADVOCACY SYSTEM.—Each State shall notify the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Devel-

opmental Disabilities Assistance and Bill of Rights Act of the State's findings of non-compliance with any of the requirements of subsections (e) and (f) with respect to a provider or setting in the State.

"(C) NOTICE TO FAMILY.—If a State finds that a provider or setting has provided services of substandard quality, the State shall notify the parent (if the client is a minor), or legal guardian (if any) of each client with respect to which such finding is made.

"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State Medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys, reviews, and certifications under this subsection.

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of a survey or review under subsection (f)(2) or otherwise, that a provider of community habilitation and supportive services or a residential setting in which such services are provided no longer meets the requirements of this section, and further finds that the provider's or setting's deficiencies—

"(A) immediately jeopardize the health or safety of its clients, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(ii), or terminate the provider's or setting's participation under the State plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); or

"(B) do not immediately jeopardize the health or safety of its clients, the State may—

"(i) terminate the provider's or setting's participation under the State plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both;

but in any case in which the Secretary has not provided for a civil money penalty under paragraph (3)(C)(i), the State shall provide for a civil money penalty under paragraph (2)(A)(i) for each day in which the State finds that the provider or setting was not in compliance with such requirements. Nothing in this paragraph shall be construed as restricting the remedies available to a State to remedy a provider's or setting's deficiencies. If the State finds that a provider or setting meets such requirements but, as of a previous period, did not meet such requirements, the State shall provide for a civil money penalty under subparagraph (C)(ii) for the days on which it finds that the provider or setting was not in compliance with such requirements.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Except as provided in subparagraph (B)(ii), each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State plan with respect to any individual admitted to a residential setting involved after such notice to the public and to the setting as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the provider or setting is or was out of compliance with a requirement of this section. Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty for activities described in subsection (g)(4)(A)) shall be applied to the protection of the health or property of clients of providers of community habilitation and supportive services that the State or the

Secretary finds deficient, including payment for the costs of relocation of clients, maintenance of operation of a provider pending correction of deficiencies or closure, and reimbursement of clients for personal funds lost.

"(iii) The appointment of temporary management to oversee the operation of a residential setting and to assure the health and safety of the setting's clients, where there is a need for temporary management while—

"(I) there is an orderly closure of the setting, or

"(II) improvements are made in order to bring the setting into compliance with all the requirements of this section.

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the setting has the management capability to ensure continued compliance with all the requirements of this section.

"(iv) The authority, in the case of an emergency, to close a residential setting, to transfer clients in that setting to other settings, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the State may provide for other specified remedies. No facility (public or private) providing medical assistance under this title for mentally retarded clients shall be subject to reduction or closure plans, other than for confirmed violations of approved standards, without prior review of such plans in a public hearing, conducted at least 6 months in advance of the submission of such plans, wherein full opportunity has been provided for staff, clients, parents, guardians, duly authorized representatives, and members of the public to express their views.

"(B) CLOSURE.—In the event that closure of a facility is determined, the State should provide advance notice of the proposed closure (90 days) to the staff, residents, their guardians, families, and duly authorized representatives. The State should assure that all residents being transferred are, in fact, being transferred or moved to a facility that is able to provide the required services and care. The facility should not be closed until all residents have been properly and satisfactorily located.

"(C) TRANSFER.—A facility may not transfer or discharge a client following prescribed procedures including advance notice to parents, guardians, or duly authorized representatives, until satisfactory arrangements have been made with the receiving facility and assurances have been obtained to the effect that the receiving facility is fully capable of providing the required care and services. In the event that the facility to which the client is transferred is unable to provide the required care and services, the client is to be returned to the transferring facility and retained at such facility until a satisfactory transfer is arranged.

"(D) DEADLINE AND GUIDANCE.—As a condition for approval of a State plan for calendar quarters beginning on or after January 1, 1992, each State shall establish the remedies described in clauses (i) through (iv) of subparagraph (A) by not later than January 1, 1992. The Secretary shall provide, through regulations or otherwise by not later than

July 1, 1991, guidance to States in establishing such remedies; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedies.

"(E) ASSURING PROMPT COMPLIANCE.—If a residential setting has not complied with any of the requirements of this section within 3 months after the date the setting is found to be out of compliance with such requirements, the State shall impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the setting after such date.

"(F) FUNDING.—The reasonable expenditures of a State to provide for temporary management and other expenses associated with implementing the remedies described in clauses (iii) and (iv) of subparagraph (A) shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE PROVIDERS AND SETTINGS.—With respect to a State provider of community habilitation and supportive services and a State residential setting in which such services are provided, the Secretary shall have the authority and duties of a State under this subsection, including the authority to impose remedy described in clauses (i) and (ii) of paragraph (2)(A), except that the remedy described in subparagraph (C)(i) shall be substituted for the remedy described in paragraph (2)(A)(ii).

"(B) OTHER PROVIDERS AND SETTINGS.—With respect to any other provider of community habilitation and supportive services and any other residential setting in which such services are provided in a State, if the Secretary finds that a provider or setting no longer meets a requirement of this section and further finds that the provider's or setting's deficiencies—

"(i) immediately jeopardize the health or safety of its clients, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(ii), or terminate the provider's or setting's participation under the State plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); or

"(ii) do not immediately jeopardize the health or safety of its clients, the Secretary may impose any of the remedies described in subparagraph (C);

but in any case the Secretary shall provide for a civil money penalty under paragraph (2)(A)(i) for each day in which the Secretary finds that the provider or setting was not in compliance with such requirements. Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a provider's or setting's deficiencies. If the Secretary finds that a provider or setting meets such requirements but, as of a previous period, did not meet such requirements, the Secretary shall provide for a civil money penalty under subparagraph (C)(i) for the days on which the Secretary finds that the provider or setting was not in compliance with such requirements.

"(C) SPECIFIED REMEDIES.—If the Secretary finds that a provider or setting has not met an applicable requirement:

"(i) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—The Secretary shall impose a civil money penalty in an amount not to exceed \$10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a

civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(ii) APPOINTMENT OF TEMPORARY MANAGEMENT.—In consultation with the State, the Secretary may appoint temporary management to oversee the operation of a residential setting and to assure the health and safety of the setting's clients, where there is a need for temporary management while—

"(I) there is an orderly closure of the setting, or

"(II) improvements are made in order to bring the setting into compliance with all the requirements of this section.

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the setting has the management capability to ensure continued compliance with all the requirements of this section. The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

"(4) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (or both, as the case may be) finds that the provider or setting is in compliance with all the requirements of this section.

"(i) SECRETARIAL RESPONSIBILITIES.—

"(1) PUBLICATION OF INTERIM REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall publish, by January 1, 1992, an interim regulation that sets forth interim requirements, consistent with subparagraph (B), for the provision of community habilitation and supportive services, including—

"(i) the requirements of subsection (b) (relating to objectives), of subsection (c) (relating to ISP's), of subsection (d) (relating to comprehensive functional assessments), and of subsection (f) (relating to residential settings), and

"(ii) survey protocols (for use under subsection (g)) which relate to such requirements.

"(B) MINIMUM PROTECTIONS.—Interim requirements under subparagraph (A) and final requirements under paragraph (2) shall assure, through methods other than reliance on State licensing processes, that—

"(i) individuals receiving community habilitation and supportive services are protected from neglect, physical and sexual abuse, and financial exploitation;

"(ii) individuals or entities delivering such services are not unjustly enriched as a result of abusive financial arrangements (such as owner lease-backs); and

"(iii) individuals or entities delivering such services to clients, or relatives of such individuals, are prohibited from being named beneficiaries of life insurance policies purchased by (or on behalf of) such clients.

"(2) DEVELOPMENT OF FINAL REQUIREMENTS.—The Secretary shall develop, by not later than October 1, 1993—

"(A) final requirements, consistent with paragraph (1)(B), respecting the provision of appropriate, quality community habilitation and supportive services under this title, and including at least the requirements referred to in paragraph (1)(A)(i), and

"(B) survey protocols and methods for evaluating and assuring the quality of such services.

The Secretary may, from time to time, revise such requirements, protocols, and methods.

"(3) APPROVAL OF TRAINING PROGRAMS.—The Secretary shall provide, by not later than October 1, 1992, for the approval of comprehensive training programs of State and Federal surveyors in the conduct of surveys under paragraphs (4) and (5) of subsection (g).

"(4) NO DELEGATION TO STATES.—The Secretary's authority under this subsection shall not be delegated to States.

"(5) NO PREVENTION OF MORE STRINGENT REQUIREMENTS BY STATES.—Nothing in this section shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary under this subsection.

"(j) DENIAL OF PAYMENT FOR SUBSTANDARD SERVICES.—In order for payments to be made to a State under section 1903(a) for community habilitation and supportive services furnished on and after January 1, 1994, including such services furnished under section 1915(c) or 1905(a)(25)—

"(1) the State must apply the protocols and methods developed under subsection (i)(2) to such services, and

"(2) the State must provide that payment will not be made for such services if such protocols and methods indicate that such services are substandard.

"(k) NONDUPLICATION OF PAYMENTS.—Payments made to a habilitation facility for providing community habilitation or supportive services shall not include payment for any services for which payment is otherwise made under this title to such facility."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to community habilitation and supportive services furnished on or after January 1, 1992.

(c) WAIVER OF PAPERWORK REDUCTION, ETC.—Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this title and implementing the amendments made by this title.

SEC. 103. ELIMINATING PRIOR INSTITUTIONALIZATION REQUIREMENT UNDER WAIVER AUTHORITY.

(a) IN GENERAL.—Section 1915(c)(5) of the Social Security Act (42 U.S.C. 1396n(c)(5)) is amended by striking "with respect to" and all that follows through "retarded".

(b) STATEMENT OF PURPOSE.—The purpose of this section is to provide that all mentally retarded persons, as defined in this Act, shall receive all rights, benefits, standards, protections, and enforcements, relative to community habilitative and supportive services on a nondiscriminatory basis, without regard to present or past association by the client with any public or private institution, skilled nursing facility, intermediate care facility, or intermediate care facility for the mentally retarded; or with any present or past receipt of "waiver" services provided under the terms of section 1915(c) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendment made by this section with respect to waivers approved or renewed on or after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 104. ANNUAL REPORT.

The Secretary of Health and Human Services shall report to the Congress annually on

the extent to which providers of community habilitation and supportive services and residential settings in which such services are provided are complying with the requirements of subsections (e) and (f) of section 1931 of the Social Security Act (as inserted by the amendments made by this title) and the number and type of enforcement actions taken by States and the Secretary under section 1931(h) of such Act (as inserted by this title).

TITLE II—QUALITY ASSURANCE FOR HABILITATION FACILITY SERVICES

SEC. 201. REQUIREMENTS FOR HABILITATION FACILITIES.

(a) SPECIFICATION OF FACILITY REQUIREMENTS.—Title XIX of the Social Security Act as amended by section 101(b) of this Act, is further amended by inserting after section 1931 the following new section:

"REQUIREMENTS FOR HABILITATION FACILITIES

"SEC. 1932. (a) HABILITATION FACILITY DEFINED.—In this title, the term 'habilitation facility' means an institution (or a distinct part of an institution) which—

"(1) is primarily engaged in providing to clients health or habilitation services to individuals with mental retardation or related condition, and is not primarily for the care and treatment of mental diseases; and

"(2) meets the requirements for an habilitation facility described in subsections (b), (c), and (d) of this section.

In this section, the term 'client' means an individual with mental retardation or a related condition.

"(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—

"(1) QUALITY OF LIFE.—An habilitation facility must care for its clients in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life, independence, productivity, and integration into the community of each client.

"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER INDIVIDUAL PROGRAM PLAN.—

"(A) IN GENERAL.—An habilitation facility must provide each client, in accordance with an individual program plan, with continuous active treatment (as defined in subparagraph (B)) which is coordinated and monitored by a qualified mental retardation professional.

"(B) ACTIVE TREATMENT DEFINED.—In this section, the term 'active treatment' means services directed towards—

"(i) the acquisition of behaviors and skills necessary for the client to function with as much self determination, independence, productivity, and integration as possible, and

"(ii) the prevention or deceleration of regression or loss of current optimal functional status.

Such term does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

"(3) INDIVIDUAL PROGRAM PLAN.—

"(A) DEVELOPMENT OF IPPS.—

"(i) IN GENERAL.—An habilitation facility must develop (or provide for the development of), not later than 30 days after the date of admission of each client, an individual program plan (in this section referred to as an 'IPP') which states specific objectives necessary to meet the client's needs, as identified in the comprehensive functional assessment conducted under paragraph (4).

"(ii) PREPARATION BY AN INTERDISCIPLINARY TEAM.—Each IPP shall be prepared by an appropriate interdisciplinary team and shall be periodically reviewed and revised by such a

team after each assessment under paragraph (4). Such team shall include, in the case of a client who has a seizure disorder, a professional with expertise in the diagnosis and treatment of seizure disorders. Such team shall include, in the case of an IPP which provides for physical or chemical restraints, a person who has expertise in positive behavioral interventions.

"(iii) REQUIRED PARTICIPATION IN DEVELOPMENT OF IPP.—In developing an IPP for a client, the facility shall notify, and provide for and encourage the participation of, the client, the client's parents (if the client is a minor), and the client's legal guardian (if any).

"(iv) PERMISSIVE PARTICIPATION OF PARENTS OF ADULT CLIENTS.—If the client is not a minor, a parent who is not a legal guardian of the client may participate in developing the IPP unless the client has objected to the parent's participation.

"(B) AVAILABILITY.—A copy of each IPP must, consistent with subsection (c)(1)(A)(iv), be made accessible to all relevant staff, including staffs of other agencies who work with the client, and to the client's parents and legal guardian (if any).

"(C) MEDICAL CARE PLAN.—The IPP shall include a formalized plan for the provision of physician, licensed nursing care, and related medical care services if the client's physician determines that the client requires such a plan.

"(4) COMPREHENSIVE FUNCTIONAL ASSESSMENT.—

"(A) REQUIREMENT.—An habilitation facility must provide for comprehensive functional assessments, and review of such assessments, of each client by an interdisciplinary team. Such an assessment and review must identify each client's developmental and behavioral management needs.

"(B) FREQUENCY.—

"(i) ASSESSMENTS.—Such an assessment must be conducted promptly upon (but no later than 30 days after the date of) admission for each individual admitted on or after January 1, 1993, and by not later than January 1, 1994, for each client of the facility on that date.

"(ii) REVIEWS.—A review of each such assessment shall be performed in no case less often than once every 12 months.

"(C) USE.—The results of such an assessment or review shall be used in developing, reviewing, and revising the client's IPP under paragraph (3).

"(D) REQUIREMENTS RELATING TO PREADMISSION SCREENING FOR INDIVIDUALS WITH MENTAL RETARDATION OR RELATED CONDITION.—An habilitation facility must not admit, on or after January 1, 1993, any new client who is an individual with mental retardation or related condition (as defined in section 1905(q)) unless the State mental retardation or developmental disability authority has determined prior to admission, based on an independent evaluation performed by a person or entity other than the facility, that the individual requires the level of services provided by an habilitation facility.

"(5) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all IPPs described in paragraph (3), an habilitation facility must provide (or arrange for the provision of)—

"(i) physician services 24 hours a day;

"(ii) annual physical examinations (including vision and hearing examination, routine immunizations and tuberculosis control, and routine laboratory examinations);

"(iii) licensed nursing services sufficient to meet health needs of clients;

"(iv) comprehensive dental diagnostic services, including—

"(I) a complete extraoral and intraoral examination, not later than one month after the date of admission to the facility (unless such an examination was completed within 12 months before admission), and

"(II) periodic examination and diagnosis performed at least annually;

"(v) comprehensive dental treatment services, including—

"(I) provision of emergency dental treatment on a 24-hour-a-day basis by a licensed dentist, and

"(II) dental care needed for relief of pain and infections, restoration of teeth, and maintenance of dental health;

"(vi) routine and emergency drugs and biologicals for clients and procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals;

"(vii) professional program services needed to implement the active treatment plan defined in each client's IPP; and

"(viii) meal services, including at least 3 meals daily, and food and nutrition services that assure that the meals meet the daily nutritional and special dietary needs of each client.

The services provided or arranged by the facility must meet professional standards of quality. The facility may, to the extent permitted by State law, utilize physician assistants and nurse practitioners to provide services described in clauses (i) and (ii).

"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in subparagraph (A) must be provided by qualified persons in accordance with each client's IPP.

"(C) FACILITY STAFFING.—

"(i) IN GENERAL.—An habilitation facility must have, or arrange for the provision of, sufficient direct care staff to meet the needs of clients at the facility.

"(ii) NO DEPENDENCE ON VOLUNTEERS.—An habilitation facility may not use a client or volunteer to meet the requirements of this subparagraph.

"(iii) NO USE OF CERTAIN INDIVIDUALS.—An habilitation facility may not use individuals in the facility who have been convicted of child or client abuse, neglect, or mistreatment. The facility must take all reasonable steps to determine whether applicants for employment at the facility have histories indicating involvement in child or client abuse, neglect, or mistreatment and, if an applicant has such a history, not to use the applicant in the facility.

"(6) PHYSICIAN SUPERVISION.—An habilitation facility must—

"(A) require that the health care of every client be provided under the supervision of a physician; and

"(B) provide for having a physician available to furnish necessary medical care in case of emergency.

"(7) RECORDS.—An habilitation facility must maintain records on all clients, and such records shall include clinical records, IPPs (described in paragraph (3)), and the clients' comprehensive functional assessments (described in paragraph (4)), as well as the findings of any preadmission screen.

"(c) REQUIREMENTS RELATING TO CLIENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—An habilitation facility must protect and promote the rights of each client, including each of the following rights:

"(i) FREE FROM ABUSE.—The right to be free from physical, verbal, sexual, or psychological abuse, corporal or psychological punishment, aversive stimuli, and involuntary seclusion.

"(ii) FREE FROM RESTRAINTS.—The right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience of the staff or as a substitute for active treatment and not required to treat the client's medical symptoms. Restraints may only be imposed, in accordance with written policies and procedures as an integral part of the IPP to manage inappropriate client behavior, but only upon a recent showing, in the client's record, that less intrusive or more positive techniques have been tried, used appropriately, and proved unsuccessful.

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and friends and of client groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodations of individual needs and preferences (including the right to retain and use personal possessions and clothing), except where the health or safety of the individual or other clients would be endangered, and

"(II) to receive adequate notice and explanation of the reasons therefor before the room or roommate of the client in the facility is changed and, other than in extraordinary circumstances, to disapprove such a change.

"(vi) DIGNITY.—The right to be treated with dignity in a manner consistent with the client's chronological age.

"(vii) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal (or threat of discrimination or reprisal) for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the client may have, including those with respect to the behavior of other clients.

"(viii) PARTICIPATION IN CLIENT AND FAMILY GROUPS.—The right of the client to organize and participate in client groups in the facility and the right of the client's family to meet in the facility with the families of other clients in the facility. Nothing in this clause shall be construed as requiring a facility to provide for a room specifically designed to accommodate meetings under this clause.

"(ix) PARTICIPATION IN OTHER ACTIVITIES.—The right of the client to participate in social, religious, and community activities that do not interfere with the rights of other clients in the facility.

"(x) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

"(xi) FREE CHOICE WITH RESPECT TO MEDICAL CARE AND TREATMENT.—The right to choose a personal attending physician and to choose a qualified mental retardation professional or case manager, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the client's well-being, and to participate in planning care and treatment or changes in such care and treatment.

"(xii) VOLUNTARY SERVICES.—The right not to be compelled to perform services for the facility and, if the client chooses to perform such services, to be compensated for such services at prevailing wages commensurate with the client's productivity.

"(xiii) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (v) shall not be construed as requiring the provision of a private room.

"(B) NOTICE OF RIGHTS.—A habilitation facility must—

"(i) inform each client, parent (if the client is a minor), or legal guardian (if any), orally and in writing at the time of admission to the facility, of the client's legal rights during the stay at the facility; and

"(ii) make available to each client, parent (if the client is a minor), or legal guardian (if any), upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights).

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and the mailing address, contact person, and telephone number of the State protection and advocacy system (established under part C of the Developmental Disabilities Assistance and Bill of Rights Act) or other appropriate agency with whom the client, parent, or guardian may file a complaint respecting client abuse and neglect and misappropriation of client property in the facility.

"(C) RIGHTS OF INCOMPETENT CLIENTS.—In the case of a client adjudged incompetent under the laws of a State, the rights of the client under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, a person appointed under State law to act on the client's behalf. For purposes of the previous sentence, the term 'person' includes an organization which is independent of a facility.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as an integral part of a plan (included in the IPP) designed to eliminate or modify the symptoms or behaviors for which the drugs are prescribed and only if, at least annually, an independent, external consultant trained in the administration and interaction of psychopharmacologic drugs reviews the appropriateness of the drug plan of each client receiving such drugs.

"(2) TRANSFER AND DISCHARGE RIGHTS.—

"(A) IN GENERAL.—A habilitation facility must permit each client to remain in the facility and must not transfer or discharge the client from the facility unless—

"(i) the transfer or discharge is necessary to meet the client's welfare and the client's welfare cannot be met in the facility in the opinion of a qualified case manager, operating independently of the interests of any service provider;

"(ii) the transfer or discharge is appropriate because the client no longer requires continuous active treatment;

"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered; or

"(v) the facility ceases to operate or the transfer or discharge is pursuant to a court order or under a reduction plan approved by the Secretary under subsection (1).

In each of the cases described in clauses (i) through (iv), the basis for the transfer or discharge must be documented in the client's clinical record. In the cases described in

clauses (i) and (ii), the documentation must be made by a qualified mental retardation professional, with the concurrence of the Interdisciplinary Team and in the cases described in clause (iv) the documentation must be made by a physician. A facility may not transfer or discharge a client under clause (i) or (ii) unless the service needs of the client recommended under subparagraph (C)(ii) will be met in the client's new living environment. A facility may not transfer or discharge a client under clause (iii) or (iv) unless adequate arrangements have been made for an alternative placement.

"(B) PRETRANSFER AND PREDISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a client (including such a transfer or discharge under a reduction plan under subsection (i)), a habilitation facility must—

"(I) notify the client, parent (if the client is a minor), or legal guardian (if any) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the client's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 60 days in advance of the client's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the client's urgent medical needs; or

"(III) in a case where a client has not resided in the facility for 60 days.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) for transfers or discharges effected on or after January 1, 1993, notice of the client's right to appeal the transfer or discharge under the State process established under subsection (e)(5)(B); and

"(II) in the case of clients with developmental disabilities, the mailing address, contact person, and telephone number of the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act.

"(C) SUMMARY, POST-DISCHARGE PLAN, AND ORIENTATION.—If a client is to be either transferred or discharged (including such a transfer or discharge under a reduction plan under subsection (i)), the facility must—

"(i) provide a final summary of the client's developmental, behavioral, social, health, and nutritional status and skills at the time for the discharge that is available for release to authorized persons and agencies, with the consent of the client, parent (if the client is a minor), or legal guardian (if any),

"(ii) provide recommendations relating to the service needs of the client in the client's new living environment; and

"(iii) provide the client with sufficient preparation and orientation (taking into account the client's length of stay at the facility) to ensure safe and orderly transfer or discharge from the facility.

"(3) ACCESS AND VISITATION RIGHTS.—A habilitation facility must—

"(A) permit immediate access to any client by any representative of the Secretary, by

any representative of the State, by the protection and advocacy system described in paragraph (2)(B)(iii)(II), or by the client's physician or qualified mental retardation professional;

"(B) permit immediate access to a client, subject to the client's right to deny or withdraw consent at any time, by immediate family or other relatives of the client;

"(C) permit immediate access to a client, subject to reasonable restrictions and the client's right to deny or withdraw consent at any time, by others who are visiting with the consent of the client;

"(D) permit reasonable access to a client by any other entity or individual that provides health, social, legal, or other services to the client or that is a friend of the client, subject to the right of the client, parent (if the client is a minor), or legal guardian (if any) to deny or withdraw consent at any time;

"(E) permit representatives of the State protection and advocacy system (described in paragraph (2)(B)(iii)(II)), with the permission of the client, parent (if the client is a minor), or legal guardian (if any) and consistent with State law, to examine a client's records; and

"(F) permit representatives of such State protection and advocacy system to have access to any client and to examine the client's records, in the case of any client—

"(i) who, by reason of the client's mental or physical condition, is unable to authorize such examination,

"(ii) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State, and

"(iii) with respect to whom a complaint has been received by such system or with respect to whom there is probable cause to believe that such client has been subject to abuse and neglect.

"(4) EQUAL ACCESS TO QUALITY CARE.—An habilitation facility must establish and maintain identical policies and practices regarding the admission, transfer, and discharge of, and the provision of services required under the State plan for, all individuals regardless of source of payment.

"(5) ADMISSIONS POLICY.—With respect to admissions practices, an habilitation facility must—

"(A)(i) not require individuals applying to reside or residing in the facility to waive their rights to benefits under this title, (ii) not require oral or written assurance that such individuals are not eligible for, or will not apply for, benefits under this title, and (iii) provide to such individuals (and their representatives) oral and written information about how to apply for and use such benefits and how to receive refunds for previous payments covered by such benefits;

"(B) not require a third party guarantee of payment to the facility as a condition of admission (or expedited admission) to, or continued stay in, the facility; and

"(C) in the case of an individual who is entitled to medical assistance for habilitation facility services, not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan under this title, any gift, money, donation, or other consideration as a precondition of admitting (or expediting the admission of) the individual to the facility or as a requirement for the individual's continued stay in the facility.

"(6) MANAGEMENT OF CLIENT FUNDS.—

"(A) IN GENERAL.—The habilitation facility—

"(i) whether or not a client deposits personal funds with the facility, must allow individual clients to manage their financial affairs and teach them to do so to the extent of their capabilities, and

"(ii) upon the written authorization of the client, parent (if the client is a minor), or legal guardian (if any), must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) FACILITY MANAGEMENT OF PERSONAL FUNDS.—Upon a facility's acceptance of written authorization under subparagraph (A)(ii), the facility must manage and account for the personal funds of the client deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of \$50 with respect to a client in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a noninterest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete separate accounting of each such client's personal funds, maintain a written record of all financial transactions involving the personal funds of a client deposited with the facility, and afford the client, parent (if the client is a minor), or legal guardian (if any) reasonable access to such record.

"(iii) NOTICE OF CERTAIN BALANCES.—The facility must notify each client receiving medical assistance under this title or the parent (if the client is a minor) or legal guardian (if any), when the amount in the client's account reaches an amount equal to \$200 less than the dollar amount determined under section 1611(a)(3)(B) and the fact that if the amount in the account (in addition to the value of the client's other nonexempt resources) reaches the amount determined under such section the client may lose eligibility for such medical assistance or for benefits under title XVI.

"(iv) CONVEYANCE UPON DEATH.—Upon the death of a client with such an account, the facility must convey promptly the client's personal funds (and a final accounting of such funds) to the individual administering the client's estate.

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal funds of clients deposited with the facility. In addition, the chairperson of the governing body of the facility, and the chairperson of any committee or organization representing the clients, and their parents and guardians, shall promptly be notified as to the content of any allegations and associated reports.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a client for any item or service for which payment is made under this title.

"(E) NO FACILITY BORROWING OF PERSONAL FUNDS.—The facility may not borrow, or use as security for any indebtedness, personal funds deposited with the facility.

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—An habilitation facility must be administered in a manner that enables it to use its resources effectively and efficiently to promote maintenance or enhancement of the quality of life, independ-

ence, productivity, and integration into the community of each client.

"(2) LICENSING AND LIFE SAFETY CODE.—"

"(A) LICENSING.—An habilitation facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—An habilitation facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to health care occupancies or residential board and care occupancies; except that—

"(i) the Secretary may waive, for such periods as the Secretary deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of clients or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects clients of and personnel in habilitation facilities.

"(3) SANITATION AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—An habilitation facility must—

"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which clients reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of clients, personnel, and the general public.

"(4) MISCELLANEOUS.—"

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—An habilitation facility must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing services in such a facility.

"(B) OTHER.—An habilitation facility must meet such other requirements relating to the health and safety of clients or relating to the physical facilities thereof as the Secretary may find necessary."

(b) STATE REQUIREMENT FOR PREAMMISSION SCREENING AND CLIENT REVIEW.—For State requirement for preadmission screening and client review, see the amendment made by section 301 of this Act.

(c) FEDERAL RESPONSIBILITIES.—Section 1932 of the Social Security Act, as inserted by subsection (a) of this section, is amended by adding at the end the following new subsection:

"(f) RESPONSIBILITIES OF SECRETARY RELATING TO HABILITATION FACILITY REQUIREMENTS.—"

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care in habilitation facilities under State plans approved under this title, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of clients and to promote the effective and efficient use of public monies.

"(2) OPERATIONAL DEFINITION OF CONTINUOUS ACTIVE TREATMENT.—The Secretary shall establish, by not later than January 1, 1993, an operational definition of continuous active treatment that promotes a consistent

assessment of whether an habilitation facility is in compliance with the requirements of subsection (b)(2)(A).

"(3) FEDERAL GUIDELINES FOR STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES.—For purposes of subsections (c)(2)(B)(iii) and (e)(5)(B), by not later than July 1, 1992, the Secretary shall establish guidelines for minimum standards which State appeals processes under subsection (e)(5)(B) must meet to provide a fair mechanism for hearing appeals on transfers and discharges of clients from habilitation facilities. The guidelines shall provide, upon the request of a client, parent (if the client is a minor), or legal guardian (if any), for the participation of a representative of the State protection and advocacy system (described in subsection (c)(2)(B)(iii)(II) in the appeals process with respect to that client.

"(4) CRITERIA FOR ADMINISTRATION.—The Secretary shall establish criteria for assessing an habilitation facility's compliance with the requirement of subsection (d)(1) with respect to—

"(A) its governing body and management,
"(B) disaster preparedness,
"(C) laboratory and radiological services (if provided),
"(D) clinical records, and
"(E) client and advocate participation."

(d) INCORPORATING REQUIREMENTS INTO STATE PLAN.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (13)(A) (as amended by section 4801(e)(1)(A) of the Omnibus Budget Reconciliation Act of 1990), by inserting "which, in the case of habilitation facilities, take into account the costs of complying with subsections (b) (other than paragraph (4)(D)), (c), and (d) of section 1932," after "State" the second place it appears; and

(2) in paragraph (28), by striking "and" at the end of subparagraph (C) and by adding at the end the following new subparagraphs:

"(E) that any habilitation facility receiving payments under such plan must satisfy all the requirements of subsections (b) through (d) of section 1932 as they apply to such facilities; and

"(F) for compliance (by the date specified in the respective sections) with the requirements of—

"(i) section 1932(e) (relating to preadmission screening and client review);

"(ii) section 1932(g) (relating to responsibility for survey and certification of habilitation facilities); and

"(iii) sections 1932(h)(2)(B) and 1932(h)(2)(D) (relating to establishment and application of remedies);"

(e) REVISION OF PREVIOUS DEFINITION.—Subsection (d) of section 1905 of such Act (42 U.S.C. 1396d(d)) is amended to read as follows:

"(d) For definition of the term 'habilitation facility', see section 1932(a)."

(f) CONFORMING AMENDMENTS.—(1) Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(A) in subsections (a)(10)(A)(ii)(VI), (a)(10)(C)(iv) (as amended by section 4711(d) of the Omnibus Budget Reconciliation Act of 1990), (a)(13), (a)(30)(B), and (e)(3)(B)(i), by striking "intermediate care facility for the mentally retarded" each place it appears and inserting "habilitation facility";

(B) in subsection (a)(13)(C), by striking "intermediate care facilities for the mentally retarded" and inserting "habilitation facilities";

(C) in subsection (e)(9)(A)(iii), by striking "nursing facility, or intermediate care facility for the mentally retarded" and inserting "or nursing facility"; and

(D) in subsection (e)(9)(B), by striking "nursing facilities, or intermediate care facilities for the mentally retarded" and inserting "or nursing facilities".

(2) Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)(15), by striking "intermediate care facility for the mentally retarded" and inserting "habilitation facility", and

(B) in subsection (a)(15), by striking "section 1902(a)(31)(A)" and inserting "section 1932(e)".

(3) Section 1915(c) of such Act (42 U.S.C. 1396n(c))—

(A) in paragraphs (1), (2)(C), (5), and (7)(B), by striking "intermediate care facility for the mentally retarded" each place it appears and inserting "habilitation facility",

(B) in paragraph (2)(B), by striking "services in an intermediate care facility for the mentally retarded" each place it appears and inserting "habilitation facility services", and

(C) in paragraph (7)(A), by striking "intermediate care facilities for the mentally retarded" and inserting "habilitation facilities".

(4) Section 1916 of such Act (42 U.S.C. 1396o) is amended, in subsections (a)(2)(C) and (b)(2)(C), by striking "intermediate care facility for the mentally retarded" each place it appears and inserting "habilitation facility".

(5) Section 1917(a)(1)(B)(i) of such Act (42 U.S.C. 1396p(a)(1)(B)(i)) is amended by striking "intermediate care facility for the mentally retarded" and inserting "habilitation facility".

(6) Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended, in subsections (c) and (d)(2)(A), by striking "intermediate care facility for the mentally retarded" and inserting "habilitation facility".

SEC. 202. SURVEY AND CERTIFICATION PROCESS.

Section 1932 of the Social Security Act, as inserted by section 201 of this Act, is amended by adding at the end the following new subsection:

"(f) SURVEY AND CERTIFICATION PROCESS.—"

"(1) STATE AND FEDERAL RESPONSIBILITY.—"

"(A) IN GENERAL.—Under each State plan under this title, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of habilitation facilities (other than facilities of the State) with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State habilitation facilities with the requirements of such subsections.

"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and clients in habilitation facilities, and for the parents (if the client is a minor) and legal guardians (if any) of such clients, in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF CLIENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF CLIENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of habilitation facilities under this subsection, for a process for the receipt, review, and investigation of allegations of client neglect and abuse (including injuries of unknown source) by staff and of misappropriation of client property by staff in an habilitation facility. Such process shall provide for documentation of findings relating to such allegations with respect to a

staff member, for inclusion of any brief statement of the staff member disputing such findings, and for inclusion, in any disclosure of such findings, of such brief statement (or of a clear and accurate summary thereof). The findings relating to such allegations shall be made available, on request, to the State protection and advocacy system (described in subsection (c)(2)(B)(iii)(II)) and to other appropriate agency or agencies with whom a client, parent, or guardian may file a complaint respecting client abuse and neglect and misappropriation of client property in the facility. In addition, the chairperson of the governing body of the facility, and the chairperson of any committee or organization representing the clients, and their parents and guardians, shall promptly be notified as to the content of any allegations and associated reports.

"(D) CONSTRUCTION.—The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

"(2) ANNUAL SURVEYS.—

"(A) IN GENERAL.—Each habilitation facility shall be subject to an annual survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) an habilitation facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of an amount not to exceed \$2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conduct of annual surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(B) CONTENTS.—Each annual survey shall include—

"(i) a review, based on a representative sample of clients and IPPs, of the quality, appropriateness, and effectiveness of active treatment provided, and

"(ii) a review of compliance with all requirements under this section.

"(C) FREQUENCY.—Each habilitation facility shall be subject to an annual survey not later than 15 months after the date of the previous annual survey conducted under this subparagraph. The Statewide average interval between annual surveys of habilitation facilities shall not exceed 12 months.

"(D) SURVEY PROTOCOL.—Annual surveys shall be conducted—

"(i) based upon a protocol which the Secretary shall have developed, tested, and validated by not later than October 1, 1992, and

"(ii) by individuals, of a survey team, who meet such minimum qualifications as the Secretary establishes by not later than October 1, 1992.

The failure of the Secretary to develop, test, or validate such protocols or to establish such minimum qualifications shall not relieve any State of its responsibility (or the Secretary of the Secretary's responsibility) to conduct surveys under this subsection.

"(E) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(F) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals.

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(iii) TRAINING.—The Secretary shall provide for the comprehensive training of State and Federal surveyors in the conduct of annual surveys under this subsection, including the auditing of client assessments and IPPs. No individual shall serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of habilitation facilities in each State, within 2 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacy of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual habilitation facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) REDUCTION IN ADMINISTRATIVE COSTS FOR SUBSTANDARD PERFORMANCE.—If the Secretary finds, on the basis of such surveys, that a State has failed to perform surveys as required under paragraph (2) or that a State's survey and certification performance otherwise is not adequate, the Secretary may provide for the training of survey teams in the State and shall provide for a reduction of the payment otherwise made to the State under section 1903(a)(2)(D) with respect to a quarter in an amount equal to 33 percent multiplied by a fraction, the denominator of which is equal to the total number of clients in habilitation facilities surveyed by the Secretary that quarter and the numerator of which is equal to the total number of clients in habilitation facilities which were found pursuant to such surveys to be not in compliance with any of the requirements of subsections (b), (c), and (d). A State that is dissatisfied with the Secretary's findings under this subparagraph may obtain reconsideration and review of the findings under section 1116 in the same manner as a State may seek reconsideration and review under that section of the Secretary's determination under section 1116(a)(1).

"(C) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of an habilitation facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on the basis of that survey, make independent and binding determinations concerning the extent to which the habilitation facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING HABILITATION FACILITY COMPLIANCE.—Each State and the Secretary shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by habilitation facilities, and

"(B) monitor, on-site, on a regular, as needed basis, an habilitation facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State or the Secretary, respectively, has reason to question the compliance of the facility with such requirements.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting habilitation facilities, including statements of deficiencies and plans of correction,

"(ii) copies of cost reports of such facilities filed under this title,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO PROTECTION AND ADVOCACY SYSTEM.—Each State shall notify the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act of the State's findings of non-compliance with any of the requirements of subsections (b), (c), and (d), with respect to an habilitation facility in the State.

"(C) NOTICE TO FAMILY.—If a State finds that an habilitation facility has provided services of substandard quality, the State shall notify the parent (if the client is a minor), or legal guardian (if any) of each client with respect to which such finding is made.

"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State Medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys and certifications under this subsection."

(b) REQUIRED POSTING OF SURVEY RESULTS.—Section 1932(d)(4) of such Act, as inserted by section 201 of this Act, is amended by adding at the end the following new subparagraph:

"(C) POSTING OF SURVEY RESULTS.—An habilitation facility must post in a place readily accessible to clients the results of the most recent survey of the facility conducted under subsection (g)."

SEC. 203. ENFORCEMENT PROCESS.

(a) IN GENERAL.—Section 1932 of the Social Security Act, as inserted by section 201 and amended by section 202 of this Act, is further amended by adding at the end the following new subsection:

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of an annual survey under subsection (g)(2) or otherwise, that an habilitation facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(A) immediately jeopardize the health or safety of its clients, the State shall take immediate action to remove the jeopardy and

correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the facility's participation under the State plan, and the State may provide, in addition, for one or more of the other remedies described in paragraph (2); or

"(B) do not immediately jeopardize the health or safety of its clients, the State may—

"(i) terminate the facility's participation under the State plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both.

Nothing in this paragraph shall be construed as restricting the remedies available to a State to remedy an habilitation facility's deficiencies. If a State finds that an habilitation facility meets the requirements of subsections (b), (c), and (d), but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A)(i) for the days in which it finds that the facility was not in compliance with such requirements.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Except as provided in subparagraph (B)(ii), each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State plan with respect to any individual admitted to the habilitation facility involved after such notice to the public and to the facility as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d). Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty for activities described in subsection (g)(2)(A)) shall be applied to the protection of the health or property of clients of habilitation facilities that the State or the Secretary finds deficient, including payment for the costs of relocation of clients, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of clients for personal funds lost.

"(iii) In cases where a correction or reduction plan has not been approved under subsection (i), the appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's clients, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

"(iv) The authority, in the case of an emergency, to close the facility, to transfer clients in that facility to other facilities, or both.

The State also shall specify criteria, as to when and how each such remedy is to be applied, the amounts of any fines, and the severity of each such remedy, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and

final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the State may provide for other specified remedies, such as plans of correction and reduction plans under subsection (i).

"(B) DEADLINE AND GUIDANCE.—As a condition for approval of a State plan for calendar quarters beginning on or after January 1, 1993, each State shall establish the remedies described in clauses (i) through (iv) of subparagraph (A) by not later than January 1, 1993. The Secretary shall provide, through regulations or otherwise by not later than July 1, 1992, guidance to States in establishing such remedies; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedies.

"(C) ASSURING PROMPT COMPLIANCE.—If an habilitation facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, and a reduction plan has not been approved with respect to the facility under subsection (i), the State shall impose the remedy described in subparagraph (A)(ii) and the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.

"(D) REPEATED NONCOMPLIANCE.—In the case of an habilitation facility which, on 3 consecutive annual surveys conducted under subsection (g)(2), has been found not to provide continuous active treatment of adequate quality and effectiveness, the State shall (regardless of what other remedies are provided)—

"(i) impose the remedies described in clauses (i) and (ii) of subparagraph (A), and

"(ii) monitor the facility under subsection (g)(4)(B),

until the facility has demonstrated, to the satisfaction of the State, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements. Under clause (i), the remedy described in subparagraph (A)(ii) shall be applied with respect to each day of noncompliance covered under any of such 3 annual surveys.

"(E) FUNDING.—The reasonable expenditures of a State to provide for temporary management and other expenses associated with implementing the remedies described in clauses (iii) and (iv) of subparagraph (A) shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE HABILITATION FACILITIES.—With respect to a State habilitation facility, the Secretary shall have the authority and duties of a State under this subsection, including the authority to impose remedies described in clauses (i), (ii), and (iii) of paragraph (2)(A), except that the remedy described in subparagraph (C)(i) shall be substituted for the remedy described in paragraph (2)(A)(ii).

"(B) OTHER HABILITATION FACILITIES.—With respect to any other habilitation facility in a State, if the Secretary finds that an habilitation facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(i) immediately jeopardize the health or safety of its clients, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(iii), or terminate the facility's participation under

the State plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); or

"(ii) do not immediately jeopardize the health or safety of its clients, the Secretary may impose any of the remedies described in subparagraph (C).

Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy an habilitation facility's deficiencies. If the Secretary finds that an habilitation facility meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C)(ii) for the days on which the Secretary finds that the facility was not in compliance with such requirements.

"(C) SPECIFIED REMEDIES.—The Secretary may take the following actions with respect to a finding that a facility has not met an applicable requirement:

"(i) DENIAL OF PAYMENT.—The Secretary may deny any further payments to the State for medical assistance furnished by the facility to all individuals in the facility or to individuals admitted to the facility after the effective date of the finding.

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty in an amount not to exceed \$10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) APPOINTMENT OF TEMPORARY MANAGEMENT.—In consultation with the State, the Secretary may appoint temporary management to oversee the operation of the facility and to assure the health and safety of the facility's clients, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

"(D) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The Secretary may continue payments, over a period of not longer than 6 months, under this title with respect to an habilitation facility not in compliance with a requirement of subsection (b), (c), or (d), if—

"(i) the State survey agency finds that it is more appropriate to take alternative action to assure prompt compliance of the facility with the requirements than to terminate the certification of the facility,

"(ii) the State has submitted a plan and timetable for corrective action to the Sec-

retary for approval and the Secretary approves the plan of corrective action, and

"(iii) the State agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for the approval of corrective actions requested by States under this subparagraph.

"(E) CONTINUATION OF PAYMENTS UNDER REDUCTION PLANS.—The Secretary may continue payments in the case of habilitation facilities under the terms and conditions of a reduction plan approved under subsection (i), but only with respect to services provided on or after the date of such approval.

"(4) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (or both, as the case may be) finds that the facility is in compliance with all the requirements of subsections (b), (c), and (d).

"(5) IMMEDIATE TERMINATION OF PARTICIPATION FOR FACILITY WHERE STATE OR SECRETARY FINDS NONCOMPLIANCE AND IMMEDIATE JEOPARDY.—If either the State or the Secretary finds that an habilitation facility has not met a requirement of subsection (b), (c), or (d), and finds that the failure immediately jeopardizes the health or safety of its clients, the State or the Secretary—

"(A) shall notify the other of such finding, and

"(B) shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii) or (3)(C)(iii), or terminate the facility's participation under the State plan.

If the facility's participation in the State plan is terminated by either the State or the Secretary, the State shall provide for the safe and orderly transfer of the clients eligible under the State plan consistent with the requirements of subsection (c)(2).

"(6) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning habilitation facilities required by this section to be filed with the Secretary or a State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under this title, including investigations by State Medicaid fraud control units.

"(1) REDUCTION PLANS.—

"(1) IN GENERAL.—If there is a finding under subsection (h)(1)(B) (including a similar finding under subsection (h)(3)(A) or (h)(3)(B)(i)) that an habilitation facility has any deficiency that does not immediately jeopardize the health or safety of its clients, the State may elect in accordance with this subsection to submit to the Secretary a written plan—

"(A) for permanently reducing the number of certified beds, within 36 months of the date of the findings, so that, by the end of such period, the facility no longer has such deficiency, and

"(B) for providing services to clients of the facility who will not continue to receive habilitation facility services at the affected facility after such reduction, including (for clients not in an habilitation facility) community habilitation and supportive services.

"(2) APPROVAL OF PLANS.—The Secretary may not approve a plan submitted under paragraph (1) unless—

"(A) the State has provided for a hearing on the plan at the facility involved at least 6 months before the date of submission of the

plan, after reasonable notice thereof to the staff and clients of the facility, members of the clients' families, and the public,

"(B) the State demonstrates that, with respect to clients described in paragraph (1)(B), the State has successfully provided services similar to the services to be provided to such clients under the plan,

"(C) the plan meets the requirements of paragraph (3), and

"(D) the State has provided the assurances required under subsection (j).

"(3) REQUIREMENTS OF REDUCTION PLANS.—The requirements of this paragraph for a reduction plan with respect to a facility are as follows:

"(A) The plan must—

"(i) identify the clients described in paragraph (1)(B),

"(ii) describe each such client's needs for services described in that paragraph and a timetable for providing such services,

"(iii) provide for continuous active treatment for such clients under the clients' IPPs, and

"(iv) identify necessary safeguards (including adequate standards for provider participation) to be taken to protect the health and welfare of such clients;

however, individually identifiable information identified under this subparagraph and respecting a client shall be treated as confidential and not made available to the public.

"(B) The plan must permit each client of the facility who would continue to be eligible for medical assistance while a client of such a facility the option of remaining a client of such a facility or a similar facility.

"(C) The plan must specify the actions to be taken, including maintenance of adequate ratios of qualified staff to clients, (i) to protect the health and safety of clients who remain at the facility while the reduction plan is in effect and (ii) to provide for continuous active treatment for such clients under the clients' IPPs.

"(D) No facility (public or private) providing medical assistance under this title for mentally retarded clients shall be subject to reduction or closure plans, other than for confirmed violations of approved standards, without prior review of such plans in a public hearing, conducted at least 6 months in advance of the submission of such plans, wherein full opportunity has been provided for staff, clients, parents, guardians, duly authorized representatives, and members of the public to express their views.

"(E) In the event that closure of an habilitation facility is contemplated, the State should provide advance notice of the proposed closure (90 days) to the staff, residents, their guardians, families, and duly authorized representatives. The State should assure that all residents being transferred are, in fact, being transferred or moved to a facility that is able to provide the required services and care. The facility, or any part thereof, should not be closed until all residents have been properly and satisfactorily located.

"(F) An habilitation facility may not transfer or discharge a client following prescribed procedures including advance notice to parents, guardians, or duly authorized representatives, until satisfactory arrangements have been made with the receiving facility and assurances have been obtained to the effect that the receiving facility is fully capable of providing the required care and services. In the event that the facility to which the client is transferred is unable to provide the required care and services, the client is to be returned to the transferring

facility and retained at such facility until a satisfactory transfer is arranged.

"(4) SEMIANNUAL REVIEW OF COMPLIANCE.—The Secretary shall, at 6-month intervals, review compliance of States with reduction plans approved under this subsection. If the Secretary determines in such a review that the State has failed to comply with the requirements of paragraph (3) or the assurances described in subsection (j), the Secretary shall—

"(A) terminate the facility's participation under the State plan, or

"(B) disallow, for purposes of Federal financial participation, an amount equal to 5 percent of the cost of care for all eligible individuals in the facility for each month for which the failure continues.

If the Secretary determines in such a review that the State has failed to comply with the requirement of paragraph (3)(C), the Secretary shall disallow, for purposes of Federal financial participation, the cost of care for all eligible individuals in the facility for each month for which the failure continues."

(b) REPEAL OF PREVIOUS CORRECTION AND REDUCTION PLAN PROVISION.—Section 1922 of such Act (42 U.S.C. 1396r) is repealed.

(c) CONFORMING AMENDMENTS.—(1) Section 1902 of such Act (42 U.S.C. 1396a) is amended by striking subsection (i).

(2) Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (10) inserted by section 4401(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1990, by striking all that follows "1927(g)" and inserting a semicolon;

(B) by redesignating paragraph (10) added by section 4701(b)(2) as paragraph (11), by transferring and inserting it after paragraph (10) inserted by section 4401(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1990, and by striking all that follows "with respect to hospitals or facilities" and inserting a semicolon;

(C) by transferring and inserting paragraph (12) inserted by section 4752(a)(2) of the Omnibus Budget Reconciliation Act of 1990 after paragraph (11), as redesignated by subparagraph (B), and by striking the period at the end and inserting a semicolon;

(D) by redesignating paragraph (14) inserted by section 4752(e) of the Omnibus Budget Reconciliation Act of 1990 as paragraph (13), by transferring and inserting it after paragraph (12), and by striking the period at the end and inserting a semicolon;

(E) by redesignating paragraph (11) inserted by section 4801(e)(16)(A) of the Omnibus Budget Reconciliation Act of 1990 as paragraph (14), by transferring and inserting it after paragraph (13), and by striking the period at the end and inserting "; or";

(F) by redesignating paragraph (11) inserted by section 4801(e)(16)(A) of the Omnibus Budget Reconciliation Act of 1990 as paragraph (15) and by transferring and inserting it after paragraph (14) (as redesignated by subparagraph (E));

(G) by striking "; or" at the end of paragraph (14) (as redesignated by subparagraph (E));

(H) by striking the period at the end of paragraph (15) (as redesignated by subparagraph (F)) and by inserting "; or"; and

(I) by adding at the end of the subsection the following new paragraph:

"(16) with respect to any amount expended for medical assistance for habilitation facility services to reimburse (or otherwise compensate) an habilitation facility for payment of a civil money penalty imposed under section 1932(h)."

(3) Section 1910 (42 U.S.C. 1396i) is amended—

- (1) by striking subsection (b), and
 (2) in subsection (a), by striking "(a)(1)" and "(2)" and inserting "(a)" and "(b)", respectively.

SEC. 204. EFFECTIVE DATES; WAIVER; TRANSITIONAL RULES.

(a) **NEW REQUIREMENTS AND SURVEY AND CERTIFICATION PROCESS.**—Except as otherwise specifically provided in section 1932 of the Social Security Act, the amendments made by sections 201 and 202 (relating to habilitation facility requirements and survey and certification requirements) shall apply to habilitation facility services furnished on or after January 1, 1993, without regard to whether regulations to implement such amendments are promulgated by such date.

(b) **ENFORCEMENT.**—Except as otherwise specifically provided in section 1932 of the Social Security Act, the amendments made by section 203 of this Act shall take effect on the date of the enactment of this Act and shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the date of the enactment of this Act, without regard to whether regulations to implement such amendments are promulgated by such date.

(c) **TRANSITIONAL RULES.**—In applying the amendments made by this title for services furnished before January 1, 1993—

(A) any reference to an habilitation facility is deemed a reference to an intermediate care facility for the mentally retarded, and

(B) with respect to such an habilitation facility, any reference to a requirement of subsection (b), (c), or (d), is deemed a reference to the provisions of section 1861(j) or section 1905(c), respectively, of the Social Security Act.

(d) **WAIVER OF PAPERWORK REDUCTION, ETC.**—Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this title and implementing the amendments made by this title.

(e) **RELATION TO CURRENT REGULATIONS.**—For any period before the effective date of the requirements established under this title, nothing in this title shall be construed as superseding the final regulations (published on June 3, 1988, 53 Federal Register 20448 and any subsequent regulations published before the effective date of such requirements) setting forth conditions for intermediate care facilities for the mentally retarded under the Medicaid program.

SEC. 205. ANNUAL REPORT.

The Secretary of Health and Human Services shall report to the Congress annually on the extent to which habilitation facilities are complying with the requirements of subsections (b), (c), and (d) of section 1932 of the Social Security Act (as added by the amendments made by this title) and the number and type of enforcement actions taken by States and the Secretary under section 1932(h) of such Act (as added by section 203 of this Act).

TITLE III—APPROPRIATE PLACEMENT FOR INDIVIDUALS WITH MENTAL RETARDATION OR RELATED CONDITION

SEC. 301. STATE PREADMISSION SCREENING AND ANNUAL CLIENT REVIEW REQUIREMENTS.

Section 1932 of the Social Security Act, as inserted by section 201 of this Act, is further amended by inserting after subsection (d) the following new subsection:

"(e) **STATE REQUIREMENT FOR PREADMISSION SCREENING AND CLIENT REVIEW.**—

"(1) **IN GENERAL.**—

"(A) **STATE CONDITION OF PLAN APPROVAL.**—As a condition of approval of its plan under this title, effective January 1, 1993, the State must have in effect a preadmission screening program, for making determinations (using any criteria developed under subsection (f)(8) described in subsection (b)(3)(F) for individuals with mental retardation or related condition (as defined in section 1905(m)) who are admitted to habilitation facilities on or after January 1, 1993. The failure of the Secretary to develop minimum criteria under subsection (f)(8) shall not relieve any State of its responsibility to have a preadmission screening program under this paragraph or to perform client reviews under paragraph (2).

"(B) **FEDERAL MINIMUM CRITERIA AND MONITORING FOR PREADMISSION SCREENING AND CLIENT REVIEW.**—

"(i) **MINIMUM CRITERIA.**—The Secretary shall develop, by not later than July 1, 1992, minimum criteria for States to use in making determinations under subsection (b)(3)(F) and paragraph (2) of this subsection and in permitting individuals adversely affected to appeal such determinations, and shall notify the States of such criteria.

"(ii) **MONITORING COMPLIANCE.**—The Secretary shall review a sufficient number of cases to allow reasonable inferences about the adequacy of each State's compliance with the requirements of paragraph (3)(A) (relating to discharge and placement for active treatment of certain clients).

"(2) **STATE REQUIREMENT FOR ANNUAL CLIENT REVIEW.**—

"(A) **IN GENERAL.**—As of January 1, 1993, in the case of each client, of an habilitation facility, with mental retardation or related condition, the State mental retardation or developmental disability authority must review and determine (using any criteria developed under subsection (f)(8) and based on an independent evaluation performed on site by a person or entity other than the facility)—

"(i) whether or not the client requires the level of services provided by an habilitation facility; and

"(ii) whether or not the client requires community habilitation and supportive services.

Such independent evaluation shall take into account the comprehensive functional assessment under subsection (b)(4).

"(B) **FREQUENCY OF REVIEWS.**—

"(i) **ANNUAL.**—Except as provided in clauses (ii) and (iii), the reviews and determinations under subparagraph (A) must be conducted with respect to each client with mental retardation or related condition not less often than annually.

"(ii) **PREADMISSION REVIEW CASES.**—In the case of a client subject to a preadmission review under subsection (b)(3)(F), the review and determination under subparagraph (A) need not be done until the client has resided in the habilitation facility for 1 year.

"(iii) **INITIAL REVIEW.**—The reviews and determinations under subparagraph (A) must first be conducted (for each client not subject to preadmission review under subsection (b)(3)(F)) by not later than January 1, 1994.

"(3) **RESPONSE TO PREADMISSION SCREENING AND CLIENT REVIEW.**—As of January 1, 1993, the State must meet the following requirements:

"(A) **CLIENTS NOT REQUIRING HABILITATION FACILITY SERVICES, BUT REQUIRING COMMUNITY HABILITATION AND SUPPORTIVE SERVICES.**—In the case of a client who is determined, under paragraph (2), not to require the level of

services provided by an habilitation facility, but to require community habilitation and supportive services, the State must, in consultation with the client's family or legal representative and care-givers—

"(i) arrange for the safe and orderly discharge of the client from the facility, consistent with the requirements of subsection (c)(2),

"(ii) prepare and orient the client for such discharge, and

"(iii) provide for (or arrange for the provision of) such community habilitation and supportive services for the mental retardation or related condition.

"(B) **CLIENTS NOT REQUIRING HABILITATION FACILITY SERVICES AND NOT REQUIRING COMMUNITY HABILITATION AND SUPPORTIVE SERVICES.**—In the case of a client who is determined, under paragraph (2), not to require the level of services provided by an habilitation facility and not to require community habilitation and supportive services, the State must—

"(i) arrange for the safe and orderly discharge of the client from the facility, consistent with the requirements of subsection (c)(2), and

"(ii) prepare and orient the client for such discharge.

"(4) **DENIAL OF PAYMENT WHERE FAILURE TO CONDUCT PREADMISSION SCREENING.**—No payment may be made under section 1903(a) with respect to habilitation facility services furnished to an individual for whom a determination is required under subsection (b)(3)(F) or paragraph (2) but for whom the determination is not made.

"(5) **APPEALS PROCEDURES BOTH FOR PREADMISSION DETERMINATIONS AND CLIENT REVIEW AND FOR TRANSFERS AND DISCHARGES.**—

"(A) **PREADMISSION AND CLIENT REVIEW DETERMINATIONS.**—Each State, as a condition of approval of its plan under this title, effective January 1, 1993, must have in effect an appeals process for individuals adversely affected by determinations under paragraph (1) or (2).

"(B) **TRANSFERS AND DISCHARGES.**—Each State, as a condition of approval of its plan under this title, effective January 1, 1993, must provide for a fair mechanism for hearing appeals on transfers or discharges of clients of habilitation facilities. Such mechanism must meet the guidelines established by the Secretary under subsection (f)(3); but the failure of the Secretary to establish such guidelines shall not relieve any State of its responsibility to provide for such a fair mechanism."

SEC. 302. REVISION OF UTILIZATION REVIEW PROVISIONS.

(a) **REVISION OF STATE PLAN REQUIREMENT.**—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (30)(B), by striking "intermediate care facility for the mentally retarded," in clauses (i) and (ii)(II), and

(2) by striking paragraph (31), and

(3) in paragraph (44)—

(A) in the matter before subparagraph (A), by striking "services in an intermediate care facility for the mentally retarded,"

(B) in subparagraph (A), by striking "(or, in the case of skilled" the first place it appears and all that follows through "a physician)",

(C) in subparagraph (A) by striking "or, in the case of" the second place it appears and all that follows through "in collaboration with a physician,"

(D) in subparagraph (A), by striking "(or, in the case of services" and all that follows through "every year)", and

(E) in subparagraph (B), by striking "or, in the case" and all that follows through "physician".

(b) REVISION OF PENALTY PROVISIONS.—Section 1903(g) of such Act (42 U.S.C. 1396b(g)) is amended—

(1) in paragraph (1)—

(A) by striking "or services in an intermediate care facility for the mentally retarded" each place it appears,

(B) by striking "and intermediate care facilities for the mentally retarded"; and

(C) by striking "paragraphs (26) and (31)" and inserting "paragraph (26)";

(2) in paragraph (4)(B)—

(A) by striking "and intermediate care facilities for the mentally retarded";

(B) by striking "paragraphs (26) and (31)" and inserting "paragraph (26)";

(C) by striking "and facilities" and "or facility" each place it appears;

(3) in paragraph (5)—

(A) by striking "facility or institutional" and inserting "inpatient hospital"; and

(B) by striking "facilities or institutions" each place it appears and inserting "hospitals"; and

(4) in paragraph (6)—

(A) by striking subparagraph (B), and

(B) by redesignating subparagraph (C) as subparagraph (B).

(c) CONFORMING AMENDMENTS.—(1) Section 1128(b)(12)(B) of such Act (42 U.S.C. 1320a-7(b)(12)(B)) is amended by striking "(26), (31), and (33)" and inserting "(26) and (33)".

(2) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (33)(B), by striking "section 1919(g)" and inserting "section 1919 and section 1932"; and

(B) in the third sentence, by striking "(9)(A), (31), and (33)" and inserting "(9)(A) and (31)".

(3) Section 1905(a)(15) of such Act (42 U.S.C. 1396d(a)(15)) is amended by striking "in accordance with section 1902(a)(31)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall not apply to a State until such date as of which the Secretary of Health and Human Services determines that the State has begun conducting annual surveys under section 1932(g) of the Social Security Act.

TITLE IV—PAYMENT FOR COMMUNITY HABILITATION AND SUPPORTIVE SERVICES AND HABILITATION FACILITY SERVICES

SEC. 401. PAYMENT FOR COMMUNITY HABILITATION AND SUPPORTIVE SERVICES AND HABILITATION FACILITY SERVICES.

(a) REASONABLE AND ADEQUATE PAYMENTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(13) (as amended by section 4711(c)(1)(A) of the Omnibus Budget Reconciliation Act of 1990)—

(A) by striking "and" at the end of subparagraph (E),

(B) by inserting "and" at the end of subparagraph (F), and

(C) by adding at the end the following new subparagraph:

"(G) for payment—

"(1) for community habilitation and supportive services (as defined in section 1931(a)) through rates which are reasonable and adequate (and which may not be established on a capitation basis or any other risk basis) to meet the costs of providing services, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards, and

"(ii) for habilitation facility services through rates which are reasonable and adequate (and which may not be established on a capitation basis or any other risk basis) to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards"; and

(2) in subsection (h) (as amended by section 4711(c)(1)(B) of the Omnibus Budget Reconciliation Act of 1990)—

(A) by striking "or to limit" and inserting "to limit"; and

(B) by inserting before the period "or to limit the amount of payment that may be made under a plan under this title for community habilitation and supportive services or for habilitation facility services".

(b) DENIAL OF FEDERAL PAYMENTS TO COMPENSATE FOR CIVIL MONEY PENALTIES.—Section 1903(i)(8) of such Act (42 U.S.C. 1396b(i)(8)) (as amended by section 4711(c)(2) of the Omnibus Budget Reconciliation Act) is amended—

(1) by striking "or" before (B);

(2) by inserting a comma after "legal ground for two provider's case"; and

(3) by inserting before the semicolon "; or (C) for community habilitation and supportive services or habilitation facility services to reimburse (or otherwise compensate) a provider of such services or habilitation facility for payment of a civil money penalty imposed under this title or title XI".

(c) EFFECTIVE DATE.—(1) The amendments made by subsection (a)(1) shall apply—

(A) to community habilitation and supportive services furnished on or after January 1, 1992, or, if later, 30 days after the date of publication of interim regulations under section 1932(i)(1), and

(B) to habilitation facility services furnished on or after January 1, 1993.

(2) The amendment made by subsection (a)(2) shall apply as though it was included in the enactment of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

(3) The amendment made by subsection (b) shall apply to civil money penalties imposed after the date of the enactment of this Act.

TITLE V—EMPLOYEE PROTECTIONS AND MISCELLANEOUS

SEC. 501. EMPLOYEE PROTECTIONS FOR CLOSURES AND REDUCTIONS IN CAPACITY.

(a) IN GENERAL.—Section 1932 of the Social Security Act, as inserted by section 201 and amended by sections 202 and 203 of this Act, is further amended by adding at the end the following new subsection:

"(j) EMPLOYEE PROTECTIONS FOR CAPACITY REDUCTIONS.—

"(1) IN GENERAL.—As a requirement of its State plan under section 1902(a), the State must provide that, in the case of any closure or reduction in capacity (whether through a reduction plan under subsection (i) or otherwise) of a habilitation facility in the State made on or after the date of the enactment of this subsection, the following fair and equitable arrangements have been made to protect the interests of employees of the facility affected by such closure or reduction:

"(A) The preservation of rights, privileges, and benefits (including continuation of pension rights and benefits), under applicable collective bargaining agreements.

"(B) The continuation of collective bargaining rights through any certified representative.

"(C) The protection of individual employees against a worsening of their positions

with respect to their employment at the facility during the period of the closure or reduction.

"(D) Except as provided in the last sentence of this paragraph, assurance of employment of affected employees, with at least the same pay and same level of responsibilities.

"(E) The establishment of paid training or retraining programs for employment of affected employees in the provision of community habilitation and supportive services.

"(F) Provision of—

"(i) a grievance procedure (meeting the requirements of paragraph (2)) for affected employees to assure the preceding requirements have been met with respect to such employees, or

"(ii) another grievance procedure with respect to affected employees who have a certified bargaining representative, if such other grievance procedure has been agreed to by the State and by the certified bargaining representative.

Nothing in this paragraph shall be construed as entitling an affected employee to lifetime employment or as protecting an employee against a discharge for good cause.

"(2) REQUIREMENTS FOR GRIEVANCE PROCEDURE.—The grievance procedure under paragraph (1)(F)(i) shall include the following:

"(A) Informal resolution of the grievance, during the 60-day period beginning on the date of the filing of the grievance.

"(B) After such period, the affected employee shall be permitted, at the employee's election, the option of (i) submitting the grievance to binding arbitration before a qualified arbitrator who is independent of the interested parties, or (ii) a hearing on the grievance before a State agency.

"(C) An arbitration proceeding or hearing on the grievance, under subparagraph (B), shall be held within 45 days after the date of the request for such arbitration or hearing under such subparagraph.

"(D) A decision on the grievance shall be made within 30 days after the date of such proceeding or hearing.

"(E) Costs of the arbitrator shall be divided evenly between the affected employee and the State and costs of the hearing shall be borne by the State.

Costs of the State under subparagraph (E), and comparable costs of the State under another grievance procedure under paragraph (1)(F)(ii), shall not be considered, for purposes of section 1903(a), costs of administration of the State plan under this title."

(b) PAYMENT FOR TRAINING AND RETRAINING COSTS.—Section 1903(b) of such Act (42 U.S.C. 1396b(b)) is amended by adding at the end the following new paragraph:

"(4) Federal reimbursement is available under subsection (a)(7) for reasonable expenses associated with training and retraining programs for habilitation facility employees pursuant to section 1932(j)(1)(E)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 502. USE OF STATE DEVELOPMENTAL DISABILITIES AGENCY IN CERTAIN MEDICAID ADMINISTRATIVE FUNCTIONS.

(a) IN GENERAL.—Section 1902(a)(5) of the Social Security Act (42 U.S.C. 1396a(a)(5)) is amended—

(1) by inserting "(A)" after "except that", and

(2) by inserting before the semicolon at the end the following "and (B) nothing in this paragraph shall be construed as preventing a State plan from assigning, to a State agency

responsible for developmentally disabled individuals, specific management functions under the plan relating to provision of services under the plan to individuals with mental retardation or related condition".

(b) AVAILABILITY OF MATCHING FUNDS.—Section 1903(a) of such Act (42 U.S.C. 1396b(a)) is amended by adding at the end the following flush material:

"Payment shall be made available under paragraph (7) for amounts expended for reasonable administrative expenses of a State agency described in section 1902(a)(5)(B) in carrying out activities described in that section in the same manner as they are available for similar reasonable administrative expenses of the single State agency described in section 1902(a)(5)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

By Mr. ADAMS:

S. 1751. A bill to amend title III of the Public Health Service Act to provide for the establishment of a program regarding certain preventable cases of infertility, and for other purposes; to the Committee on Labor and Human Resources.

INFERTILITY PREVENTION ACT

• Mr. ADAMS. Mr. President, I rise today to introduce the Infertility Prevention Act of 1991 to redress an extremely important women's health issue: The alarming increase in sexually transmitted diseases, particularly chlamydia, and the serious health consequences that can result. During the past year, the Senate has moved quickly to close the gap in women's health research and the inadequate attention paid to women's health in the area of medical research at our Nation's major research institutes. We must now do the same in the area of preventative services, where we have the knowledge and the ability to prevent serious and costly health conditions that can have tragic consequences for women and their families.

Chlamydia has become a national public health care crisis. There are more than 4 million new infections each year, affecting more than 2.6 million women. More than 125,000 women become infertile as a result of pelvic inflammatory disease [PID] due to chlamydia and gonorrhea; almost one-third of all infertility in this country is due to past STD infection. Tragically, more than 50 percent of all ectopic pregnancy in the United States—a life threatening disease—can be attributed to chlamydia.

Yet, despite the existence relatively inexpensive screening tests, and the fact that chlamydia infections are easily treated with oral antibiotics, the majority of women in the United States do not get tested. The problem is that the majority of women—more than 75 percent of those infected with chlamydia—have no symptoms or clinical signs of infections. Without routine screening, much like is done to detect cervical cancer—women will continue to be put at unnecessary risk.

The problem is that the traditional way of delivering STD services in this country simply don't work for women. Women don't access existing STD clinics because unlike their male counterparts, it is more likely than not that a woman has no symptoms at all.

The solution is to ensure that chlamydia screening is part of the routine reproductive health care a woman receives where women most commonly receive services: In family planning clinics, community and migrant health centers, prenatal clinics and other appropriate settings.

This is the type of approach that works. Public health officials, family clinics, local STD programs in cooperation with the Centers for Disease Control have built a highly successful model in my State to deliver these essential health care services in settings where women receive primary health care. They have developed a broad spectrum of integrated, coordinated activities that provide diagnostic testing, treatment, risk-education, followup, and referral and treatment of partners. This bill will permit CDC to take this successful model nationwide.

Some may ask why a bill designed solely to address the problem of chlamydia. The answer is again tradition. STD programs have historically focused on syphilis and gonorrhea, and not done an adequate job of addressing "newer" STD's, such as chlamydia that can have devastating consequences for women. But chlamydia is 5 times more common than gonorrhea and 90 times more common than syphilis.

This bill will redress the lack of attention and resources our Nation's prevention agency has focused on this devastating disease. The Centers for Disease Control has long wanted to expand its chlamydia project. In fact, in 1985 then Centers for Disease Control Director, Dr. James Mason told the House Committee on Energy and Commerce Subcommittee on Health and the Environment that \$60 million would be needed to mount a major effort to control chlamydia. Current funding is estimated to be less than one-third of that. And I know from our discussions with CDC officials that they are eager to meet this urgent health problem.

It is time, Mr. President for us to make a national commitment to screening and treating chlamydia. My bill will provide authority for the Centers for Disease Control to establish a national chlamydia screening program for low-income women. It will provide the necessary resources to see that the job is done properly. I urge my colleagues to support this effort.

I ask that a copy of the bill and a factsheet on chlamydia be included in the RECORD.

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

S. 1751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This subtitle may be cited as the "Infertility Prevention Act of 1991".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Chlamydia and gonorrhea are treatable sexually transmitted diseases that can cause infertility among women if treatment for the disease is not received.

(2) Effective treatments exist for such diseases, and cases of infertility arising from the diseases are therefore preventable.

(3) An estimated 125,000 women in the United States become infertile each year as a result of complications resulting from chlamydia, gonorrhea and other sexually transmitted diseases, and such infertility often occurs before the women have made the decision to begin or complete their families.

(4) Chlamydia is believed to be the most common sexually transmitted disease in the United States, with an estimated 4,000,000 new cases of the disease occurring each year. Women and sexually active teenagers are at particular risk for contracting the disease. In 1987, the disease resulted in \$1,800,000,000 of direct and indirect costs to the taxpayers of the United States, and 75 percent of such costs were due to cases of the disease that could have been easily and successfully treated.

(5) Gonorrhea is the most commonly reported sexually transmitted disease in the United States, with approximately 1,000,000 new cases of the disease reported to public health officials each year.

(6) The failure to receive treatment for chlamydia or gonorrhea can have serious consequences for women in addition to infertility, including life-threatening complications in pregnancy.

(7) Women with chlamydia or gonorrhea are twice as likely to experience an ectopic pregnancy, and the occurrence of either of such diseases during pregnancy is associated with premature births, with stillbirths, and with low birth weight.

(8) Although chlamydia and gonorrhea are easily detected and treated, a majority of women with the diseases experience no symptoms, and therefore rarely seek routine screening and treatment for the diseases.

(9) The single most effective means of preventing infertility and serious complications in pregnancy is through routine annual screening for, and prompt treatment of, chlamydia and gonorrhea in women and their partners.

(10) Providers of gynecological services are particularly appropriate entities through which such routine annual screenings (and treatment, as appropriate) can be provided.

(11) As a result of insufficient funding, health clinics that provide gynecological care to low-income women are currently unable to provide screenings for chlamydia and gonorrhea as part of routine gynecological care.

SEC. 3. ESTABLISHMENT OF PROGRAM OF GRANTS REGARDING PREVENTABLE CASES OF INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 101(a)(1) of Public Law 101-616 (104 Stat. 3279), is amended by adding at the end the following new part:

**"PART M—PREVENTABLE CASES OF INFERTILITY
"SEC. 399G. INFERTILITY ARISING AS RESULT OF
SEXUALLY TRANSMITTED DISEASES.**

"(a) IN GENERAL.—The Secretary may make grants to States, political subdivisions of States, and any other public or nonprofit private entities for the purpose of carrying out the nonprofit described in subsection (c) regarding any treatable sexually transmitted disease that can cause infertility in women if treatment is not received for the disease. The Secretary shall carry out this section acting through the Director of the Centers for Disease Control.

"(b) SPECIFICATION OF RELEVANT DISEASES.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall make a determination specifying all sexually transmitted diseases that are diseases described in subsection (a).

"(2) DISEASES APPLICABLE WITH RESPECT TO GRANTEE INVOLVED.—In making a grant under subsection (a) to an applicant for the grant, the Secretary shall make a determination in order to select, from among the diseases specified for purposes of paragraph (1) for the fiscal year involved, the particular diseases with respect to which the grant is to be made to the applicant. The Secretary may select, for purposes of the determination, any or all of the diseases so specified. The Secretary may not make such a grant unless the applicant agrees to carry out this section only with respect to the disease or diseases selected for the applicant through the determination.

"(c) AUTHORIZED ACTIVITIES.—With respect to any sexually transmitted disease described in subsection (a), the activities referred to in such subsection are—

"(1) providing counseling to women on the prevention and control of the disease, including, in the case of a woman with the disease counseling on the benefits of locating and providing such counseling to any individual from whom the women may have contracted the disease and any individual whom the women may have exposed to the disease;

"(2) screening women for the disease and for secondary conditions resulting from the disease, and as appropriate, to provide pregnancy testing;

"(3) providing treatment to women for the disease;

"(4) providing referrals regarding the provision of other medical services to women screened pursuant to paragraph (2), including, as appropriate, referrals, for evaluation and treatment regarding acquired immune deficiency syndrome and other sexually transmitted diseases and referrals regarding pregnancy, childbirth, and pediatric care;

"(5) providing follow-up services to determine the outcomes of medical services;

"(6) in the case of any women receiving services pursuant to any of paragraphs (1) through (5), providing to the partner of the women the services described in such paragraphs, as appropriate;

"(7) providing outreach services to inform women of the fact that the services described in paragraph (1) through (6) are available from the grantee involved;

"(8) providing to the public information and education on the prevention and control of the disease, including disseminating such information;

"(9) providing training to health care providers in carrying out the counseling and screenings described in paragraphs (1) and (2);

"(10) in the case of services and activities described in this subsection, coordinating the services and activities in accordance with subsection (g); and

"(11) collecting, in accordance with subsection (k), data on the incidence and prevalence of the disease in order to assist in carrying out activities for the prevention and control of the disease, including activities to educate the public regarding the disease.

"(d) REQUIREMENT OF AVAILABILITY OF ALL SERVICES THROUGH EACH GRANTEE.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that each authorized service will be available through the applicant. With respect to compliance with such agreement, the applicant may expend the grant to provide any of the services directly, and may expend the grant to enter into agreements with other public or nonprofit private entities under which the entries provide the services.

"(e) REQUIRED PROVIDERS REGARDING CERTAIN SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, in expending the grant to provide authorized services, the services described in paragraphs (1) through (7) of subsection (c) will be provided only through entities that are grantees under section 329, 330, or 1,001 or are other public or nonprofit private entities that provide health or voluntary family planning services to a significant number of low-income women.

"(f) QUALITY ASSURANCE REGARDING SCREENING FOR DISEASES.—For purposes of this section, the Secretary shall establish criteria for ensuring the quality of screening procedures for diseases described in subsection (a). The Secretary may not make a grant under such subsection unless the applicant involved agrees, with respect to any disease selected in the determination made under subsection (b)(2) for the applicant, to carry out screenings for the disease in accordance with such criteria.

"(g) COORDINATION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees to coordinate all authorized services provided through the applicant for the purpose of ensuring efficiency in the provision of the services.

"(h) CONFIDENTIALITY.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees to maintain the confidentiality of information on individuals regarding screenings of the individuals for sexually transmitted diseases, subject to complying with applicable law.

"(i) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the individual involved; and

"(3) will not be imposed on any individual with an income of less than 150 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(j) LIMITATIONS ON CERTAIN EXPENDITURES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that—

"(1) in the case of the first fiscal year for which the applicant receives payments under the grant, not more than 20 percent of the grant will be expended for the purpose of carrying out paragraphs (8) through (11) and subsection (c); and

"(2) in the case of any subsequent fiscal year for which the applicant receives payments under any grant under subsection (a), not more than 15 percent of the grant will be expended for such purpose.

(k) REPORTS TO SECRETARY.—

"(1) COLLECTION OF DATA.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to any disease selected in the determination made under subsection (b)(2) for the applicant, to submit to the Secretary, for each fiscal year for which the applicant receives such a grant, a report providing—

"(A) the incidence of the disease among the population of individuals served by the applicant;

"(B) the number and demographic characteristics of individuals in such population;

"(C) the types of interventions and treatments provided by the applicant, and the health conditions with respect to which referrals have been made pursuant to subsection (c)(4);

"(D) an estimate by the applicant of the effect of the services provided under the grant on the community in which the services have been provided; and

"(E) providing such other information as is available to the applicant and determined by the Secretary to be relevant regarding the prevention and control of the disease.

"(2) UTILITY AND COMPARABILITY OF DATA.—The Secretary shall carry out activities for the purpose of ensuring the utility and comparability of data collected pursuant to paragraph (1). The Secretary may not make a grant under subsection (a) unless the applicant involved makes such agreements as the Secretary determines to be necessary for such purpose.

"(1) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not, subject to paragraph (2), make such a grant for any fiscal year unless the applicant agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the first fiscal year for which the entity receives such a grant.

"(2) APPLICABILITY TO PRIVATE ENTITIES.—In the case of a nonprofit private entity making an agreement under paragraph (1), the Secretary may require the entity to comply with the agreement only to the extent of the amount of non-Federal amounts that are available to the entity for the activities to which the agreement applies.

"(m) SUBMISSION OF PLAN FOR PROGRAM OF GRANTEE.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant involved submits to the Secretary a plan describing the manner in which the applicant will comply with the agreements required as a condition of receiving such a grant, including a specification of the entities through which authorized services will be provided and a specification of the manner in which such services will be coordinated purposes of subsection (g).

"(2) PARTICIPATION OF CERTAIN ENTITIES.—The Secretary may not make a grant under subsection (a) unless the applicant provides assurances satisfactory to the Secretary that the plan submitted under paragraph (1) has been prepared in consultation with an appropriate number and variety of—

"(A) representatives of entities in the geographic area involved that provide services

for the prevention and control of sexually transmitted diseases, including programs to provide to the public information and education regarding such diseases; and

“(B) representatives of entities in such area that provide family planning services.

“(n) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary, the application contains the plan required in subsection (m), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(o) DURATION OF GRANT.—The period during which payments are made to an entity from a grant under subsection (a) may not exceed 3 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments in such year. The preceding sentence may not be construed to establish a limitation on the number of grants under such subsection that may be made to an entity.

“(p) TECHNICAL ASSISTANCE, AND SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

“(1) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance to grantees under subsection (a) with respect to the planning, development, and operation of any program or service carried out under such subsection. The Secretary may provide such technical assistance directly or through grants or contracts.

“(2) SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

“(A) Upon the request of a grantee under subsection (a), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the grantee in carrying out such subsection and, for such purpose, may detail to the grantee any officer or employee of the Department of Health and Human Services.

“(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of the grant to the grantee involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

“(q) EVALUATIONS AND REPORTS BY SECRETARY.—

“(1) EVALUATIONS.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to subsection (a) in order to determine the quality and effectiveness of the programs.

“(2) REPORT TO CONGRESS.—Not later than 1 year after the date on which amounts are first appropriated pursuant to subsection (t), and annually thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report—

“(A) summarizing the information provided to the Secretary in reports made pursuant to subsection (k), including information on the incidence of sexually transmitted diseases described in subsection (a); and

“(B) summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year.

“(r) COORDINATION OF FEDERAL PROGRAMS.—The Secretary shall coordinate the

activities carried out under the program established in this section with any similar activities regarding sexually transmitted diseases that are carried out under other programs administered by the Secretary, including the coordination of such activities of the Director of the Centers for Disease Control with such activities of the Director of the National Institutes of Health.

“(s) DEFINITIONS.—For purposes of this section, the term ‘authorized service’ means any service or activity described in subsection (c).

“(t) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section other than subsections (q) and (u), there is authorized to be appropriated \$80,000,000 for each of the fiscal years 1992 through 1995.

“(u) SEPARATE GRANTS FOR RESEARCH ON DELIVERY OF SERVICES.—

“(1) IN GENERAL.—The Secretary may make grants for the purpose of conducting research on the manner in which the delivery of services under subsection (a) may be improved. The Secretary may make such grants only to grantees under such subsection and to public and nonprofit private entities that are carrying out projects substantially similar to projects carried out under such subsection.

“(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1995.”

BACKGROUND FACTS ON CHLAMYDIA

Chlamydia is the most common STD in the United States, with more than 4 million new infections each year. Chlamydia trachomatis, the organism which causes chlamydial infections, is a bacteria which can be easily treated with oral antibiotics.

In men, chlamydia is the most frequent cause of nongonococcal urethritis, or infection of the urinary opening. In women, chlamydia infection is most common on the cervix, the opening of the uterus.

Chlamydia infections are the most frequent cause of pelvic inflammatory disease (PID) in women. PID results when chlamydia infection of the cervix moves up the genital tract to the upper uterus and Fallopian tubes. PID damages the Fallopian tubes, leading to tubal factor infertility as well as risk for other complications such as tubal (ectopic) pregnancy and chronic pain.

More than 50% of all ectopic pregnancy in the U.S., a life threatening condition, can be attributed to past infection with STD such as chlamydia. Ectopic pregnancy is the most frequent cause of maternal mortality in the United States.

The Office of Technology Assessment issued a report on infertility in 1988. They found that each year \$2 billion is spent in the United States on health care costs related to infertility. The most cost-effective way to address the problem of infertility is to implement primary prevention of infertility by diagnosing and treating sexually transmitted infections which may lead to infertility, rather than promote costly infertility treatments after tubal damage has already occurred.

As many as 125,000 women become infertile each year as a result of PID due to chlamydia and gonorrhea. An estimated \$40 to \$200 million is spent annually on infertility-related health care costs which result from past infections with chlamydia or other STD. As much as 30% of all infertility may be due to past STD infection. Infertility resulting from PID is the only preventable cause of infertility.

Although chlamydia infections are easily treated with oral antibiotics, many infections go unrecognized and are not treated because the majority of women—as many as 75% of those infected with chlamydia—have no symptoms or clinical signs of infections. These “silent” infections will not be detected without specific diagnostic testing but frequently progress to infections into the upper genital tract—the Fallopian tubes and uterus—causing tubal damage and risk for infertility.

Screening women in primary care settings, when they receive other health care services such as pap smears or examinations for family planning, and before symptoms occur, offers the best opportunity for prevention of infertility because these infections can be detected and treated early before tubal damage occurs.

Chlamydia cultures have been available over a decade, but are very expensive. Recently non-culture tests have been developed which are almost as sensitive as culture in detecting infection and which can be used easily in primary care settings. However, the cost of these non-culture tests, although less than culture, is still prohibitive in many primary care settings. Most public clinics do not have the resources to provide testing, even though their patients are at high risk for chlamydia infection.

Because knowledge about the clinical effects of chlamydia has been evolving over the past ten years, many clinicians in practice are not aware of the spectrum of diseases caused by chlamydia or the potential for complications from these infections in women. Routine testing of reproductive-age women is not common in practice, even though CDC has called for testing during routine examinations since 1985. Provider education about the nature of the chlamydia, and the diagnosis and treatment of infections will be essential to achieve an effective chlamydia control program in the United States.

Many individuals at risk for infection are likewise unaware of chlamydia and its complications. Patient outreach and education—along with screening—must be a component of any chlamydia control program.

A collaborative demonstration project for chlamydia control has been successfully implemented in Region X: Washington, Oregon, Idaho and Alaska. The project was designed to provide widespread, cost-efficient screening of chlamydia and treatment for infected women and their sex partners in primary care clinics. Jointly supported by the CDC and the regional Title X family planning program, the project used centralized data management and laboratory resources, and bulk purchase of non-culture chlamydia tests to maximize the cost-savings. Thus, more women were able to be screened for each program dollar. This project was remarkably successful in decreasing the incidence and prevalence of chlamydia among women receiving care at participating sites. The collaborative, integrated project—which included provider and patient education—should be the model for chlamydia control programs nationwide.●

By Mr. INOUE (for himself and Mr. MCCAIN):

S. 1752. A bill to provide for the development, enhancement, and recognition of Indian tribal courts; to the Select Committee on Indian Affairs.

INDIAN TRIBAL COURTS ACT

Mr. INOUE. Mr. President, I am introducing a measure today that is in-

tended to address, in a comprehensive way, the needs of Indian tribal courts. As chairman of the Senate Select Committee on Indian Affairs for almost 5 years, I have become educated on many matters that involve the exercise by Indian tribal governments of their inherent sovereignty. Fundamental to the exercise of sovereignty is the ability of the sovereign to enact laws and to enforce those laws through judicial forums. In my tenure as committee chairman, I have come to understand that, while tribal governments have made great strides in adapting their traditional judicial systems to conform to Anglo justice system models, much remains to be done. In fact, a dramatic change is needed in the manner in which the United States makes resources available to tribal governments and their court.

The bill I am introducing today, if enacted, will bring about a significant change from the current structure for the delivery of Federal resources to Indian tribal court systems. The bill provides for the establishment of an independent Tribal Judicial Conference, composed of the chief judges of all tribal courts, that would oversee the business of tribal courts, always keeping in mind the sovereignty and independence of each tribal government and its judicial system. Federal funds for the operation and support of tribal courts would be allocated on the basis of a formula developed by the Tribal Judicial Conference in consultation with Indian tribal governments.

I am pleased to note that the response of the Indian country to this approach has been very favorable. The committee held a hearing on this bill in draft form on September 10, 1991, and the bill now reflects many of the recommendations received at that hearing as well as other communications received by the committee from tribal government leaders.

Mr. President, the 1968 Indian Civil Rights Act requires tribal governments to provide protection of rights that reflect, with few exceptions, the rights protected in the Bill of Rights contained in the Constitution, as well as the rights protected in subsequent amendments to the Constitution.

Mr. President, the U.S. Commission on Civil Rights has just completed a 5-year study of the implementation of the Indian Civil Rights Act by tribal governments. The Commission found that there are two major factors that affect the implementation. One factor is the diversity of tribal court forums and tribal traditions; and another factor, cited in the Civil Rights Commission report is the "inadequacy of resources provided by the Federal Government since enactment of the ICRA to facilitate a consistent level of implementation."

The Indian Tribal Courts Act of 1991 proposes to provide comprehensive

Federal support to Indian tribal courts and intertribal courts of appeal. Drawing from the framework of institutions that provide support to the Federal and State courts, the bill contains three titles.

Title I establishes the Tribal Judicial Conference which would be composed of the chief judge of each tribal court. The Conference would meet regularly to survey the needs of tribal courts and to give direction to the Office of Indian Tribal Courts. The Conference would appoint the Director of the Office who would also serve as secretary to the Conference.

Title I also establishes an Office of Indian Tribal Courts within the Conference. This office would provide basic support for tribal courts and would distribute funds to tribal courts in accordance with a formula developed by the Tribal Judicial Conference, in consultation with Indian tribal governments. In addition, the Office will have authority to make grants to tribal governments and tribal courts for enhancement and further development of the courts. The Office will have access to technical assistance and support, on a reimbursable basis, from the administrative office of the U.S. courts.

Title II establishes the Tribal Justice Institute which is modeled after the State Justice Institute, a federally funded organization devoted to education and development of innovative policies and programs to improve the administration of justice in State courts. The Institute would be directed by a 12-member board of directors appointed by the Tribal Judicial Conference and its primary function would be to make grants for purposes similar to those purposes for which grants are made to organizations serving State courts. These grants would be awarded to tribal, public, and private agencies for the improvement of tribal court programs including seminars, training, development of innovative programs, case flow and records management, research, and enhancing the communication between Federal, State, and tribal judicial systems.

Mr. President, the message in most of the testimony received by the Committee over the past year has been straightforward and unanimous—tribal courts need adequate resources to enhance their capacities to provide efficient adjudicatory systems. The findings of the U.S. Commission on Civil Rights support this view. The integrity of a tribal government is dependent upon not only upon the enforcement of laws enacted by that government but the degree to which the tribal court can efficiently address actions which require the interpretation of those laws. To date, the resources that have been afforded to tribal courts have been seriously inadequate to meet the requirements of ever-increasing case loads.

I believe that every member of the Senate would agree that we must provide tribal judicial systems with the same measure of assistance that is now made available to support the operations of the Federal courts and the State courts.

It is my hope that the bill I am introducing today will be considered in this context and that we will see early passage of this important legislation.●

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. CHAFEE, Mr. RUDMAN, Mr. SMITH, and Mr. PELL):

S. 1753. A bill to authorize the Small Business Administration to participate in the purchase of eligible securities issued by qualified commercial banks or qualified mutual savings banks; to the Committee on Small Business.

SMALL BUSINESS RECOVERY ACT

● Mr. LIEBERMAN. Mr. President, I rise today to introduce the Small Business Recovery Act of 1991—a measure I believe will provide some long-awaited and critically needed relief to the credit crunch which has plagued New England and the Nation over the past 18 months. I am pleased to be joined in this effort by Senators DODD, CHAFEE, RUDMAN, SMITH, and PELL.

Mr. President, Connecticut is suffering from one of the worst recessions in recent memory—unemployment continues to rise, businesses continue to fail, and the credit crunch has devastated hopes for any imminent recovery.

The facts are clear: First, in 1990, business failures in New England increased by 193 percent over 1989 levels. This compares to a nationwide increase in business failures of 14.5 percent. Second, during the past 2 years New England has lost 254,000 jobs, which accounts for fully 20 percent of the Nation's total job loss, in a region that accounts for only 5 percent of the population. Subsequently, as of April 1991, five of the six New England States had an unemployment rate significantly higher than the national average. Third, from the fourth quarter of 1988 to the fourth quarter of 1989 commercial and industrial loans dropped from 560.7 billion to 545.3 billion—a drop of 2.8 percent. New England dropped from 45.5 to 38.5 billion—a drop of 15.3 percent. Fourth, finally, on a regional basis, the loss of bank capital in New England is the most severe in the United States. According to Federal Reserve data, from the fourth quarter of 1988 to the fourth quarter of 1990, savings and commercial banks throughout New England experienced a 25-percent decline in capital, while nationally the decline averaged less than 3 percent.

Mr. President, in recent testimony before the Joint Economic Committee, Michael Boskin, Chairman of the President's Council on Economic Advisors stated—very clearly—that "the serious

problem of the availability of credit in the United States is probably the single biggest threat to a sustained recovery."

If Mr. Boskin hasn't visited New England recently—he ought to—because he has hit the nail right on the head. The credit crunch is alive and well in New England and in the State of Connecticut. According to a survey conducted by the Connecticut Business and Industry Association this past March: 26 percent of the respondents said they had been turned down for a loan during the last 6 months; more than 10 percent had a loan called; and 81 percent believed there was a credit availability problem for their particular industry.

While these data are alarming, one additional fact is clear—the credit crunch is going to get worse before it gets better. As the economy begins to recover and as the demand for credit begins to increase, the availability of financing for creditworthy firms will become even more scarce. This impedes economic growth and job creation, and causes businesses to fail and unemployment to rise. The fact is that creditworthy businesses—particularly small businesses—are suffering and will continue to suffer unless we act soon.

Mr. President, over the past 18 months I have met with or written to Secretary Brady, Chairman Greenspan, Comptroller Clark, and Chairman Seidman. I have urged a reduction in interest rates, I have been supportive of open bank assistance, and I have discussed many regulatory initiatives, including proposals regarding net worth certificates and loan splitting. With the exception of reducing the discount rate, the administration has been completely unresponsive. As exemplified by Mr. Boskin's statement, the administration is simultaneously acknowledging the gravity of the credit situation and refusing to take any action. This reminds me of a line I once heard Professor Robert Michel use. He said: "Taking my economic theory course may not keep you off the bread lines, but at least you'll know why you're there."

Mr. President, simply stated, the Small Business Recovery Act serves two primary purposes. First, it would aid in the recapitalization of economically sound smaller banks—using private capital with a Federal guarantee—and therefore provide much-needed and long-awaited relief to one of the primary causes of the credit crunch—the lack of bank capital.

Second, this program focuses directly on lending to small firms. Small businesses are the most vulnerable in a tight credit market and are most affected by the credit crunch. Under this legislation, capital raised by security sales would be placed into a loan pool for the purposes of making small business loans. The multiplier effect of this capital investment would provide ap-

proximately 12 times the guaranteed portion of the investment—\$60 million per bank—much of which will lead to small business lending.

Finally, this program is largely self-insured. Banks participating in the program are required to pay an origination fee of .5 percent and an annual premium of 1 percent. Over the 7-year life of the program these fees would grow into a \$31 million reserve to protect against losses.

Mr. President, the credit crunch is strangling New England's economy and impeding New England's economic recovery. Without capital, banks cannot provide credit; without credit, businesses cannot grow; and without business growth, jobs cannot be created. It's as fundamental as that.

To conclude, let me thank Mr. Sheldon Pollack and the New England Council, who worked tirelessly on bringing this idea to fruition, and enabling us to introduce it today. ●

● Mr. DODD. Mr. President, it is with a great sense of urgency that I rise today to join Senators LIEBERMAN, CHAFEE, and RUDMAN in introducing the Small Business Recovery Act of 1991.

Connecticut and the rest of New England have been decimated by a recession that shows little sign of loosening its stranglehold on the region's economy. The numbers speak for themselves. Business failures increased by 193 percent during 1990 in New England, compared to 14.5 percent nationwide, and over the past 2 years New England has lost 254,000 jobs, or 4 percent of all its jobs.

These numbers have real meaning for real people. At three hearings over the past 2 months I have listened to people who have been thrown out of work and are now struggling to find a job. Laborers and State employees, marketing executives and construction workers—all have told the same poignant tale of losing their job and with it many of their aspirations in life. For many, former dreams of a career and a better future for their children have turned into a nightmare of searching for some job, any job, that will simply pay for the basic necessities of life.

Mr. President, the legislation we are introducing today is a direct response to these problems. I favor other actions, including the extension of unemployment benefits for Americans whose benefits expire during their earnest search for work, but the only long-term solution is to get the economy moving and create jobs. Infusion of capital into banks is a key to this. Without capital, banks cannot lend. Without loans, businesses cannot thrive and jobs cannot be created.

In Connecticut during 1990, losses on loans gone bad ate away at bank capital, causing it to decline by 28.2 percent from 1989 levels. Declining capital in turn forced many banks to shrink their assets to meet required ratios—

often by refusing to continue lines of credit to long-standing customers and by declining to make loans to creditworthy borrowers. This is reflected by the fact that loans by Connecticut banks shrank by 10.5 percent during 1990, and further shrank at an annual rate of 9.8 percent during the first quarter of 1991. It is also reflected by a February survey by the Connecticut Business and Industry Association which found that 75 percent of those responding felt credit was more difficult to obtain than it had been the previous year.

The Small Business Recovery Act is designed to attract capital to banks. It would authorize the Small Business Administration to guarantee, for a period of 7 years, 85 percent of the original value of small amounts of stock issued by small banks. While the stock guarantee would be limited to \$4.25 million per bank, even this small amount of capital gain can support as much as \$42 million in loans.

It is particularly important that this bill singles out small banks, because small banks do the lion's share of lending to the thousands of small businesses that are the backbone of the New England economy. Whereas Fortune 500 companies have access to national—and now international—sources of credit, small businesses are not large enough to command the attention of these markets. Under the provisions of this bill, only banks with a history of lending to small businesses are eligible for the stock guarantee program, and banks that participate must make special provisions to continue their lending to small business.

Before closing, I would like to commend the New England Council for its hard work on this legislation. The Small Business Recovery Act is an innovative response to current problems, building upon the Small Business Administration's loan guarantee program, and upon the SBA's general expertise in promoting small business in this country. Its introduction today would not have been possible without the council's hard work and support.

Mr. President, I would hope we can take action on this bill quickly. The need is great. People in Connecticut and across New England are hurting because they have no job, and this bill is one way Government can help. While not a panacea, passage of the Small Business Recovery Act would offer a ray of hope to New Englanders that our region's difficulties may be on the wane. I would hope we will not pass up the opportunity to send such a strong and positive message to people who desperately need it. ●

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 68,

a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 140

At the request of Mr. WIRTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 316

At the request of Mr. CRAIG, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 456

At the request of Ms. MIKULSKI, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Idaho [Mr. CRAIG], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 456, a bill to amend chapter 83 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers to inspectors of the immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 581

At the request of Mr. BOREN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 684

At the request of Mr. FOWLER, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 684, a bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes.

S. 964

At the request of Mr. MCCAIN, the name of the Senator from California [Mr. SEYMOUR] was added as a cospon-

sor of S. 964, a bill to establish a Social Security Notch Fairness Investigatory Commission.

S. 1111

At the request of Mr. MITCHELL, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1111, a bill to protect the Public from Health Risks from Radiation Exposure from Low-Level Radioactive Waste, and for other purposes.

S. 1185

At the request of Mr. GARN, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 1185, a bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes.

S. 1227

At the request of Mr. MITCHELL, the names of the Senator from Hawaii [Mr. INOUE], the Senator from Hawaii [Mr. AKAKA], the Senator from Vermont [Mr. LEAHY], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. SIMON], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1227, a bill to amend the Public Health Service Act, the Social Security Act, and the Internal Revenue Code of 1986 to provide affordable health care of all Americans, to reduce health care costs, and for other purposes.

S. 1257

At the request of Mr. BOREN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1261

At the request of Mr. DOLE, the names of the Senator from Missouri [Mr. DANFORTH], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1273

At the request of Mr. FOWLER, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1273, a bill to establish national standards for the manufacture and labeling of certain plumbing products in order to conserve and protect water resources, and for other purposes.

S. 1274

At the request of Mr. FOWLER, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1274, a bill to provide for the improved management of the nation's water resources.

S. 1372

At the request of Mr. GORE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1383

At the request of Mr. MCCAIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1383, a bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes.

S. 1423

At the request of Mr. DODD, the names of the Senator from Michigan [Mr. LEVIN], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1426

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1426, a bill to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries.

S. 1505

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1505, a bill to amend the law relating to the Martin Luther King, Jr. Federal Holiday Commission.

S. 1532

At the request of Mr. METZENBAUM, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1532, a bill to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes.

S. 1673

At the request of Mr. HEFLIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1673, a bill to improve the Federal justices and judges survivors' annuities program, and for other purposes.

S. 1699

At the request of Mr. DODD, the names of the Senator from Massachusetts [Mr. KERRY], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1699, a bill to prevent false and misleading state-

ments in connection with offerings of government securities.

S. 1712

At the request of Mr. BROWN, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1712, a bill to provide an annuity to certain surviving spouses and dependent children of Reserve members of the Armed Forces who died between September 21, 1972, and September 30, 1978.

S. 1730

At the request of Mr. ADAMS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1730, a bill to provide early childhood staff training and professional enhancement grants, and for other purposes.

S. 1742

At the request of Mr. LEAHY, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1742, a bill to authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, from farmers' markets, and to increase sales at the markets, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. JOHNSTON, the names of the Senator from Kansas [Mr. DOLE], the Senator from Indiana [Mr. LUGAR], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 6, a joint resolution to designate the year 1992 as the "Year of the Wetlands."

SENATE JOINT RESOLUTION 110

At the request of Mr. WOFFORD, his name was added as a cosponsor of Senate Joint Resolution 110, a joint resolution expressing the sense of the Congress that the United States and the Soviet Union should lead an effort to promptly repeal United Nations General Assembly Resolution 3379 (XXX).

At the request of Mr. MOYNIHAN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 110, supra.

SENATE JOINT RESOLUTION 147

At the request of Mr. LEAHY, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Oklahoma [Mr. BOREN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. DANFORTH], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Kansas [Mr. DOLE], the Senator from Ohio [Mr. GLENN], the Senator from Utah [Mr. HATCH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Maine [Mr. MITCHELL], the Senator from South Dakota [Mr. PRESSLER], the Sen-

ator from California [Mr. SEYMOUR], the Senator from Illinois [Mr. SIMON], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 147, a joint resolution designating October 16, 1991, and October 16, 1992, as "World Food Day."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. INOUE, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Joint Resolution 172, a joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month."

SENATE JOINT RESOLUTION 190

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 190, a joint resolution to designate January 1, 1992, as "National Ellis Island Day."

SENATE JOINT RESOLUTION 198

At the request of Mr. AKAKA, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 198, a joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

SENATE JOINT RESOLUTION 202

At the request of Mr. INOUE, the names of the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from North Carolina [Mr. SANFORD], the Senator from Massachusetts [Mr. KERRY], the Senator from North Dakota [Mr. CONRAD], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of Senate Joint Resolution 202, a joint resolution to designate October, 1991, as "Crime Prevention Month."

SENATE RESOLUTION 78

At the request of Mr. KASTEN, his name was withdrawn as a cosponsor of Senate Resolution 78, a resolution to disapprove the request of the President for extension of the fast track procedures under the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974.

SENATE RESOLUTION 178

At the request of Mr. LUGAR, the names of the Senator from Wyoming [Mr. WALLOP], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Resolution 178,

a resolution expressing the sense of the Senate on Chinese political prisoners and Chinese prisons.

At the request of Mr. KASTEN, his name was added as a cosponsor of Senate Resolution 178, supra.

SENATE CONCURRENT RESOLUTION 64—RELATIVE TO THE ANNIVERSARY OF DEMOCRACY IN GREECE

Mr. LUGAR submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 64

Whereas 2500 years ago, the ideals and institutions of democracy originated in the city of Athens;

Whereas Greece is recognized as the cradle of democracy;

Whereas Athenian democratic ideals inspired the founders of the United States to wisely establish democratic institutions for the perpetual benefits of the people of the United States;

Whereas the democratic ideals and institutions that originated in Athens now flourish not only in the United States and Greece but throughout the world;

Whereas the collapse of global Communist totalitarianism represents the greatest victory for democratic ideals since the end of World War II, guaranteeing liberty and happiness to hundreds of millions of people and enhancing the prospects for world peace; and

Whereas during September 26 through 28, 1991, the occasion of the 2500th anniversary of democracy will be celebrated in Athens: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress congratulates the Government and people of Greece, and the municipal government and people of Athens, on the occasion of the 2500th anniversary of the establishment of democracy in the city of Athens.

• Mr. LUGAR. Mr. President, I am very pleased to introduce a concurrent resolution commending and congratulating the people and Government of Greece, as well as the government and people of Athens, on the occasion of the 2,500th anniversary of the establishment of democracy in the city of Athens.

The dramatic transformation to democracy and political pluralism around the globe that have been taking place in the past few years can trace their origins and inspiration in good part to the bold and innovative democratic ideas and institutions established in Athens, Greece, 2,500 years ago.

The resolution I am introducing today is identical to a resolution just introduced in the House. September 26, is significant because the people of Athens, Greece, will begin celebrations commemorating the 2,500-year birthday of Athenian democracy. We should all share in that celebration just as we share in the inherent wisdom and fairness of democracy. •

SENATE RESOLUTION 184—RECOMMENDING THAT MEDICAL HEALTH INSURANCE PLANS PROVIDE COVERAGE FOR PERIODIC MAMMOGRAPHY SCREENING SERVICES

Mr. DIXON submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 184

Whereas one in nine women in the United States can expect to develop breast cancer in her lifetime;

Whereas breast cancer is the second leading type of cancer resulting in death among women in the United States;

Whereas it is estimated that 44,500 deaths in 1991 will be attributed to breast cancer;

Whereas if detected early, approximately 90 percent of breast cancer cases can be cured;

Whereas mammography screening has been determined to be the most reliable method for the early detection of breast cancer;

Whereas according to the American Cancer Society, mammography screening for breast cancer results in higher survival rates in younger women as well as in older women;

Whereas Congress has rightfully found that mammography screening can be low-cost and cost-effective;

Whereas the Breast and Cervical Cancer Mortality Prevention Act of 1990 provides grants to States to subsidize mammography screening for low-income women;

Whereas Medicare coverage includes mammography screening; and

Whereas CHAMPUS provides coverage for mammography screening: Now, therefore, be it

Resolved, That the Senate recommends and urges that all medical health insurance plans provide coverage for periodic mammography screening services as part of basic health care coverage for women.

Mr. DIXON. Mr. President, I rise to introduce a sense-of-the-Senate resolution which I believe is most essential to our health care delivery system. It urges insurance companies throughout this country to pay for the cost of screenings for early detection of breast cancer.

Specifically, the resolution recommends and urges that all medical health insurance plans offer periodic mammography screening services as part of basic coverage for women.

Mr. President, I had the privilege and the honor as chairman of the Subcommittee on Readiness, Sustainability and Supports of the Armed Services Committee in last year's Department of Defense authorization bill to authorize the funding in CHAMPUS for annual mammograms of all women in the military services and all wives of members of the military in the services.

Congress already provides coverage for mammograms to Medicare beneficiaries, and to military medical beneficiaries. Congress also provides assistance to States for mammography screenings for low-income women. This resolution is intended to have insurance companies follow the lead of the

Federal Government and bring mammogram coverage to millions more women.

We know that there is about a 90-percent cure rate for early detection of breast cancer. We know that mammography screening is the most reliable method for early detection of breast cancer. We also know that preventive health care saves lives.

In addition, Mr. President, we know that preventive health care can be low cost, and is cost effective. Therefore, it appears to me that providing mammography screenings will benefit women and insurance companies.

The public and private health care sectors agree that today's runaway medical costs are forcing this country to reorder its health priorities. We can no longer turn our backs on measures that clearly demonstrate cost savings. Prevention must become a primary health priority.

I understand that today, a mammogram costs about \$50, while the cost of a radical mastectomy and followup care can exceed \$50,000. Common sense tells me that for every dollar we spend on early detection of breast cancer, we can substantially save on advanced patient care and treatment.

Mr. President, as you know, insurance companies are regulated by our States. Therefore, my resolution does not dictate to insurance companies what they must include in their health insurance plans. However, the advantages of providing mammography coverage are so compelling that it seems to me that we should take this modest step.

The resolution would raise the visibility of early detection of breast cancer with the hope and expectation that insurance companies will heed the message and act in their best interest, and in the best interest of women and other policyholders.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1992

**SASSER (AND OTHERS)
AMENDMENT NO. 1193**

Mr. SASSER (for himself, Mr. BYRD, Mr. LEAHY, Mr. JOHNSTON, Mr. HARKIN, Mr. BRADLEY, Mr. SIMON, Mr. MITCHELL, and Mr. PRYOR) proposed an amendment, which was subsequently modified, to the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, as follows:

At the end of the committee amendment on page 4, line 5, insert the following new section:

SEC. (a) Notwithstanding any other provision of this Act, the total amount appro-

riated by title III under the heading "AIRCRAFT PROCUREMENT, AIR FORCE" is the amount provided under that heading minus \$3,200,396,000,000.

(b) Notwithstanding any other provision of this Act, the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE" is the amount provided under that heading minus \$225,000,000.

(c)(1) Notwithstanding any other provision of this Act, the total amount appropriated by title IV under the headings "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" and "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES" is the total amount provided under those headings minus \$1,100,000.

(2) Of the total amount appropriated by title IV under such headings after the reduction required by paragraph (1), not more than \$3,500,000,000 may be expended for the Strategic Defense Initiative and the Theater Missile Defense Initiative.

**SPECTER AMENDMENT NOS. 1194
THROUGH 1196**

(Ordered to lie on the table.)

Mr. SPECTER submitted three amendments intended to be proposed by him to the bill H.R. 2521, supra, as follows:

At the appropriate place in the bill insert the following:

SEC. . LIMITATION ON OVERHAUL OF THE U.S.S. ENTERPRISE.

(a) LIMITATION.—No funds shall be obligated for the complex overhaul of the U.S.S. Enterprise (CVN-65), or any other nuclear aircraft carrier until the Secretary of the Navy, the Administrator of the Environmental Protection Agency, and the Secretary of Energy have jointly submitted a comprehensive plan, which includes annual cost estimates for the next 20 years, for the handling and disposal of all nuclear materials and radioactively contaminated materials of the nuclear-powered aircraft carriers. This plan shall include a list of the specific locations under consideration as disposal or reprocessing sites and shall be developed in consultation with the host states and affected states of any potential site. An unclassified report detailing such plans shall be provided to Congress to accompany the notice of certification.

(b) REPORT ON HEALTH EFFECTS.—Not later than September 30, 1992, the Secretary of Health and Human Services, acting through the Assistant Secretary of Labor for Occupational Safety and Health, shall transmit to Congress a report on the human health risks associated with overhaul work on nuclear-powered aircraft carriers.

AMENDMENT No. 1195

Insert in the appropriate place:

(1) The Department of the Navy shall not take any action to close or consolidate any Department of the Navy Research and Development laboratory until:

(A) the Comptroller General of the United States issues a report which:

(i) evaluates cost data and methodology used in formulating the consolidation plan, and any new variables resulting from recommendations made by the 1991 Base Closure Commission;

(ii) evaluates the validity of all personnel relocation assumptions contained in the plan; and

(iii) evaluates the consolidation plan in light of changing force structure requirements;

(B) the Secretary of Defense provides a report to Congress on the findings set forth in the Comptroller General's report which shall include identification of inconsistencies between the Comptroller General's report and the findings and recommendations submitted by the Department of Defense to the 1991 Base Closure Commission.

(2) The Secretary of the Navy shall make available for review to the Comptroller General of the United States immediately upon enactment of this Act all documents including, but not limited to, any original written, recorded, transcribed, taped, filmed, photographed or graphic material, letters, correspondence, memoranda, hand-written notes, minutes of meetings, reports, studies analyses, notes, charts, diagrams, statistical records, computer print-outs, and fax materials generated after January 1, 1989, and prior to September 1, 1991, pertaining to or referencing the issue of consolidation of Department of the Navy Research and Development activities.

AMENDMENT NO. 1196

At the appropriate place in the pending bill, add the following:

(A) FINDINGS:

(1) The Defense Base Closure and Realignment Act of 1990 itself does not by its terms preclude judicial review of the agency actions involved in the base closure and realignment process; and

(2) The Administrative Procedure Act expressly permits judicial review of agency actions like those undertaken by the Commission and the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990; and

(3) The Defense Base Closure and Realignment Act of 1990 was specifically designed to ensure a fair and open process of base closure; and

(4) The structure and objectives of the Defense Base Closure and Realignment Act of 1990 demonstrate the availability of judicial review of the procedural integrity of the base closure and realignment process; and

(5) Judicial review of the procedural integrity of agency actions is permitted under the Administrative Procedure Act under all circumstances, including where the relevant statute otherwise precludes judicial review; and

(6) Congress and the President rely on the federal courts to scrutinize the adherence of federal agencies like the Commission and the Department of Defense to the procedural mandates of the law; and

(7) The political question doctrine and separation-of-powers concerns do not alter the duty of the federal courts to review the procedural integrity of the base closure and realignment process; and

(8) Congress does not intend for administrative agencies to disregard clear statutory procedural commands;

(B) It is the sense of the Congress that in acting on the Joint Resolution of Disapproval of the 1991 Base Closure Commission's recommendations, the Congress is relying on the integrity of the base closure process, the Base Closure Commission, and the Department of Defense to ensure full compliance with the Defense Base Closure and Realignment Act of 1990. Further, the vote on the resolution of disapproval shall not be interpreted to imply Congressional approval of all actions taken by the Base Closure Commission and the Department of Defense in fulfillment of the responsibilities and duties conferred upon them by the Defense Base Closure and Realignment Act of

1990, but only the acceptance of the recommendations issued by the Base Closure Commission.

CRANSTON AMENDMENT NO. 1197

Mr. INOUE (for Mr. CRANSTON) proposed an amendment to the bill H.R. 2521, supra, as follows:

At the appropriate place in the bill, add a new section as follows:

SEC. . (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed \$10,800,000, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of \$4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

(c) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of \$15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.

BYRD AMENDMENT NO. 1198

Mr. BYRD proposed an amendment to the bill H.R. 2521, supra, as follows:

On page 63, strike out lines 4 through 19, and insert in lieu thereof the following:

SEC. 8018. Funds made available by this Act shall be available to the Department of Defense for purchasing and storing petroleum products in Israel in order to meet emergency and other military needs of the United States as agreed to in a memorandum of agreement between the United States and Israel which should be concluded promptly on terms and conditions acceptable to the governments of both countries: *Provided*, That any memorandum of agreement entered into as described in this section shall be transmitted to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives and shall not take effect until 60 days after the date of the transmittal to such committees: *Provided further*, That in the event of a wartime emergency or a state of heightened military readiness on the part of Israel, all or part of the stock purchased pursuant to this section may be withdrawn and used by the armed forces of Israel (1) with the agreement of the governments of the United States and Israel as provided for in the memorandum of agreement, (2) with notification of the Congress in accordance with section 652 of the Foreign Assistance Act of 1961, and (3) subject to the requirement that the government of Israel promptly and fully reimburse the government of the United States for each such withdrawal in accordance with the terms of the memorandum of agreement: *Provided further*, That section 8110 of Public Law 101-511 is hereby repealed.

KASSEBAUM AMENDMENT NO. 1199

Mr. STEVENS (for Mrs. KASSEBAUM) proposed an amendment to the bill H.R. 2521, supra, as follows:

On page 9, line 24, before the period, add: "*Provided further*, That of the funds appropriated under this heading, \$250,000 shall be available only for the conduct of a study on the need for and feasibility of a joint military and civilian airport at Manhattan, Kansas."

GORTON (AND SEYMOUR) AMENDMENT NO. 1200

Mr. STEVENS (for Mr. GORTON, for himself and Mr. SEYMOUR) proposed an amendment to the bill H.R. 2521, supra, as follows:

At the appropriate place in the bill, under the heading, Research, Development, Test and Evaluation, Navy, add: "*Provided further*, That of the funds appropriated under this heading, \$10,000,000 shall be available only for the Submarine Laser Communications project."

DOLE AMENDMENT NO. 1201

Mr. STEVENS (for Mr. DOLE) proposed an amendment to the bill H.R. 2521, supra, as follows:

On page 93, line 22, insert "operated on a for-profit or nonprofit basis" after "business entity".

FORD (AND McCONNELL) AMENDMENT NO. 1202

Mr. INOUE (for Mr. FORD, for himself, and Mr. McCONNELL) proposed an amendment to the bill H.R. 2521, supra, as follows:

On page 41, line 6, insert the following: Insert before the period: *Provided*, That of the funds appropriated under this heading, \$5,134,000 shall be available only for the Gun Weapon System Advanced Technology Program".

LEVIN AMENDMENT NO. 1203

Mr. LEVIN proposed an amendment to the bill H.R. 2521, supra, as follows:

On page 34, line 10, before the period at the end insert the following: "*Provided further*, That, none of the funds provided under this heading shall be available for procurement of the B-2 bomber unless the certification referred to in the first proviso contains the Secretary's assurance that the original radar cross section operational performance objectives of the B-2 bomber have been successfully demonstrated from flight testing".

GOVERNMENT SECURITIES OFFERING ENFORCEMENT ACT

DODD (AND OTHERS) AMENDMENT NO. 1204

Mr. INOUE (for Mr. DODD, for himself, Mr. GRAMM, Mr. RIEGLE, and Mr. GARN) proposed an amendment to the bill (S. 1699) to prevent false and misleading statements in connection with offerings of government securities, as follows:

At the end of the bill, insert the following new section:

SEC. 3 EXTENSION OF SECRETARY'S AUTHORITY REGARDING GOVERNMENT SECURITIES BROKERS AND DEALERS.

Section 15C(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(g)(1)) is amended by striking "October 1, 1991" and inserting "October 1, 1992".

**CONTINUING APPROPRIATIONS,
FISCAL YEAR 1992**

BYRD AMENDMENT NO. 1205

Mr. INOUE (for Mr. BYRD) proposed an amendment to the joint resolution (H.J. Res. 332) making continuing appropriations for the fiscal year 1992, and for other purposes, as follows:

On page 7, line 11, strike "October 17, 1991", and insert "October 29, 1991".

**AUTHORIZATION FOR COMMITTEES
TO MEET**

**SUBCOMMITTEE ON MEDICARE AND LONG-TERM
CARE**

Mr. INOUE. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long-Term Care of the Committee on Finance be authorized to meet during the session of the Senate on September 25, 1991 at 2 p.m. to hold a hearing on health benefits of retired coal miners.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. INOUE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 25, 1991 at 9:30 a.m. to hold a closed hearing on the confirmation of Robert Gates to be Director of Central Intelligence.

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

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. INOUE. Mr. President, I ask unanimous consent that the Select Committee on POW/MIA Affairs be authorized to meet during the session of the Senate on Wednesday, September 25, 1991 at 12 noon for its organizational meeting.

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

**SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT
MANAGEMENT**

Mr. INOUE. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 25, 1991 at 9:30 a.m. to hold a hearing on disclosure of executive branch lobbying.

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

**SUBCOMMITTEE ON HOUSING AND URBAN
AFFAIRS**

Mr. INOUE. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Wednesday, September 25, 1991 at 2 p.m. to conduct a hearing on S. 1650, the Flood Insurance, Mitigations and Erosion Management Act of 1991.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 25, 1991 at 10 a.m. to hold a hearing entitled the Soviet Democratic Revolution: Start and the Future of Arms Control.

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

ADDITIONAL STATEMENTS

**ARIZONA'S SUPERINTENDENT OF
BANKS SPEAKS OUT**

• Mr. DECONCINI. Mr. President, in June, Arizona's superintendent of banks, William H. Rivoir testified before the Resolution Trust Corporation's regional advisory board for region 6. What he had to say to the members of the advisory board is instructive and useful. It is also very frightening.

Mr. Rivoir's 15 page statement is illuminating; I encourage my colleagues to read it and I ask that his entire statement be included in the RECORD at the end of my remarks.

Mr. Rivoir's statement opens by asserting that "the RTC's basic design, and virtually all of the policies and procedures that have emanated from it during its relatively short life, have only one truly underlying purpose—to shift blame." He goes on to say that "the RTC has reacted * * * by creating an enormous bureaucracy that is designed to ensure that it and its personnel never make a decision for which they could be held responsible." He concludes that this situation is serious "It is destroying our local real estate market, it is shrinking our property tax base, it is hindering the bonding ability of local jurisdictions, and, more to the point, it is causing the RTC to accomplish exactly the opposite of its stated goals * * *."

I am not an expert on the RTC, Mr. President, but Mr. Rivoir is an expert. I hope my colleagues, especially those on the House and Senate Banking Committees, will consider what he has to say. This statement should be must reading for anyone concerned about the RTC.

The statement follows:

**STATEMENT OF WILLIAM H. RIVOIR III,
SUPERINTENDENT OF BANKS, STATE OF ARIZONA**

Mr. Chairman. Members of the Board. I appear before you today in the unenviable position of having to bring you bad news. Before I give it to you, however, I want you to remember that I am just the messenger. And no matter how emotionally satisfying it sometimes may be to lop off the head of the messenger, such an action will not eliminate the underlying problems that I am about to report on.

In addition, I want you to be assured that in compiling this testimony, I have personally investigated RTC's operations here in Arizona by talking with a wide range of market participants—realtors, appraisers, investors, developers, syndicators, accountants, and lawyers. Some of these participants negotiate with or litigate against the RTC, and some work and negotiate for, or litigate on behalf of, the RTC.

Finally, I want to solicit your assistance as you listen to my testimony today. It is not my intention to give offense, but it will be difficult to avoid, because I have some very direct things to say. They will probably be particularly hard for the RTC personnel present today to listen to, so perhaps I should emphasize something important here at the start.

My major complaints against the RTC are structural in nature, but they manifest themselves through the actions of people. Therefore, some of my testimony will necessarily be cast in terms of actions by RTC personnel. But I do not want to criticize the individual RTC employee. As I have said on previous occasions, the RTC has many competent and qualified employees who have the capability of doing a good job. It is the system within which he or she works, not necessarily the employee, that is at fault. With this as a preface, let me move to the substance of my testimony.

The overwhelming and consistent response from the parties I talked with is that the RTC process in Arizona is going poorly, and its ill effects are becoming more serious and widespread every day. The situation is so bad that I do not exaggerate when I say that the RTC's operations here are illegal, immoral, wasteful and downright stupid. Even worse, the problem lies at the very core of the RTC and it will take a complete overhaul of the system to rectify it. There are no quick or easy fixes.

Let me start with the fundamental problem. The RTC's basic design, and virtually all of the policies and procedures that have emanated from it during its relatively short life, have only one true underlying purpose—to shift blame. Congress and the previous administration created the savings and loan debacle, and then gave RTC the job of cleaning it up. This leaves the RTC to take the blame.

The RTC has reacted to this political reality by creating an enormous bureaucracy that is designed to ensure that it and its personnel never make a decision for which they could be held responsible. There is a policy or a procedure at every step in the process that requires either a mechanical application of a formula or the shifting of the decision to someone outside of the RTC. The result has been indecision on so massive a scale that words are inadequate to describe it.

This situation is serious. It is destroying our local real estate market, it is shrinking our property tax base, it is hindering the bonding ability of local jurisdictions, and, more to the point, it is causing the RTC to

accomplish exactly the opposite of its stated goals, which are to manage the acquisition of assets from failed savings and loans and to dispose of those assets with the highest possible net recovery for the government and the taxpayer. Instead, the RTC is not managing anything, and it is squandering tens of millions of dollars that should be going to taxpayers.

These are, to put it mildly, strong charges. Now let me back them up. Let's start with asset dispositions.

Currently, the RTC is using two approaches to get rid of the assets it is forced to take back from failed savings and loans. They are (1) sales by private asset managers under the SAMDA program, and (2) direct sales by the RTC. I will discuss the SAMDA program first, because it is the centerpiece of the RTC's efforts to utilize the private sector to help dispose of these assets.

Simply stated, the SAMDA program is a bust and should be junked immediately. In its stead, the RTC should accelerate its bulk sales program. The assets the RTC owns must be totally free of the government as soon as possible. This is because, despite the high expectations and laudable intentions of using the private sector to dispose of the assets in an efficient fashion, the SAMDA program has simply created another unnecessary layer of bureaucracy.

In implementing the SAMDA program, the RTC has held back too much decision making power from its asset managers, while at the same time saddling them with unbelievable paperwork requirements. Asset managers start by wasting the first 90 days of their contract preparing lengthy Asset Management Disposition Plans, known as AMDPS, for each asset under their management. Then they have to follow up with one weekly report, 12 different monthly reports, and three different quarterly reports. There is no time left to actually manage the asset.

In addition, asset managers are apparently picked for every reason except competence and knowledge of the local market. National companies, many of which have highly knowledgeable and competent local offices, can only be listed in the RTC's data base in one location. This means that lists of eligible contractors for Phoenix will not list any companies who may happen to have their names in the Dallas or Atlanta computers. Also, competent local companies are virtually ignored. The result is that contracts are going to out of town companies.

The RTC's almost total refusal to hire anyone who actually knows anything about the market into which they are to sell assets has become comical. There have been instances where newly appointed out of town asset managers have come to take over portfolios of properties in Arizona and have had to ask where the city of Tucson is in relation to Phoenix, or where downtown Phoenix is. How can these people be knowledgeable enough about our market to manage and sell property here.

Finally, the estimated recovery values in the SAMDA contracts have been set so long ago and at such unrealistic prices that managers have an extremely strong disincentive to sell the properties. Instead, the only economically feasible action is to hold properties forever, receive the management fee, and not take on any more money losing work for the RTC. In addition, asset managers are left with little guidance or standardization for their work. The RTC does not provide asset managers with standardized forms for purchase and sale agreements, letters of intent, warranty deeds, limited rep-

resentations and warranties, property management agreements, brokerage listing forms, office building leases, or triple net retail leases.

There is an alternative, however, for the asset manager, and that is to appeal the ERV. And how is that done? The asset manager gets to hire an appraiser to provide a new value. But guess what. That puts the asset manager in exactly the same position that the developers and speculators were vis a vis the savings and loans during the last decade. In other words, there's a big conflict of interest here. If an asset manager wants to sell property quickly, it pushes for an unrealistically low value. If it wants to manage the property for a long time, it pushes for an unrealistically high value.

The asset managers accomplish this by using appraisers who are chosen solely on the basis of lowest price. Asset managers are also hiring totally unqualified personnel to engage appraisers. These personnel don't have any idea what goes into a proper appraisal. Hence, bids for appraisals can have a differential of over 300 percent, ranging from fly by night companies on the low end to reputable firms at the higher end. And, as I said before, the lowest cost always wins. Quality is not even considered.

However, despite all this failure in the SAMDA program, the RTC has accomplished its underlying goals. First, it has shifted blame for the failure away from the RTC and onto the asset manager. Second, because of all the reports it requires, it can deflect charges of inaction because it has created a huge paper trail that offers well-documented process as a substitute for real progress. This substitution of paperwork for results is a continuing theme throughout all areas of RTC's asset disposition operations.

The other disposition method used by RTC is direct sales out of the conservatorships and receiverships. This program is also plagued by major structural problems. Once again, the major flaw is that no one at the RTC will make a decision. RTC personnel spend more time looking for ways that a deal won't work than in finding ways in which it will work. And when they run out of excuses and are forced to agree to a sale, no one will approve the deal to get it closed. That is different from saying that RTC local personnel don't have adequate delegated authority. In many instances, they do. They just won't use it.

This consistent indecision manifested by the RTC has produced a continuing lack of responsiveness. It takes forever to get a decision made, and when it is made, it is overruled later, or it turns out either that the person who made it is reassigned, or the asset is reassigned, or the person never had the authority to decide in the first place. In fairness, I must add that some market participants feel that the RTC's responsiveness has improved, but they are either dealing in residential real estate or with a conservatorship. For the rest of the RTC's asset disposition program, responsiveness remains dismal.

The next issue under asset disposition concerns appraisals. The appraisals the RTC is getting are of very low quality. On one recent appraisal of a multi-million dollar project, the appraiser didn't even bother to contact the borrower who was managing the project to find out the status of the current leases. Then, the appraiser just arbitrarily factored in future rent increases which have little hope of being realized. Also, some RTC contracting personnel have made it clear that appraisals must be ordered on the basis

of race, sex and price, with price being the most important. The informed judgment of the person hiring the appraiser is explicitly excluded from the process.

In fairness, there are some exceptions to this. However, the process still requires that appraisal contracts, as well as legal work, property management, sales listings, etc., be given out to companies whose names are generated in a random fashion from a list of registered providers. At Southwest Savings, this random generation process consists of putting slips of paper in a shoebox and picking out names like awarding door prizes.

Secondly, the RTC is still a very slow pay, taking up to 120 days to settle its bills. Major reputable appraisal firms will not bid for RTC work because they are undercut by inexperienced firms who are desperate for the work, and they won't wait 120 days for payment. Experienced RTC personnel are frustrated by having to lower their standards for the quality of appraisal work they must accept. They know they are getting bad work, but they are powerless to contravene policy in order to get quality appraisals.

Finally, the RTC does not make the appraiser's life easy. RTC cannot provide its own appraisers with rent rolls, legal descriptions of the property, a list of recent offers, or listing information and offers on similar RTC property. Frankly, RTC should not even order an appraisal until it has the standard information available. Also, if it must bid out an appraisal without this information available, it should so inform the potential bidders. Otherwise a \$2,000 bid could turn out to be a \$10,000 job, and the result will be that the appraiser cannot afford to do a good appraisal.

Next, the RTC should substantially reduce its use of brokers' opinions. In one case, the RTC is paying \$3,500 each for simple brokers' opinions on a package of mini-warehouses. Not only is this too much to pay, brokers' opinions are not independent estimates of value. Instead, they are opinions designed to facilitate a sale, a sale that might not be in the RTC's best interests. Frankly, brokers are telling the RTC what they want to hear: that the appraisal is much too high and that the property should be sold for much less. In other words, the broker wants his commission. The RTC should not rely on these parties whose interests conflict with the RTC's interests.

Of course, many people complain that appraisals take too long, but there is a collateral issue here that has received very little notice so far. That issue is environmental liability. Every piece of commercial property that the RTC wants to sell needs an environmental study. Once these studies are complete, they go to the Phoenix office's environmental section for approval.

This is where the bottleneck lies. Unless it is a major property, or a major environmental problem, the environmental study does not get approved. Its a simple lack of staff. And if the environmental study doesn't get approved, then the appraisal can't be completed. Hence, the property can't be sold. This backlog affects even clean sites, those where no environmental problem exists. They are all stacked up at the Phoenix office. This problem also affects loan workouts, which I will discuss below. The workout can't proceed because the appraisal can't be completed without an approved environmental study.

The next issue concerns the terms of a property sale. First of all, the RTC standard form purchase and sale contract is not a contract at all. It is totally illusory. It specifi-

cally states that the RTC has absolutely no duty to live up to its part of the contract. And when RTC does default, it does so with impunity. Under the contract, no damages can be assessed against RTC, regardless of how much damage its actions may have caused. And don't be misled. The RTC is causing damage. And even if that exculpatory language in the contract could be overcome, it doesn't matter. Any judgment against an RTC receivership would be so far down the payment priority list that it would never get paid. RTC employees know this and they exploit it.

The RTC feels no compunction whatsoever about breaking deals in escrow simply because somebody else comes along and offers a dollar more. This practice is not only reprehensible, it is stupid. Knowledgeable buyers will not put up with this type of practice, and they will cease doing business with the RTC. Also, that same RTC contract allows the RTC to break the deal if it suddenly decides that it doesn't like you. It's called the "Identity of Purchaser" section. It allows absolute discretion in rejecting a buyer for any reason. Once again, the contract specifically prohibits any liability on the RTC's part for any damages it causes.

Next, when RTC sells personal property along with realty, it gives a quit claim bill of sale. In other words, it sells you the personal property, takes your money, and then won't tell you whether it actually owned what it just sold. The buyer is totally exposed. Next, the RTC requires the buyer if income property to collect back rent owed and pay it to the RTC. This means that the buyer might have to refuse to accept the rent currently due to it in order to apply any payments received to RTC arrearages. Instead, if there is back rent due, the RTC should preserve its claims and pursue them itself.

Next, there are no provisions for pro-ratio of personal property tax. Next, there are no provisions for turning over deposits and pre-paid rents, etc. Next, if there is a loss during escrow, the buyer can cancel the contract if it is a "substantial loss." But if it is less than a substantial loss, then the buyer must close at the full price, with RTC assigning over all rights to insurance proceeds. But here's the catch—RTC self insures. There are no insurance proceeds. So RTC just forces you to close at full price and you get stuck with the loss, despite the clear language of the contract that RTC assumes all such risks and liabilities. For all these reasons, this purchase agreement is worthless, and knowledgeable buyers will not deal in this fashion.

The next issue is the intrusion into the asset disposition process of political concerns, both real and perceived. No one wants to force the RTC to negotiate with people who were engaged in fraudulent activities. But the RTC has developed a paranoia about dealing with anyone who ever had anything to do with a property. In addition, the RTC Phoenix office has wrongly assumed the role of Lord High Executioner.

Instead of concentrating on how to obtain the highest net recovery on a particular asset, local RTC personnel are convinced that they have some sort of divine patriotic duty to reek moral retribution on everyone who was ever associated with a savings and loan, even an innocent borrower. The head of the Phoenix office and his subordinates told me this directly. They believe they must enforce moral obligations (as they see fit to define those obligations) even where there exists absolutely no legal obligation. Again, in fairness, I must point out that Mr. Koopmans was also present at that meeting,

and to his credit, he recognized that this was an inappropriate posture for the RTC to take. But, unfortunately, nothing has changed.

The RTC must relax its conflict of interest standards and work with knowledgeable local players to get the highest net recovery. Unless there was fraud, don't blackball someone who caused a loss to the fund. He or she is mostly just another victim of federal tax and regulatory policy. Unfortunately, the RTC still annihilates everyone in its path, pursuing punitive litigation, forcing unnecessary bankruptcies, and deliberately destroying the lives and businesses of people whose only sin is that they borrowed from a savings and loan.

Why does the RTC do this? Two reasons. First, as stated above, because of their paranoia about perceived political ramifications, they insist on eliminating any chance that they could be accused of dealing with anyone who was even remotely involved in the savings and loan debacle, even as an innocent borrower. Second, and this goes back to that continuing theme I mentioned before, by litigating to the nth degree, RTC personnel can once again avoid having to make any rational business judgements for which they can be called to account. Now, the person to blame for all the decisions is the lawyer. He or she recommended all the litigation, for which, not coincidentally, they are paid handsomely from the government's bottomless trough. Also, RTC personnel can once again substitute documented process (such as foreclosure dates, deficiency judgment dates, and bankruptcy dates) for real progress.

It does not matter that the RTC now has even more stigmatized RTC property for which it must pay 18 to 20% a year in carrying costs. It does not matter that the borrower might have been willing and able to salvage the deal through renegotiation—a renegotiation which would have avoided RTC holding costs, management costs, appraisal fees, environmental assessment fees, environmental liabilities, sales commissions, etc. It does not matter that the money which the borrower might have paid in as a part of a renegotiation has now been spent on lawyers. It does not matter that yet another market player is in bankruptcy.

What matters is that RTC personnel never had to go out on a limb and make a reasonable business decision. What matters is that RTC personnel have shifted the blame for no recovery onto the lawyers and then onto the bankruptcy court. What matters is that RTC personnel shifted the blame to someone else, and in the process they created a documented paper trail to pretend that they achieved a worthwhile result.

The next thing the RTC is paranoid about is letting anyone make a profit from an RTC deal. RTC personnel have said so directly to potential buyers. In one case, RTC was willing to sell a piece of vacant land with two year financing. But a part of the deal was that the buyer could neither develop nor sell the land during the two years. Why? RTC said explicitly that they were afraid that the buyer would make a profit. Again, this is ridiculous and self-defeating. The only reason anyone will think of buying RTC properties is to make a profit. It's called capitalism.

Next, even if you strike a deal with the RTC, you have to worry about closing. Example #1. Buyer makes a bid for the property and is told he must pay cash. He goes out and raises the cash. He calls the RTC every day to make sure that the property is still available and is assured that it is. When he

arrives with the cash, a new person is in charge of the file, and informs him that the property had been placed in escrow with someone else several weeks earlier. Example #2. Local RTC office puts a property in escrow. Buyer spends money for due diligence, etc. Then, unbeknownst to the local RTC office, the regional office sells the property to someone else. Example #3. Buyer has an RTC property in escrow on a seller financing deal. Before closing, but after paying substantial due diligence costs, a new buyer offers a lower price but pays cash. RTC breaks the escrow and sells to new buyer. I don't think further comment is necessary on these examples.

Another aspect of the asset disposition process that must be junked is the arbitrary implementation of the "exposure to the market" concept. While it is certainly a good idea in many instances to ensure that a property is adequately exposed to the market (in order to obtain the highest price), the RTC is using this concept as yet another excuse to not make a decision. We are aware of a number of instances where the RTC will refuse to sell property, or even negotiate with a potential buyer, without arbitrarily delaying the entire process for endless months in order to "expose the property to the market."

Many of the RTC's properties are not particularly attractive, and the only reasonable expectation of sale is to the person who contacted the RTC—often because they have some unique interest or position that makes this property attractive to them. RTC should follow the oldest of clichés and recognize that a bird in a hand is worth two in the bush. But instead of negotiating a sale with the prospective buyer at a price which would require the RTC to make a business judgment about what constitutes a reasonable price, the RTC defaults on its responsibilities and "exposes the property to the market." Most times, the market ignores the property, and when the RTC returns to the first potential buyer, that person is either gone or offers less because of the market's response. In this way, RTC is losing millions of dollars through foolish consistency.

Next, when an offer is rejected by the RTC, that's all it does. It says "your offer is rejected. Good-bye." No reasons, no counter-offers, nothing. How does a buyer respond to such a message. First, with bewildered expletives. Second, by never dealing with the RTC again.

The next item is the RTC's timetable for lowering prices to meet the market. This policy must be eliminated immediately. The practical effect of this policy is to say to the world: "Don't buy now. This is not the bottom of the market. It will go much, much lower." The well intentioned idea behind this policy was to allow RTC personnel the flexibility to lower prices from potentially unrealistic appraised values down to real market values.

When the first version of this policy was implemented a year ago, we spoke in favor of it. We were wrong. By enforcing a mechanical ratcheting down, the effect is to turn the policy on its head. It actually forces the market lower and prevents sales from happening. Incidentally, while I acknowledge that the ostensible purpose of this policy was well intentioned, it is appropriate to point out that, once again, the effect of the policy is to allow RTC personnel to avoid making business judgments for which they could be criticized. If the property doesn't sell, the fault lies with the appraised value which was set, not coincidentally, by someone outside

of the RTC. If the RTC drops the price by the stated percentage, the RTC employee is simply effectuating a mechanical application of a policy.

This mark down policy is having and will continue to have an extremely destabilizing effect on a vast amount of real estate. And instability is just not in the RTC's best interests. The only way RTC can ultimately obtain the highest net recovery is to sell into a stabilized market. Somehow, the RTC must convince the market that the bottom is here now.

The way for the RTC to achieve that is to give its personnel the ability to sell for what they, in their best judgment, believe represents a good deal for the RTC. The amount of money the RTC would probably lose through some bad judgments pales into insignificance in comparison to the money it will continue to lose because it is driving the market down, and because it can't or won't sell in a prompt and orderly fashion.

That inability or refusal to sell was recently illustrated by a case here in Phoenix. Although the asset was unusual, the RTC's handling of the case was typical. The asset in question is a 30 animal and two chariot merry-go-round—a perfect metaphor for the RTC. The RTC tried to sell the carousel recently. It got bids from around the country, after nationwide advertising. The RTC wanted \$175,000—the highest of 10 bids was \$89,000. This response was the market telling the RTC that the appraisal was wrong. But did RTC listen? No. Apparently they feel that the next time it is offered, someone will bid higher. I doubt it.

The point of this one small example is that RTC seems obsessed with trying to recoup value that doesn't exist. It probably never existed, it was just pumped up by the steroids of mid-80's tax policy. The RTC has to face reality and try to recoup what value is actually left in its assets. When the market tells you what the value is, sell at that value.

The next issue is auctions. In my previous testimony, I praised the RTC for its auction of 65 properties conducted by Grubb & Ellis. I strongly urged that the next auction occur as soon as possible to take advantage of the momentum the first auction established. David Cooke, the Executive Director of the RTC, was kind enough to write me about my previous testimony, and in part he said "Your insight into the marketing time of auction events is correct. The next auction in Phoenix should take place quickly."

Four months have already gone by, and no other auction has been held. This is not "quickly" by anyone's definition, and the precious momentum is likely lost. In addition, it is my understanding that only one third of the properties were sold at the auction, and that sales on only another third or so are expected to close this year. This is like repeatedly stepping halfway towards a wall—you never actually get to your goal. At the rate the RTC is taking back new properties, it can't afford to step only part way towards its goal by leaving a significant portion of an auction's properties unsold. RTC will get further behind with every event.

Next, we should discuss marketing strategies. The RTC is not physically capable of effectively marketing all of its properties at the same time. Therefore, some properties will have to remain off the market for the time being. RTC should carefully choose certain types of property to keep off the market. Foremost among these is raw land. The holding costs are the least here, and the market is the worst. You simply cannot

force the market to buy product it doesn't want, even if you price it ridiculously low. Therefore, much of the raw land inventory of the RTC should be land banked simply to allow the market to absorb it at a sustainable rate and to allow the RTC to concentrate on selling other assets.

There is one major exception to the foregoing advice, however, and that is bulk sales of assets. All RTC assets, including raw land, should be included in bulk sales. It is always better to get the decision as to disposing of an asset completely into the hands of a private owner acting for his or her own private pecuniary interests.

The last issue I want to discuss under this asset disposition heading is the credit committee system. This process also seems to be a big bottleneck. My information is that only five to seven deals are even presented each week to each receivership's credit committee. Hardly a breakneck pace. What's worse is that only two or three of those cases get approved, so the backlog just gets bigger and bigger. Finally, and this ties in with the overuse of brokers' opinions, RTC's own personnel feel that much of the RTC's inventory is simply being given away. The sale personnel strike deals based upon brokers' opinions without even bothering to discuss value with their own in-house appraisal department. They then ask the appraisal personnel to rubber stamp the lower value suggested by the broker, and pass it on to the credit committee. This is not the case in the remaining conservatorship, Southwest Savings, but it does hold true for the receiverships. The receiverships could learn a lot from Southwest.

The next issue is loan restructuring. We have harped on this issue over and over again, and we continue to receive the same lip service from the RTC. Unfortunately, we don't see any results. Contrary to the RTC's public position, loan restructurings are not being pursued, and foreclosure is still the first and only resort. Of course, this practice does serve RTC's underlying purposes. RTC can never be criticized for being too easy on a savings and loan "kingpin" if it mindlessly litigates every troubled borrower into submission. But this is ultimately self-defeating for the RTC.

First, as we have stated over and over again, the RTC does not need any more property in its REO portfolio. The RTC should be desperately seeking ways to minimize its use of foreclosure, rather than using it in virtually every case. Again, I recognize that a file that shows trustee sale dates, deficiency suit filing dates, bankruptcy filing dates, etc., presents a superficial impression of progress. But as we have said before, this is false progress. It is process, and not results. The real results are that RTC is forcing out of business the very parties who could most effectively assist it in salvaging problem loans and problem projects. These people are the real estate professionals who are currently in the deal and are willing to work hard to save it, if only the RTC would take a realistic look at what is left to be saved.

When I made the same points at your last meeting, I followed up by meeting directly with the local RTC office on a particular case. A very well respected and reputable local builder took the courageous step of letting me use its loans from one of the conservatorships as a case study. In preparation for the meeting with the RTC, I met with the developer and reviewed the loans and the status of the property securing them. So that I would not be in the position of having listened only to a borrower's perspective, I also met with senior loan work-

out specialists at two of our major local banks. I discussed how they might structure a work-out on these loans if the loans belonged to their bank.

Armed with this information, I met with Mr. Koopmans, Mr. Porter and two of Mr. Porter's associates. After about two hours of what the diplomats call a candid exchange of views, the RTC agreed that the case study was indeed the type of transaction where a negotiated settlement would be in the best interests of the RTC (even though these loans had already been set for foreclosure). They agreed that the types of concessions on both sides that I discussed were the types that they would pursue, and they agreed that they would in fact pursue negotiations with this borrower.

Months have now gone by. The RTC has, in fact, had further negotiations with the borrower, but no resolution is in sight. The question I ask is, why not? There has been plenty of time. This case has been given specific prominence by the fact that I brought it to their attention through a personal meeting. They must have known that I would follow its progress to see if the RTC actually lives up to its fine sounding pronouncements. And yet, they have not even been able to renegotiate successfully in this one high profile matter.

This does not augur well for the hundreds of other cases that did not get special attention. RTC must somewhere find the strength of will to actually finalize a deal rather than keeping it going around and around and around. This case study should have been negotiated and closed a long time ago. The longer it festers, the worse the result will be to the taxpayer. RTC is shirking its legal duty by its inaction, and this must stop.

On a slightly more detailed level, the RTC should recognize that its success in realizing recovery on its problem loans is, in most cases, tied inextricably to the current borrower. To make the process work (and by work, I mean obtaining actual recoveries and resolving the outstanding work load. I do not mean creating more meaningless paperwork) the RTC must realize that it has to become partners with the borrower—a de facto joint venturer. In other words, the RTC and the borrowers share a great deal—they both have interests in the project that is troubled. They both want the project to succeed so that they both get some money out of it. And they both should realize that the best way to achieve that is to work together, developing mutual goals and strategies.

In this context, working together requires several items. First, the RTC must get an accurate idea of what is really left of the value of the project. Forget about those appraisals done in 1986—they're worthless. Also, forget about the difference between the loan amount and the present value. That difference is already lost, and if RTC can't get past harping on this loss, and trying to blame the borrower for it, it will never face the reality of the situation and be able to achieve its statutory goals.

Next, it is clear that each side to these negotiations will start out at different points. That's what negotiations are for. But the point of the negotiations must be to finally strike a deal. Unfortunately, the RTC is not very interested in striking a deal. If it cannot dictate its own unrealistic terms, it takes its ball and goes home. Like the child that does the same thing at the playground, the RTC is ultimately the loser in this process. It then ends up with more and more property—property which it manages ineffectively and then sells at a liquidation price.

This method of operation must change. One step in that process would be for each side to disclose the basis for its position. In other words, each side should disclose its appraisal, or at least the assumptions and conclusions of the appraisal. Then, after both sides have had the opportunity to comment on the validity of the appraisal factors, the RTC should exercise its own business judgment to reach a negotiated settlement.

Lastly, the RTC must think about how it will divest itself of the pool of restructured loans it will obtain if it begins to do good faith restructurings. We suggest that these restructurings be accomplished with relatively uniform documentation and terms so that these loans can be sold in pools. If the restructurings are accomplished on realistic terms (particularly the new loan amounts), and the RTC otherwise improves its operations so that it stabilizes our real estate market, these loans will become better and better credits, and easier to sell.

The next issue I would like to discuss is property management. Once again, the RTC is shooting itself in the foot by relying on arbitrary policies that eliminate any requirement for the exercise of business judgment. First, RTC will not spend any money to improve its properties. This is taken to the ridiculous extreme of not even being willing to pay for tenant improvements for tenants who want to rent empty RTC space. Also, RTC will not spend money to enhance value. In one case, a developer asked the RTC for less than \$25,000 as its share to master plan a parcel that belonged to the developer and which was surrounded on two sides by RTC property. As a result, the developer's property has now been master planned alone, and the majority of commercial, retail and multi-family housing will be on the developer's parcel. The probable loss to the RTC, which will now only get R-1-10 zoning, is about \$2 million. That's a lot more than being penny wise and pound foolish.

Another important issue is the zoning on RTC land. Nothing is being done to preserve favorable zoning. That is viewed as the buyer's problem. But zoning does not last forever, and once it is gone, it might never be recovered. Neither will the value it conferred.

The final matters I would like to discuss are the RTC's practices regarding litigation. According to its own lawyers, the RTC is endlessly pursuing uncollectible claims, failing to respond to or rejecting reasonable settlement proposals, and pawing off on the lawyers all kinds of non-legal business decisions. The RTC's lawyers have found a perfect client—a client with endless amounts of money who is willing to litigate forever and who exercises no control over its counsel.

This situation has a number of causes, including the continuing theme of RTC passing decision making responsibility on to non-RTC personnel. But there is also a deeper, and more insidious, cause. We have already talked about how RTC personnel are a law unto themselves, unanswerable to anyone they damage. We have also talked about how the RTC's paranoia about political concerns, and their messianic compulsion to mete out justice, have caused them to reject reasonable settlements and restructurings. They prefer instead to litigate a borrower into submission without regard for the morality, let alone the cost effectiveness, of their actions. But into this mix we must now add the *D'Oench, Duhme* doctrine. This doctrine has made the RTC invincible, and the RTC has used this power with a vengeance.

Until a very few years ago, *D'Oench, Duhme & Co. v. FDIC* was an obscure banking

law case that had lain essentially fallow for almost 50 years. Decided in 1942, it says that when a regulatory body takes control of a depository institution, it is not bound to honor any claims or defenses unless the factors which created that claim or defense are a part of the official written records of the institution and are part of a transaction which has received official approval of the institution's board of directors, executive committee, loan committee or the like. Congress later codified certain applications of that doctrine into 12 U.S.C. 1823 (c).

From its beginning in 1989, the RTC has latched onto *D'Oench* as a weapon of formidable power. The result has been the creation of a bureaucratic agency whose self-concept is rivaled only by the Internal Revenue Service. The RTC has been abetted in this attitude by its outside attorneys who are never hesitant to push a procedural advantage to the limits of ethical conduct and sometimes beyond. For whatever reason, the RTC hires and, apparently, rewards those attorneys who are the most difficult to deal with on a reasonable basis.

As an example, in the litigation involving construction of Phoenician Hotel, after two years in state court, with trial coming close, the RTC suddenly removed the case to federal court just when state rules would require RTC to list its witnesses and exhibits. The subcontractors, who really did do the construction work, and have legitimate claims for payment, have had their claims bought out for a small percentage of their worth, with taxpayer money providing the funds. The same taxpayer funds have exhausted those subcontractors by two years of intensive state court litigation. The final straw is the moratorium which is then imposed in federal court by the RTC to push the trial date off even further. This is done, not in the interests of justice or morality, but solely because the RTC, under *D'Oench*, etc., has the power to unfairly bludgeon these people into unfavorable settlements. Thus, the unchecked excesses of government power have severely harmed innocent citizens simply because it had the power, and the lack of moral character, to do so.

We find ourselves now with a governmental agency intent not upon resolving a bad situation in the manner best for all of this country's citizens, but one focused on punishing all of the "participants" in the S&L disaster, even when those "participants" were, themselves, the victims of the collapse. We find ourselves with a governmental agency not striving to construct a long-term solution, but one satisfied with viciously attacking each individual problem with no thought for whether that attack forwards the legitimate goals of the RTC. And we find ourselves with a government agency where its agents have adopted a rigid moralistic attitude that stifles even rudimentary problem-solving techniques and attitudes.

Government has a duty to treat its citizens fairly. It must self-police since the powers we necessarily grant government are broad. The RTC has breached this covenant with our citizens, and some measure of control and justice must be restored.

Mr. Chairman, I could go on and on, but I believe that the major points have been made. The RTC is violating its own legal mandate by failing to obtain the highest net recovery on the assets it is taking back and by causing serious and unnecessary harm to our local real estate market. The RTC is acting in a morally reprehensible fashion by violating its own contracts and wontonly driving individuals and companies into bank-

ruptcy. The RTC is wasting millions of dollars of taxpayer money on needless litigation, and it is acting stupidly when it ignores zoning issues, when it refuses to restructure problem assets, when it refuses to pay even modest amounts to significantly enhance the value of its assets, and when it refuses to make any decisions other than default decisions.

Your job, Mr. Chairman and members of this Board, is to make these problems clear to the Oversight Board. That Board, which wrote the Strategic Plan, and which sets the overall policies of the RTC, must take prompt action to see that the policies of the RTC are changed. The policies must be designed so that they encourage real results, rather than elaborate processes. They must be designed to encourage RTC line personnel to make the business decisions of which they are capable, rather than hobbling them with a stifling bureaucracy. They must be designed to ensure that the RTC operates in a just and equitable fashion.

Lastly, Mr. Chairman, I implore you to forcefully contradict the assertion by National Advisory Board Chairman Philip F. Searle in his May 15, 1991 remarks to the Oversight Board. Mr. Searle said that he has heard nothing about any discernible adverse impact on real estate markets arising out of RTC asset sales activities. Tell him that the RTC's activities in Arizona are destroying Arizona's real estate market, and they are destroying the RTC's ability to do its legally mandated job. Mr. Chairman, make sure that Mr. Searles cannot make that same misstatement again.

Thank you for the opportunity to appear here today, Mr. Chairman. I apologize for the length of my testimony, and I thank you for your indulgence in letting me present it in full. ●

NOT MADE IN JAPAN

● Mr. COHEN. Mr. President, my home State of Maine takes great pride in its fine heritage of skilled craftsmen, among them the men and women who build the boats that fish and sail along the stoned Maine coast.

For generations, Maine boat builders have been regarded as among the best in the world. To them, their craft is an art—and a precious legacy—to be passed from one generation to the next.

One such Maine boat builder, 62-year-old Ralph Stanley of Southwest Harbor, is profiled in an outstanding article that appeared recently in *U.S. News and World Report* magazine.

Ralph Stanley is described as so talented that he requires no blueprint to build his wooden-hulled boats. All the knowledge he needs is in his head. Mr. Stanley "does with pencil and paper, visualizing in his head, the curves most people in the business need computers or carved wooden models to grasp." In the tradition of "classic mold" boat builders, the modifications of each boat Mr. Stanley builds "are his own, based on decades of experience—an intuitive feel for the complex blend of beauty, performance and practicality that somehow must work together."

The article pays a wonderful tribute to Maine boat builders, Mr. President,

and I would ask that the text of the article be entered into the RECORD.

The article follows:

[From U.S. News & World Report, Aug. 26-Sept. 2, 1991]

NOT MADE IN JAPAN
(By Stephen Budiansky)

The Industrial Revolution came to Maine 150 years ago, and left. Along the old highways that hug the course of rivers—rivers that were the highways before there were highways—one comes at unexpected turns upon the abandoned mills. Some are quite magnificent, with parapets and decorative brickwork, they were meant to be public statements of progress. Now they stand empty, decaying monuments to a revolution whose first victims were skilled craftsmen—men and women who, by dint of knowledge and deftness, once transformed wool into fabric, leather into shoes and wood into almost everything else.

Ralph Stanley is a craftsman who has not so much defied the Industrial Revolution as evaded it. There never was a mass market for the lobster boats and Friendship sloops that pack the boat sheds behind his house on the edge of Southwest Harbor, a centuries-old fishing village on Mount Desert Island. And the tools of mass production proved an awkward fit to the oak keels, split with an adz from massive timbers; the cedar planks, shaped in compound bevels and curves to match the hull's three-dimensional flows the carved eagle's heads that along with a gilded vine-leaf and the legend R. Stanley, adorn the bowsprits.

What Ralph Stanley does is part anachronism, part stubborn single-mindedness. Long after the Industrial Revolution was supposed to have left them extinct, America's small fraternity of craftspeople are producing some of the most respected work in the world. Boat builders, harpsichord makers, weavers, Western-saddle makers—what drives them is a peculiarly American blend of individualism and a refusal to believe that anything is impossible.

What Ralph Stanley does certainly looks impossible. In his small office, which doubles as a paint storage locker, there is a computer on the desk (along with a box of brass screws, stacks of dusty invoices and some miscellaneous bronze fittings), but it is clearly a token. "I could use it if I learned how to use it," Stanley says with a shrug. The line plans for his boats, deceptively simple drawings that define their complex shapes. Ralph does with pencil and paper, visualizing in his head the curves most people in the business need computers or carved wooden models to grasp. The basic designs are ones he has studied while growing up the son of a fisherman. The modifications are his own, based on decades of experience—an intuitive feel for the complex blend of beauty, performance and practicality that somehow must work together.

"The people who know how to do this like Ralph does are getting few and far between," says John Letcher, standing in the trim modern offices of AeroHydro, the small engineering firm he owns. It is down the road from Stanley's shop, in the center of Southwest Harbor. Ralph's son Edward, who has a degree in ocean engineering from MIT, works there. AeroHydro's specialty is developing computer software for designing boats and for effecting the mathematical transformations called "lofting"—plotting the cross section of the boat at various points along its keel—that Stanley does by hand.

Stanley's construction plans, which define where every timber and brace goes, are not

even put down on paper. There's no point. A printed plan would not tell an experienced craftsman anything he didn't already know about putting a boat together nor tell an inexperienced worker how to handle an adz or how to make one plank fit another. There are no templates for that mystifying operation other than the boat itself: The shape of the last plank determines the shape of the next plank. The uninitiated always think you could pop off a plank from the side of a wooden-hulled boat and it would lie flat and straight. Instead it curves and tapers along its length and bevels in seemingly inexplicable ways.

TOOLS OF THE TRADE

The tools are simple—ordinary handsaws and planes, a cheap and not very sturdy looking Sears thickness planner, a portable drill press. The only tools even vaguely out of the ordinary are a heavy-duty bandsaw, some long auger bits and a lot—a whole lot—of big C-clamps.

It's what the tools do that is complicated. To build a traditional wooden boat, you build a series of phantom boats. The keel is the only thing at first that is real. Molds, a series of frames shaped to the correct cross section of the hull, are fastened at various points along the length of the keel. But they are only templates, to be removed later. To the molds are nailed strips of wood that run fore and aft, called ribbands, which define the shape of the hull. These, too, are templates: The frames, or timbers, strips of steam-bent oak, are clamped to the ribbands to hold their true shape. As the frames go in, the molds come out. Finally, planks are joined to frames—and as the planks go on, the ribbands come off.

Stanley learned the trade hanging around boatyards. "Boat builders guarded their trade very carefully. Some builders you could ask, but you had to be careful. Some might not know how to tell you; some might not want to tell you. It was best just to stand back and watch." He built his first boat in 1951, working on it in the winters and earning money summers to buy materials and an engine. "When it was done, I thought, boy am I glad," he recalls. "I didn't think I'd have the courage to do it again."

The word courage is significant. Building a boat takes more than know-how; it takes a knack, a drive, a fanaticism even. "It takes a special person to learn," says Stanley. "And in a yard like this you have to put them to work at what they can do; and what they can do is not always what they want to do." It may just be sanding bottoms or digging holes in the mud—to unstick the cradles of boats as they're launched.

It certainly doesn't hurt that someone continuing a 200-year tradition so completely looks the part. Born in 1929, the descendant of generations of fishermen and seamen, Stanley is of the classic mold—lank, self-contained, good-naturedly incompetent with the appurtenances of modern life ("He doesn't know how anything works," says his wife, Marion, as he fumbles to load a tape in the VCR to show a visitor), reserved except when he has a good story to tell.

He got tangled up in a messy lawsuit a few years ago when a local fisherman he built a boat for refused to pay \$30,000 he owed. Ralph sued; the fisherman countersued, claiming poor workmanship and materials. The fisherman took to driving around town with a sign on his truck: "For information on poorly built boats call. . . ." He also spread the rumor that Ralph was able to make a living building boats only because the Rockefellers paid him \$20,000 a year to be a "local char-

acter." Ralph won the lawsuit. The irony, he says, is that it was probably the best boat he ever built.

It also doesn't hurt that Stanley himself is a sailor. Amid the paint cans and boxes of marine hose and fittings in his office are dust-covered first-place trophies for the Friendship Sloop Regattas in 1984, 1985 and 1986; the 1990 trophy is at his home.

"Ralph is a traditionalist, and you could say a romanticist, in a way many builders are not," says Jonathan Wilson, editor of *WoodenBoat* magazine, one of the major forces in the wooden boat revival of the late 1960s and early 1970s. The revival was a reaction to the cheaper and more easily maintained fiberglass boats that were threatening traditional craftsmen with extinction. The wooden boat standardbearers spanned the spectrum from traditionalists like Stanley, who just did what they had always done, to dropouts who took to the Maine woods to get in touch with natural materials and handicrafts. (Wilson started out in the latter category himself. He began *WoodenBoat* in a cabin without electricity or running water; the phone was nailed to a tree a half mile away because he couldn't afford to string cable all the way to the house.)

One measure of the vitality of the wooden boat industry is the innovative designs and techniques that continue to be developed by small shops. The Brooklyn Boat Yard in Brooklyn, Maine, run by Joel and Steve White (son and grandson of the writer E.B. White), has been in the lead at "cold molded" designs—the hull is covered not with traditional planking but with thin, flexible sheets of veneer that are epoxied together in layers to form an ultralight body that can be formed into some unusual shapes.

Ralph says those are things he doesn't "even want to think about." His unwavering love for traditional designs and methods is simply his version of the obsession that grips all true craftsmen. "It's a trap that boat builders fall into," Ralph says. "Building the boat becomes more important than making money. You have to be awful careful or you can lose an awful lot." He tells a story on himself. He was putting blocks in the deck frame of one boat and discovered that one was an inch off. "If I had left them that way it wouldn't have hurt the boat a bit, and they would have been covered up and nobody would have ever noticed it. But I grabbed up a saw without hardly thinking, sawed them in two and knocked them out. Well, a fellow comes in and says 'What are you doing that for? You're wasting your time. It wouldn't hurt a thing.' And I says, 'Yes it would, because I know it's there, and I don't want it there.'"

CRAFT VERSUS CHEMISTRY

A film made a few years ago follows Stanley and Jarvis Newman, who runs a shop across the harbor, through the building of two Friendship sloops, one wood, one fiberglass. Newman's fiberglass boat is a fine piece of work, but the process is all rather impersonal, more industrial chemistry than craftsmanship.

The friction between the two is not hard to see in the film. It is probably personal, but it's also that Newman is the symbol of the changes that make it hard for the traditional craftsmen to make a living. From Stanley's shop, one can look out to the harbor and see the lobster boats he has built—more in that harbor made by him than by any other single builder, he says. But fishermen can't afford wooden boats anymore. His first lobster boats sold for \$5,100; today they run \$100,000 and up. Ralph now makes pleas-

ure boats exclusively. He doesn't come right out and say it, but he doesn't seem to completely like it. "It's a real satisfaction seeing those boats out because they're real, they're working," he says of the lobster boats. And he tells with more than a trace of bitterness of the wealthy outsiders who have bought up the houses along the harbor. "They don't work they keep to themselves, and they don't want you." They are also the sort of people who can afford to buy \$100,000 boats to have fun.

It's nothing new for Mount Desert Islanders to depend economically on the very people who are destroying their way of life. Rich people began spending summers in Bar Harbor, on the other side of the island, in the 1870s; tapping the wealth of outsiders has been an important part of the state's depressed economy ever since.

Ralph's father worked for summer people, as did Ralph when he was just starting to build boats. Ralph worked from March to November as "cook, captain, crew, the whole works" for a woman who had inherited a 43-foot schooner from her father. Ralph says he taught her how to steer well enough, but she never knew when to come about. So he would just walk down to the leeward side and pick up the jib sheet, and then she would realize it was time and would give the order: "Ready about, hard alee." Once, they were sailing with the woman's great-niece, who watched this act for a while and finally said, "Aunt, how come Ralph always knows every time you're going to come about." "Well," she retorted huffily, "Ralph and I have been sailing together a good long time. I should think he knows what I'm going to do."

Telling jokes on the summer people is an old Maine tradition, a way to draw the line against, servility toward the people one serves. But there is less joking these days. Ralph tried to build some new boat sheds so he wouldn't have to store some of his boats outdoors, the neighbors complained it would spoil their view and blocked approval.

"They'd be tickled to death if I were to pack up and leave," he says. "There were quite a number of boat builders around here, and I'm really not doing anything much different from what they did. But I'm about the last one left." His son and partner Richard stops planning for a minute and looks down from the catwalk alongside the boat where he's been working to add, "I can always sell out." It's a joke, barely. ●

THERE THEY GO AGAIN

● Mr. KASTEN. Mr. President, I would like to bring to the attention of my colleagues a recurring issue regarding the impact of the Reagan-Bush economic policies on our Nation. On September 12, 1991, the Democrats released another distorted report to propagate "class warfare." I ask that the analysis by the Republican Conference Task Force on Economic Growth and Job Creation which refutes this report be printed in the RECORD.

The report follows:

THERE THEY GO AGAIN—DEFECTIVE CBO DATA REHASHED YET AGAIN TO SUPPORT CLASS WARFARE

The September 12, 1991 report released by the Citizens for Tax Justice (CTJ) and House Majority Leader RICHARD GEPHARDT manages to combine all of the misinformation and biased methodologies used to distort family income and tax trends during the

Reagan-Bush years. For example, the report mixes President Jimmy Carter's Administration in the definition of the Reagan-Bush years; uses faulty Congressional Budget Office (CBO) data from the infamous and inaccurate "Green Book" published by the House Ways and Means Committee; attributes the impact of regressive payroll tax increases signed by President Carter to the Reagan-Bush income tax policies; and makes the highly unrealistic assumption that families remain in the same income class over a period of time.

Despite the dramatic political changes that have occurred in the former-Communist East Bloc, some in the West continue to espouse "class warfare" themes.

BASE YEARS INCLUDED PRESIDENT CARTER'S ADMINISTRATION

The Citizens' report combines the Carter (1977-80) and Reagan-Bush years (1981-1992) to hide the fact that most of the income declines occurred in the last few years the Carter policies were in effect. Including the Carter years in an analysis of the Republican policies of the 1980s is not only intellectually dishonest, but it biases the results. 1980 alone—the last full year of the Democratic control of both the Congress and the White House—was the worst single year for family income in post-war history, with real Middle American family income declining by \$1,817. In contrast, the U.S. Census Bureau income data shows that since 1982—the year that the Reagan-Bush economic policies took effect—real income of the bottom fifth of families jumped 13 percent.

CBO FAMILY INCOME DATA ARE FLAWED

CBO's income data are fundamentally flawed because of the failure to adjust capital gains income for inflation. Increases in capital gains income due to inflation greatly exaggerate the real incomes of the affluent while the kinds of capital gains realized by middle-income families—such as the rise in the value of their homes—are omitted from the CBO income data, thus creating the illusion of greater income inequality. The Citizens' paper merely repeats CBO's error of including inflation in what is supposedly inflation-adjusted income. The report did not include CBO's \$75 billion error in 1990 family income data which artificially increased the income attributed to the rich, thereby fueling last year's partisan class warfare attack on President Bush's effort to enact a job-creating capital gains tax cut.

1992 DATA FABRICATED BY THE CBO

The Citizens' report relies on CBO income projections for which empirical data are not yet available. No one really knows what the 1991 or 1992 income levels will be. Essentially, the 1992 data had to be fabricated by CBO because it is impossible to measure income which has yet to be generated. Thus the report's findings of growing income inequality could change should CBO's projections prove erroneous. As previously mentioned, CBO made a \$75 billion error in estimating the amount of capital gains income in 1990. It is important to note that CBO never acknowledged this estimating error until Representative Dick Army (R-TX) exposed it.

INCOME TAX PAYMENTS BY THE RICH SOARED IN THE 1980S

The Citizens' report contends that Reagan-Bush policies resulted in a heavier tax burden on low and middle-income taxpayers. The extent of the tax increases on lower-income families is entirely attributable to regressive payroll tax hikes enacted by the

Democratic controlled Congress in 1977, and signed into law by then-President Carter. The report's findings are misleading because it fails to separate the effects of the payroll tax increases from other income tax changes.

As displayed below, Internal Revenue Service (IRS) data clearly show that the Reagan-Bush income tax rate cuts reduced the incentive for the rich to shelter or avoid the realization of taxable income, resulting in higher tax payments:

AVERAGE INCOME TAX PAYMENTS BY TAXPAYER (1988)

Year	Top 1 percent	Top 5 percent	51 to 95 percent	Lowest 50 percent
1981	\$68,725	\$27,415	\$4,995	\$583
1982	68,977	26,199	4,553	533
1983	68,899	25,272	4,187	486
1984	72,723	26,161	4,184	507
1985	76,750	27,296	4,227	504
1986	95,462	31,896	4,377	500
1987	88,685	31,022	4,068	438
1988	104,008	34,446	4,097	433

Source: IRS and 1991 JEC annual report.

The average income tax payments of the top 1 percent of wage earners (those with adjusted gross income (AGI) over \$157,136), adjusted for inflation, increased 51.3 percent between 1981 and 1988. Average tax payments for the top 5 percent (with AGI over \$72,735) increased as well. Conversely, tax payments of the middle and lower income levels (those with AGI under \$72,735 to \$18,367, and under \$18,367) decreased by 18 percent and 25.7 percent respectively.

SHIFT IN INCOME TAX BURDEN FROM POOR TO WEALTHY IN 1980S

As a result of the Reagan-Bush tax cuts, the average American family will save about \$1,500 in income tax payments every year. Since the 1981 tax cuts were enacted, the share of the personal income tax burden has shifted upward toward higher income taxpayers. Since 1981, the share of the income tax burden of the top 1 percent of earners has jumped by 56 percent. Consequently, with this rise in the share of the personal income tax burden of the higher income taxpayers, that of the middle and lower income percentiles has decreased. The lowest 50 percent of earners saw their income tax burden fall from 7.5 percent to 5.7 percent from 1981 to 1988. These figures do not include the 4 million low income taxpayers who were removed from the income tax rolls entirely during the 1980s. Given these facts, the Citizens' report is simply wrong in contending that lower income taxpayers have been saddled with a higher income tax burden during the Reagan-Bush era.

INCOME TAX BURDEN SHIFTS TOWARD WEALTHY

(Percent of burden)

Year	Top 1 percent	Top 5 percent	51 to 95 percent	Lowest 50 percent
1981	17.6	35.1	57.4	7.5
1982	19.0	36.1	56.5	7.4
1983	20.3	37.3	55.5	7.2
1984	21.1	38.0	54.6	7.4
1985	21.8	38.8	54.1	7.2
1986	25.0	41.8	51.6	6.6
1987	24.6	43.1	50.8	6.1
1988	27.5	45.5	48.7	5.7

Source: IRS and 1991 JEC annual report.

FAMILIES MOVE BETWEEN INCOME CLASSES OVER TIME

The comparison of income trends over time by quintiles of families is fundamentally meaningless because these quintiles do not comprise the same people. The common practice of freezing families into certain income class by quintile is a basic flaw in the

liberal approach to public policy analysis. The fact of the matter is that the U.S. economy is "dynamic" not "static"—families move between the quintiles over time. In America, today's poor person could become tomorrow's rich person and vice versa. It is a well documented fact that over several years about half of the members of the bottom and top quintiles move to other income fifths. In any event, constant repackaging and repetition of bad information cannot make it more accurate.●

BLUE RIBBON SCHOOLS OF EXCELLENCE FOR 1990-91

● Mr. SASSER. Mr. President, I rise today to honor and congratulate five Tennessee schools—Dyersburg High School of Dyersburg, Science Hill High School of Johnson City, St. Cecilia Academy of Nashville, St. Mary's Episcopal School of Memphis, and Girls Preparatory School of Chattanooga—which have been named Blue Ribbon Schools of Excellence for 1990-91.

These five schools have been recognized for their success in furthering the intellectual, social, physical, and moral growth of all their students. They, along with the 217 other blue ribbon schools, were chosen from a pool of 490 nominees because of their outstanding commitment to quality education and their effectiveness in meeting local, State, and national education goals. These institutions, their teachers and their students provide a shining example of educational excellence for others to follow.

Each school has set high expectations and has lived up to these goals. They have displayed visionary leadership and a sense of shared purpose and direct involvement among faculty, students, parents, and the community. They have created a climate conducive to effective teaching which emphasizes that all students can learn. They have helped each student meet his or her potential, and their students have shown impressive academic achievement and responsible behavior. These schools also have shown an ongoing commitment to improvement and have met difficult problems with effective solutions.

I believe it important to recognize these schools not because of the number of students who are national merit scholars, not because of the number of faculty members who hold masters degrees or Ph.D.s, and not because of a school's expanding physical plant. Certainly, these qualities are commendable and desirable, and certainly, these results are good indicators of a school's quality. But they are not the real strength behind a blue ribbon school's success. Taken alone, these qualities lack a necessary element, and that is dedication—dedication on the part of the faculty, the students, their parents, and the entire community.

Mr. President, I believe we should honor these schools, instead, for their

ongoing commitment to educational excellence. At a time when the United States must produce students who participate actively and productively in society, at a time when our students are increasingly called upon to compete on a national and international level, and at a time when our schools must prepare our children for the opportunities of the 21st century and beyond, we need more blue ribbon schools. We need more schools that have fought to improve themselves and their students' lives and more schools that have shown great ability in adjusting to a changing world.

Mr. President, I join my fellow Tennesseans in congratulating Dyersburg High School, Science Hill High School, St. Mary's Episcopal School, St. Cecilia Academy, and Girls Preparatory School for being Blue Ribbon Schools of Excellence and in expressing our appreciation for their efforts to prepare young men and women for healthy, productive, and fulfilling lives.●

PARK COUNTY IS ANYTHING BUT HICKSVILLE

● Mr. WIRTH. Mr. President, some time ago I took a few minutes to defend my constituents in Park County, CO, from the distorted and incredibly poorly researched television movie, "The Chase."

The movie depicted Park County and the town of Bailey, CO, as a backwaters country of "hicks" and socially regressive people. To say that the movie was insulting is an understatement, and I am pleased to make an effort toward correcting the Nation's view of this part of Colorado—which happens to be one of the most scenic and socially progressive communities in our country—by inserting the following editorial by Steff Millard, the editor of the Park County Republican and Fairplay Flume.

The editorial follows:

[From the Park County Republican and Fairplay Flume]

WE JUST BE HICKS

(By Steff Millard)

We may live and enjoy a rural lifestyle, but we aren't 40 years behind the times as suggested in last Sunday's NBC movie, "The Chase".

It is ironic that NBC and the production company managed to badly distort the facts in this movie about a case that has to be one of the most thoroughly recorded and documented in recent history.

Particularly in dealing with Bailey and the county, NBC managed to come up with numerous distortions and outright fabrications in its "factual" presentation. All of which unnecessarily put Park County and Bailey in an extremely poor light.

Some of the more blatant falsifications depicted were that Phillip Hutchinson had a job in Bailey, was involved in towing vehicles for the sheriff, received money from a deputy and was a belligerent, antagonistic personality.

The NBC movie does send a message though, the Platte Canyon area and Park County may "benefit" from an influx of hardened criminals who think this is a "hick" county where they will be safe. At least it will improve the local cash flow as long as they commute into the big city to conduct their criminal activities as Hutchinson did.

Thanks for nothing NBC, we already have enough criminal elements such as the fencing and drug operations that have been busted in the last four months.

We are not located 40 miles from Denver up some dirt road and our county and community are not 40 years behind the times.

Everyone who watched "The Chase" and was upset by the way our county and community was portrayed on nationwide television should make a point to sign the petitions being circulated at county offices, the Bailey substation and various businesses throughout the county.

Then express your feelings by calling Channel 4 in Denver at 303-861-4444, or Channel 5 in Colorado Springs at 719-475-2555, or NBC in New York at 212-664-2333. Be sure to speak with a drawl and mispronounce a few words.●

HEALTH REFORM UNIVERSAL ACCESS AND COMPREHENSIVE COST CONTAINMENT

● Mr. AKAKA. Mr. President, there are over 35 million Americans who have no health insurance. Throughout the years, numerous national health care proposals have been offered, but none have been adopted. Today, I am pleased to cosponsor S. 1227, the comprehensive health reform proposal introduced on June 5, 1991 by our distinguished majority leader, Senator MITCHELL, and my colleagues, Senators KENNEDY, RIEGLE, and ROCKEFELLER.

This Democratic leadership bill would ensure universal access to health care for all Americans and bring down the runaway costs of health care. Our much-awaited proposal represents many long and difficult months of study, discussion, and decisionmaking by the bill's sponsors and their staffs, and incorporates recommendations from many areas of the health care community. The driving force behind this legislation is simple: We cannot continue to allow over 35 million Americans to be without basic health care coverage.

Fortunately, for the residents of Hawaii, our State is close to providing universal health care for all her citizens. Hawaii's far-reaching health care system includes the Prepaid Health Care Act of 1974 expanded Medicaid eligibility, and the State Health Insurance Program [SHIP].

The first component, the Prepaid Health Care Act, requires all of Hawaii's employers, except for some family-owned businesses and employers paying on a commission basis, to provide health insurance to their employees. The employee is not required to pay more than one-half the premium cost, which cannot exceed 1.5 percent

of the employee's monthly wages. Eligible employees must work at least 20 hours per week and earn a minimum amount per month. Employers can offer either a fee-for-service health insurance plan with copayments and deductibles or membership in a health maintenance organization.

The second part of Hawaii's State health care system is the expansion of Medicaid eligibility to the maximum allowed under Federal options. With the employer-mandated health plan and the expanded Medicaid coverage, the number of Hawaii's uninsured population shrank from 17 percent of our nonelderly population in the early 1970's to 5 percent in 1989.

With only 5 percent of the population lacking health insurance, a third component, SHIP, was created to meet the health care needs of this gap group—mainly the unemployed, dependents of low-income workers and part-time workers unable to afford coverage.

Launched in April 1990, SHIP has served over 10,000 members in its first year. Nearly half, 46 percent, of these enrollees are children under 18, and more than half of the program participants, 55 percent, are women.

Depending on income, the sliding fee scale for enrollment under SHIP ranges from no payment to \$60 per month for an adult and \$20 per month for a child. Benefits under SHIP include full coverage for well-baby and well-child care; 12 physicians visits a year with a \$5 copayment; 2 days of in-hospital maternity care; and 5 days of hospitalization with a \$2,500 limit. Most SHIP enrollees would qualify for Medicare should they require more costly procedures.

Today, Hawaii has one of the lowest infant mortality rates in the Nation, and the death rates from chronic diseases such as cancer and heart disease are lower than those in other States. This is directly attributable to the fact that the Hawaii system emphasizes primary and preventive care. Also, the State's experience with mandated health benefits has shown that such a program can be implemented without a loss of jobs. Health insurance risks and costs must be shared by a large population group in order to keep insurance affordable and make mandated benefits work.

Mr. President, we are all aware that the road to universal health care coverage is often rocky. In Hawaii's case, the Federal Government has sometimes erected barriers rather than removed constraints to achieving maximum coverage. A case in point is the State's experience with the Hawaii Prepaid Health Care Act and the Employee Retirement Income Security Act of 1974 [ERISA].

In 1980, the Ninth Circuit Court of Appeals held that the preemption clause in ERISA prevented the State from enacting minimum health care

requirements for employers governed by ERISA. The court determined that, in the absence of an expressed exemption for the Hawaii statute, Federal law governs. The U.S. Supreme Court affirmed the lower court ruling and concluded that relief could come only from Congress.

Soon thereafter, the Hawaii congressional delegation sponsored legislation to grant an exemption for the Hawaii statute and worked toward this end. After considerable debate, a limited ERISA exemption was signed into law on January 14, 1983. However, the exemption was not prospective and only permitted the State to require the specific benefits set forth in its 1974 statute.

An unfortunate consequence of this 1983 legislation is that the Hawaii Prepaid Health Care Act has been "frozen in time," with no amendments or changes allowed other than those that would enhance "effective administration."

After 17 years of experience with this pioneering statute, the State is prohibited from amending the program to be more responsive to Hawaii's changing needs. We need to allow a State that has been at the forefront of innovative approaches to health care to make changes which better reflect the needs of today's population and their employers.

To remedy that, I introduce S. 590 on March 7, 1991, to permit the State to address these issues and to fine-tune its successful health care programs for the 1990's. My bill would exclude the Hawaii Prepaid Health Care Act from ERISA.

Mr. President, I would like to bring to the attention of my colleagues another health care reform proposal unveiled this spring by the School of Public Health at the University of Hawaii. Universal Health Coverage for the American People, or UniHealthCAP for short, is a product of research, public outreach and discussion among members of the University of Hawaii faculty and graduate students, leaders in Hawaii's health care and political communities, and the general public. Former Massachusetts Gov. Michael S. Dukakis, a visiting professor at the university, and University of Hawaii Prof. Cyril Roseman served as the project directors.

There are basic similarities between the legislation being introduced today in the Senate and UniHealthCAP. Both proposals mandate employer-provided coverage, with assistance to small businesses, and contain important initiatives focusing on prevention of health problems. They also address the problems of malpractice insurance, redesign the Medicaid program and attempt to reduce unnecessary administrative costs.

While the Senate bill would establish a National Health Care Expenditure

Board to setup voluntary annual targets for national health care expenditure totals, UniHealthCAP would use a single payer authority employing a global budgeting process involving regional advisory boards. Under UniHealthCAP, there would be freedom of choice of health providers with patients being required to select a primary physician or health maintenance organization as a gatekeeper.

I would like to insert in the RECORD, at this point, a summary of UniHealthCAP, as well as appendix I of the position paper, which provide more details on this plan and the comprehensive mandated health insurance system in Hawaii.

Mr. President, I look forward to working with my Senate colleagues to advance health care reform—to pull together the best features of the leadership and UniHealthCAP proposals and elements of Hawaii's current health care system. Although Hawaii is perceived as being so different from most other States, I believe our experience in implementing our health care system can be instructive.

The summary follows:

[University of Hawaii at Manoa, School of Public Health]

SUMMARY

A comprehensive plan for universal access to health care in America was unveiled today at the School of Public Health of the University of Hawaii.

The plan is the product of months of research, public outreach and discussion involving members of the University of Hawaii faculty and graduate students, leaders in Hawaii's health care and political communities, and the general public.

School of Public Health Dean, Dr. Jerrold M. Michael and former Massachusetts Governor Michael S. Dukakis, a visiting Professor at the university, called the proposed plan "a major contribution to the debate which is about to begin in the Congress of the United States."

"The United States today is spending far more on health care than any other advanced industrial nation in the world, and thirty-five million of our fellow citizens still don't have any form of health insurance. The State of Hawaii has demonstrated that it is possible to provide all of the citizens with quality health care at reasonable cost. If Hawaii can do it, so can the Nation," they said.

The new plan, dubbed UniHealthCAP (Universal Health Coverage for the American People), would guarantee basic health insurance to all Americans and would include the following:

1. Health insurance would be provided by all employers to their employees and employees' dependents. Coverage would be phased in over five years, beginning with the largest employers.

2. Basic benefits would include all hospital and physician services, diagnostic tests, certain mental health services, and important preventive services like well-child care and mammograms as well as health promotion programs.

3. Both employers and employees would contribute to the cost of premiums on a fifty-fifty basis, but employees would not be required to contribute more than 3.5% of their gross income. There would be a 20 per-

cent co-payment and modest deductibles, but no individual or family would pay more than \$3,000 per year in out-of-pocket costs. Employers would not, however, be precluded from paying a greater share of the premium or offering expanded coverage to their employees.

4. A Public Insurance Trust fund would be created to provide coverage for the approximately ten million Americans who would still be without health insurance after the phase-in of the employer mandate. The cost of the trust fund would be fully offset by projected savings in existing health care spending. *No new taxes would be required.*

5. UniHealthCAP would substantially reform the Nation's current malpractice insurance laws by eliminating duplicate payments, putting limits on lawyer's contingency fees as the amount of damages increases, and limiting awards for pain and suffering to \$500,000 except in cases of wanton and reckless misconduct by a provider.

6. There would be significant changes in medical practices designed to improve the quality of health care and reduce unnecessary expense. While there would be full freedom of choice of health providers, patients would be required to select a primary physician or health maintenance organization. That primary provider would be responsible for the patient's primary care and for referring the patient to specialists. Specialists would not be reimbursed at the specialist rate unless there was a documented referral from the primary physician.

7. The U.S. Department of Health and Human Services would be required to implement system-wide controls over all health spending in the United States. This annual "global budget" would then be allocated to regions on a population basis with appropriate adjustments for regional cost-of-living variations and other relevant factors. Hospitals, physicians' associations, and other provider organizations would join with consumers in helping to implement these regional spending ceilings.

8. Providers would be reimbursed through a single-payer system operated by the Health Care Financing Administration (HCFA) of the U.S. Department of Health and Human Services. All insurance premiums, would be transferred to HCFA and paid to providers through a new, streamlined electronic billing system, thus saving billions of dollars in administrative expenses currently incurred by the present multi-payer system.

9. Insurers and health maintenance organizations would be encouraged to offer supplemental coverage which could be purchased by employers and/or employees at their option. UniHealthCAP would continue to encourage health competition among insurers and HMOs.

10. All policies would be "community-rated." Discrimination by insurance companies against small businesses would no longer be permitted. Persons with preexisting conditions could no longer be shut out of the insurance market.

Dukakis said that "Today we have the worst of all possible worlds. Life expectancy and infant mortality in America are below many of our competitor nations. In some cases we pay double what other countries are paying for health care. Inflation in health costs is now running at three times the general inflation rate.

"No wonder that so many Americans are increasingly unhappy with our health care system. In a recent survey, nearly ninety percent said that the system was in need of fundamental change, and six out of ten said

that they would actually prefer something like the Canadian system.

"We can provide universal access to quality health care in America without new taxes by using the nearly seven hundred billion dollars we are currently spending on health care much more wisely and effectively than we are today."

University of Hawaii President Albert Simone called the new plan "a superb example of what an academic institution can do when they work closely with government, health care and community leaders and the general public.

"The University of Hawaii's School of Public Health has played a key role in bringing better health care to the people of the Pacific and of Asia. We have always been proud of the role we have had in helping to make Hawaii 'The Health State.'"

Dean Michael noted that "We all believe it is now time for Hawaii to serve as the model for universal access to health care across America. Our Prepaid Insurance Act of 1974 has provided working people with health insurance for seventeen years. The State Health Insurance Program which was approved by the Hawaii Legislature in 1989 is now well on its way to providing all those not covered by employer-employee coverage with basic health insurance.

"UniHealthCAP builds on Hawaii's experience; and in that sense Hawaii is doing exactly what Justice Brandeis said the states were uniquely equipped to do; to serve as laboratories for social change in America."

Dean Michael and Governor Dukakis said that both Hawaii Governor John D. Waihee and members of the Hawaii Congressional delegation have expressed interest in taking the plan to Washington and actively involving themselves in the upcoming debate over universal health care in the nation's capital.

"We look forward to working with them and with good people all across America to solve the single most important domestic issue we face in this Country—how to guarantee our citizens full access to quality health care at a cost that they—and we—can afford."

APPENDIX I—THE HAWAII CONTRIBUTION

Hawaii has made a special contribution to the process of consideration of universal or uniform health insurance coverage in America. The State occupies a special geography, culture, and commitment to health, and deserves to be viewed as a special opportunity model for future explorations, policy refinements, and demonstration project evaluation as part of this proposal. Hawaii highlights one dimension of the UniHealthCAP proposal—the concept of "State as a Region" which would permit a state that has a comprehensive mandated health insurance system in place to operate as a separate unit under UniHealthCAP.

CONTRIBUTIONS TO STATE HEALTH INSURANCE OPTIONS

Hawaii is recognized as a leader in health care among the fifty states. Hawaii's Prepaid Health Care Act of 1974¹ created an employer mandate, the first of its kind of the United States. In 1989, Hawaii enacted the State Health Insurance Program Act,² the first gap group³ coverage in the nation. Hawaii is the

¹Chapter 393, Haw. Rev. Stat. Under the Prepaid Health Care Act, the employee can pay up to 50 percent of the insurance premium or 1.5 percent of his income, whichever is lower.

²Chapter 431N, Haw. Rev. Stat.

³The "gap group" consists of individuals who are medically uninsured, that is, do not qualify for Med-

only state that can successfully claim near universal health coverage and access to health care. As of March 1991, all but 20-30,000 of its people had some kind of insurance coverage. That amounts to approximately 98% of the population.

Assets

In addition to the employer insurance mandate and the State Health Insurance Program (SHIP), Hawaii has other assets of significance to this issue.

Hawaii: The Health State

The State of Hawaii has many public health initiatives, which include the intensive use of care homes for the elderly,⁴ a comprehensive health survey, diverse family programs, and a large array of alcohol and substance abuse programs operated through special contracts with non-profit agencies.

Mandated Benefits

Under the employer insurance mandate and SHIP, benefits are mandated through state legislation and departmental regulations.⁵ Thus, all subscribers are guaranteed a basic level of assured care. The SHIP program, however, focuses on primary care, preventive services and diagnostic ambulatory services and provides 5 days of in-patient care.

Community-Based Rating

Under the employer insurance mandate, community-rating is used, which helps in controlling premium rates. Unlike most mainland states in which experience-rating is used,⁶ Hawaii has one of the lowest premium rates in the country.

Diverse Interests

Hawaii's Department of Health (DOH) monitors all areas of health care. The department also has advisory boards and commissions for its various branches. In addition, a newly formed Governor's Blue Ribbon Committee, consisting of professionals and community leaders, has been established to help the DOH establish future goals and strategies regarding the cost and financing of health care.

Established Health and Related Data Bases

Hawaii has three major health data bases: The Hawaii Medical Service Association (HMSA), primarily a fee-for-service insurer in effect the state's Blue Cross-Blue Shield; Kaiser-Permanente Medical Care Program (Kaiser), a health maintenance organization;⁷ and the DOH's Vital Statistics section which also maintains extensive data base.⁸ In addition, the DOH also conducts an annual survey, sampling different households each year. Ten percent of all households in the state are surveyed each year. In addition, the Hawaii State Department of Taxation also keeps an extensive tax data base.

icare or Medicaid and cannot afford to purchase personal health coverage.

⁴Care homes are institutions that are somewhat unique to Hawaii. These are facilities in which a family cares for one or more elderly persons, usually within the family's own home.

⁵By the Department of Labor and Industrial Relations and the Department of Health.

⁶The risk assessed through the average usage of the employees of the firm. That is, if one employee has diabetes, premiums are higher for all employees. With community-rating, the risk is assessed by using the entire community as a risk pool.

⁷These two firms are also the contracted insurers under SHIP.

⁸Vital Statistics is best known as the agency that records birth, marriage and death certificates.

Few Hospitals

There are relatively few hospitals in Hawaii, and their market shares are stable and differentiated.⁹

Geographic Site, Boundary Maintenance

Given Hawaii's geographic location and ethnic make-up, there is little in/out migration of residents between the state and the rest of the nation, or for that matter among the various islands.

Small Area, Ease of Transportation and Communication

Hawaii is a small, close-knit community, and physical space is also small. Few areas of the state are further than thirty minutes away from a large general hospital, but the physical separation of neighbor islands does present access barriers to Honolulu metropolitan hospitals.

Political Continuity With Single Party Dominance

One party has controlled both the executive and legislative branches since the early 1960s. Health care advances have been preserved by successive administrations. There is a strong commitment to planning, research and program development in the health sector.

Strong Executive State System, Weak Counties in Health Care

The state has principal responsibility for health care, and the counties have only a very small role in the provision or regulation of health care. The chief executive is backed by a dynamic Director of Health and a well staffed health department.

State Role in Acute Hospital Care in the U.S.

Hawaii has an extensive system of state-county hospitals, perhaps the highest level of state government involvement in the operation of multiple general acute hospitals as well as smaller rural facilities in the nation. The system also includes a state mental health hospital and several specialized facilities.

Established Third Party Payers

As noted above, Hawaii has two major health insurers, HMSA and Kaiser. Together they command 95% of the total employer-based market;¹⁰ other payers cover the remaining 5%.

Strong Research Base at the University of Hawaii

The University of Hawaii health science schools including the Schools of Public Health, Medicine, Nursing and Social Work are committed to providing a research and service arm for state-based health care issues. The School of Public Health, as an example, is active in providing health services research backup and shares a number of faculty positions with the Department of Health, assuring close collaboration on issues of concern to the state.

THE HAWAII STATE HEALTH INSURANCE PROGRAM (SHIP)

Historical development of health insurance in Hawaii

In 1974, Hawaii was the first state to enact a law requiring employers of employees working more than 20 hours a week to provide then with health insurance coverage.¹¹

⁹For example: Kaiser has hospitals which care for their members; the state operates hospitals on neighbor islands. There are various non-profit and for-profit metropolitan hospitals and clinics. Each facility has a stable share of the market.

¹⁰HMSA holds 80% to Kaiser's 15%.

¹¹The Prepaid Health Care Act, Chapter 393, Haw. Rev. Stat. Employees pay 50% of the premium or the

In 1989, Hawaii enacted the State Health Insurance Program Act to provide "gap group" coverage,¹² offering coverage for those who do not have public or private health insurance and cannot afford to purchase their own.

Basic elements

SHIP contracts with the Hawaii Medical Services Association (HMSA) and Kaiser Permanente (Kaiser), the two largest insurers in the state, to offer gap group insurance. Because Kaiser, as an HMO, has a greater risk of adverse selection under SHIP, it has limited the number of people to be enrolled in its SHIP offering. Kaiser's limit was originally set at 1000 members, but was increased in June 1990 to 1400 and may increase to 2000 by January 1992.¹³ As of April 1991, 9,213 people are enrolled in the HMSA plan, and 1,078 are enrolled in Kaiser's plan for a total of 10,291.

Premiums are based on age, and the enrollees' share is determined by their income as a percentage of the Federal Poverty Level (FPL). There are three basic criteria for qualification that must be met: (1) Hawaii residency; (2) income eligibility (total family income under 300% of the Federal Poverty Level); and (3) uninsured status: (a) without health insurance for three months¹⁴; and (b) ineligible for other government provided insurance.

The risk of SHIP's exposure to loss is mitigated by various safeguards. Subscribers are not precluded from purchasing catastrophic care coverage.

SHIP Benefit Package

SHIP HMSA benefits include: health appraisals and related tests, well baby and well child coverage and full coverage for accidents; twelve physician visits a year, each with a \$5.00 co-payment; five days of hospitalization with a dollar limit of \$2,500; and two days of maternity care. HMSA's plan also provides some managed care features, with utilization review as well as referral and approval required in some cases.

Cost and Impact

The cost of SHIP to the State of Hawaii is less than \$10 million per year.¹⁵ While the percentage of the U.S. population that is uninsured was 16% in 1988, Hawaii's percentage of uninsured was estimated to be approximately 5% of the population in 1987-1988. SHIP has done a good job in enrolling people, reaching one third of the target population within one year.

The two main physician provider complaints are that there is too much paperwork and that the reimbursement rate is too low. Providers would also like to provide more preventive care. The DOH is also looking at a cost-based reimbursement system, much like the system Medicaid requires for future SHIP operations.

SHIP is a program that is meeting many of its original objectives. The HMSA plan costs,

employee pays 1.5% of his income, whichever is lower. Employees also have an option to purchase additional coverage for their families.

¹²The State Health Insurance Program Act, Chapter 431N, Haw. Rev. Stat.

¹³Membership in SHIP is very young, with few elderly members. SHIP did not originally consider the over-65 age group in its forecast of demand, but those few that do not qualify for Medicare (immigrants and federal employees) have in fact applied.

¹⁴Can be waived for people who recently lost their jobs, newborns, and people who become ineligible for Medicaid.

¹⁵Funding allocated in House Bill 139, House Draft 1, the state budget bill, for the 1991-1993 biennium is \$8,636,975 for FY 1991-1992, and \$9,171,580 for FY 1992-1993. This is almost \$1 million less than the amount requested by the Department of Health.

on the average, \$50 per month per member and the Kaiser Plan, about \$80. As a comparison, in the State of Washington, which is also addressing the gap group problem with an all-HMO system, the cost to the state is \$100 per month per member.

The SHIP is a logical part of the Hawaii state plan to extend health coverage to all of its citizens. It provides an example for similar efforts in other states and for the nation.

CONCLUSION

Hawaii is a state with a strong health care system with relatively few major problems. Under UniHealthCAP, Hawaii would qualify as a separate region and would handle its own health affairs because of its advanced position in the health care and mandated insurance areas. In addition, Hawaii could serve as a prototype or demonstration project for the rest of the nation. With near universal health insurance in place and virtually universal access, Hawaii has been exploring the areas of health promotion and disease prevention and working on Native Hawaiian health problems, cost control, utilization controls, and other areas of national concern. By addressing these problems, Hawaii can continue to be "The Health State."¹⁶

ONE HUNDRED YEARS OF FAMILY FARMING

● Mr. WIRTH. Mr. President, I would like to use this occasion to bring special attention to 16 families who have been honored at the Colorado State Fair for maintaining 100 years of continuous family ownership and operation of their farms and ranches.

The Allen Ranch, Gunnison County; the B/K Ranch, El Paso County; the Elms, Morgan County; the Epple Ranch, Weld County; the Esty Ranch, Gunnison County; The Gonzales Ranch, Conejos County; the Hycrest Farm, Boulder County; the Laughlin Farm, Boulder County; the Lone Pine Ranch, Ouray County; the Peep O'Day Park Ranch, Larimer County; the Pinok/Shafter Ranch, Huerfano County; the Rio Culebra Ranch, Costilla County; the Smillie/King/Severin Farm, Weld County; the Unzicker Homestead, Phillips County; the Wommer Ranch, La Plata County; and the ZF Ranch, Mesa County, have all been in operation for 100 years in the same family, and stretch across the four corners of Colorado.

These farms and ranches are part of a 162-member club of Centennial Farms in Colorado. The spirit of these family farmers is exemplified by Ida Valdez, who raises cattle and alfalfa with her husband, Elmer, on the Rio Culebra Ranch in the San Luis Valley. Ida says, "There have been ups and downs, but we never thought of selling out. Holding on to your property is very important."

The Balsick family have been farming in Colorado since 1891 when they acquired land under the original Homestead Act. Their story is an integral part of our Nation's Western heritage. Their strong commitment to the family farm is a remarkable testament to

our Nation's reputation as the breadbasket of the world, and I am pleased to have this opportunity to salute each and every one of our Centennial Farmers.

Mr. President, I ask to reproduce in the RECORD an article from the Rocky Mountain News which describes Colorado's Centennial Farm Awards Program in greater detail.

The article follows:

LONG-LIVED FARMS HONORED AT FAIR

(By Deborah Frazier)

Thousands of pioneers homesteaded in Colorado, and the Colorado State Fair will honor working family farms and ranches that survived more than 100 years of droughts and blizzards.

"For a family farm to have been around for 100 years is really something. It takes a lot of perseverance," said Joyce Cheatham of the Colorado Department of Agriculture, sponsor of the program with the Colorado Historical Society.

Since the program began in 1986, the Centennial Farm Awards have honored 146 family ranches and farms. Sixteen more will be recognized at the fair on Aug. 23 at a reception hosted by the Colorado Farm Bureau.

To qualify, the family must show the farm or ranch has been run by the same family for 100 years. Some of the owners lease the land to tenants, but most live and work on the land their grandparents and great-grandparents farmed.

As many as six generations—from infants to 100-year-old grandparents—gather in Pueblo for the awards, said Lane Ittelson of the historical society. "It's pretty amazing."

The Rio Culebra Ranch in the San Luis Valley is the oldest ranch honored this year, with the family settling the land in 1863 under a Spanish land grant and obtaining some of the oldest irrigation rights in the state.

"There have been ups and downs, but we never thought of selling out," said Ida Valdez, who raises cattle and alfalfa with her husband, Elmer, on the ranch her great-grandparents started. "Holding on to your property is very important."

Most of the centennial ranches and farms are located in Boulder and Weld counties, which both had early irrigation systems, Ittelson said. The oldest farms—dating from the 1850s—are located in the San Luis Valley.

"What you don't get is a picture of how many farms failed. For every centennial farm, we have 10 families that didn't make it," he said. "The main lesson is that through hard work and perseverance, the family hung on."●

SHORTCOMINGS OF CUSTOMS SERVICE INVESTIGATIONS

● Mr. REID. Mr. President, I would like to bring to the attention of my colleagues two items from the Las Vegas Sun newspaper.

The editorial and the column discuss the shortcomings of a recent Customs Service investigation into charges of corruption within the service.

Mr. President, I request that these columns be printed in full in the RECORD at this point.

The articles follow:

[From the Las Vegas Sun, Sept. 12, 1991]
CUSTOMS' CHIEF HAMPERING AGENCY DRUG INVESTIGATIONS

The nation's war on drugs will not go very far if the foot soldiers on the front lines don't get adequate support from the bureaucrats at headquarters.

That seems to be the message two infuriated congressmen sent to U.S. Customs Commissioner Carol Hallett.

Hallett is fast becoming the drug war's equivalent of Col. Klink, the bungling German prisoner camp commander on the hit TV comedy "Hogan's Heroes."

Within the past two months, Hallett managed to aggravate Rep. J.J. Pickle, D-Texas, and Rep. Doug Barnard Jr., D-Ga., who chair separate House subcommittees probing the drug interdiction agency.

After a Customs-appointed panel recommended sweeping management changes last month to dismantle rampant cronyism, Pickle complained that his House Ways and Means subcommittee made many of the same findings more than a year ago. Pickle said it was "truly disheartening" that Hallett and her agency failed to act last year.

Charging in from a separate front was Barnard, whose House Government Operations subcommittee continues to field complaints from Customs agents armed with examples of botched internal investigations and harassment for whistle-blowing activities.

Barnard repeatedly has warned Hallett and her staff to end all such mistreatment, a condition he termed "distressing" in an Aug. 16 letter to her. Though not mentioned in the letter, one such whistleblower is Louis Smit, a Las Vegas private investigator who quit the agency in disgust in January.

During his stint as an agent in Corpus Christi, Texas, Smit and partner John Graham forwarded to their bosses allegations from the FBI that fellow Customs employees had ties with drug traffickers. Although they were mere middlemen passing along FBI information, Customs officials went into a tizzy and stonewalled the investigation. Smit eventually found himself suspended and demoted.

Smit, who helped uncover the first known link between Mexican drug traffickers and organized crime in Chicago, should still be one of those guys who enjoys the limelight following a big drug bust. Instead, he is embroiled in a costly civil service dispute with the agency because he stepped on some big toes and fragile egos in the course of doing his job.

Consider that Barnard and Pickle have been approached by several agents such as Smit and it is easy to see why the congressmen have become increasingly impatient with Hallett.

In the meantime, the role of the U.S. Customs Service continues to fade away in the important national war against dangerous drugs and narcotics. It's about time that Commissioner Hallett fades away so the agency can again, under strong leadership, resume a vital role in this war.

[From the Las Vegas Sun, Sept. 12, 1991]

WHERE I STAND

(By Mike O'Callaghan)

The time is here for Commissioner of Customs Carol Hallett to move on and make way for a strong leader. Her lack of control over this most important agency is hurting our nation's battle to defeat the drug lords both within and without our country. Today's editorial on page 8B makes clear our concern.

The Sun didn't just jump to these conclusions during recent months when Hallett's ineffectiveness and lack of action has upset some highly respected members of Congress. No, our concern about Hallett and the United States Customs Service goes back almost two years.

It was Nov. 26, 1989, that this columnist wrote: "Las Vegas Louis Smit and his partner John Graham, both U.S. Customs Service investigators on the Texas-Mexico border, have had a lonesome job become even more lonely in recent months. Their Customs Service superiors took them off of a most complex narcotics case that stretches from Mexico to organized crime in Chicago. It's more than obvious to many law enforcement people that the Smit-Graham team in their pursuit of this case have also stumbled onto some big problems in the Customs Service. Problems that may be so big that they threaten future promotions of some supervisors."

"San Antonio Light newspaper writer Lisa Baker has done an excellent job of reporting the Smit-Graham saga. In one of her articles Marvin Milner, resident agent in charge of customs in Corpus Christi, defends his removal of the investigative team from the big case because they are investigators and not special agents, Milner's concern about titles may be one reason the war on drugs is being lost! Another customs office supervisor refers to Smit and Graham as rogue investigators."

Again, almost a year later, on Nov. 14, 1990, it was necessary for this column to update what was happening in the U.S. Customs Service. That column concluded, "This entire affair makes me wonder how many other government employees, who don't have the guts and willpower of Louis Smit, have been buried along the rough and sometimes endless government road in their search for justice."

Since that time, 10 months ago, several additional things have taken place. Writer Steve Kanigher, a digging reporter who searches out information day and night, and Lisa Baker, referred to in the first column, from the San Antonio Light newspaper, have become valued members of the SUN reporting staff.

Just as important was the report of the Hallett-appointed Blue Ribbon Panel to review the integrity and management issues of that agency. The panel found "no systemic corruption within the Customs Service in the Southwest Region," but found plenty of "fundamental weaknesses in Customs management systems."

Six weeks ago the Blue Ribbon Panel report also triggered a press release from Rep. J.J. Pickle, D-Texas, a senior House member who chairs the Subcommittee on Oversight, Committee on Ways and Means. Pickle said, "Last year, after a two-year investigation, the Subcommittee issued a report, titled 'Abuse and Mismanagement in U.S. Customs Service Commercial Operations,' which contained many of the same findings and recommendations as this Blue Ribbon Panel. It is truly disheartening to discover that after more than a year Customs has still not done what it obviously needs to do."

Just one more example of Hallett not acting effectively in her position. Two days later during a hearing the congressman from Texas said, "'Blue Ribbon Panels' are not new to Customs. I guess it is Commissioner Hallett's policy to convene a 'Blue Ribbon Panel' every time an internal problem seems to be getting too much outside attention. The first one was convened in November 1989

in response to this Subcommittee's investigation into Customs seized property program. The second was convened last year in response to this Subcommittee's probe into the misuse of Custom's inspector overtime. The third one is the subject of today's hearing."

About four weeks ago Rep. Doug Barnard Jr., D-Ga., chairman of the Commerce, Consumer and Monetary Affairs Subcommittee of the Committee on Government Operations, sent Hallett a letter. His three-page upbraiding concluded, "It is distressing that, while you have promised to implement the 'Blue Ribbon' Panel's report (including presumably the chapter on whistleblowing), you have not made it abundantly clear by specific written directive to all managers that the Service would not tolerate unlawful actions against and statements to whistleblowers and would take severe action against such actions."

The U.S. Customs Service has a most important role to play in our fight against the scourge of our modern-day society. It is evident that an agency run by a sloppy administrator, who tries to cover her shortcomings with committee and panel reports, is not the way to victory.

As you can see we didn't draw this conclusion without a full evaluation of Commissioner Carol Hallett and the way she runs the Customs Service. If she doesn't have enough class to submit her resignation she should be fired by the man in the White House.

(Mike O'Callaghan, a former two-term governor of Nevada, is executive editor of the Las Vegas Sun.)

S. 596, THE FEDERAL FACILITIES COMPLIANCE ACT

• Mr. BINGAMAN. Mr. President, I rise today to express my support for S. 596, the Federal Facilities Compliance Act of 1991, which has been introduced by our distinguished majority leader.

What underlies this legislation is the preservation of a principle; namely, that the Federal Government should be no less responsible than others, whether State agencies, municipalities, or private corporations, when it comes to protection of our environment. It was always the intent of the Congress that it should be so. Nonetheless, the less than sterling record of the Federal Government in complying with environmental laws and the circumvention of congressional intent by Federal agencies claiming sovereign immunity have led to the need for this legislation. This bill makes clear that environmental laws—Federal, State, and local—apply to the Federal Government. More importantly, it makes clear the Environmental Protection Agency's authority in ensuring Federal compliance.

Having supported the principle of compliance with environmental laws, I am compelled to consider the practice of meeting environmental regulations. The management of hazardous waste is a complex issue. Simply passing a law does not guarantee that the requisite technology or cleanup capability exists for each and every hazardous waste.

The problem of mixed waste, waste that is both hazardous and radioactive, is especially thorny. In many cases, there is no technology available for disposing of these mixed wastes. Until such technology is available, the best we can do is to ensure that these wastes are properly stored. It would be unreasonable to assess fines for failure to dispose of materials for which there are no safe disposal methods. The original version of the Federal Facilities Compliance Act did not adequately address this issue. I am pleased that this legislation will be amended to take into account the special problem of mixed waste. It is with the understanding that the mixed waste issue will be satisfactorily addressed that I cosponsor S. 596.●

REPEAL OF U.N. GENERAL ASSEMBLY RESOLUTION CONDEMNING ZIONISM AS A FORM OF RACISM

• Mr. PACKWOOD. Mr. President, I am pleased that the Senate has adopted Senate Joint Resolution 110, a resolution urging the United States and the Soviet Union to pursue efforts to repeal U.N. General Assembly Resolution 3379. Resolution 3379 condemns Zionism as a form of racism and strikes at the basic principle of the State of Israel—to provide a safe haven for Jews all over the world.

I would like to again commend my good friend from New York, Mr. MOYNIHAN, for his tireless opposition to Resolution 3379 since its passage in 1975. As the U.S. Permanent Representative to the United Nations at the time of its passage, he has relentlessly pursued its repeal.

I am encouraged and inspired by the statement made by President Bush at the United Nations on Monday, urging the resolution's repeal. Repeal of this unproductive and anti-Semitic resolution is important in our efforts to seek peace in the Middle East. The United Nations should move swiftly to repeal General Assembly Resolution 3379.●

THE PRESIDENT'S ADDRESS BEFORE THE UNITED NATIONS GENERAL ASSEMBLY

• Mr. CHAFEE. Mr. President, on Monday, President Bush spoke before the General Assembly of the United Nations. In his address he called on the United Nations to finally repeal the resolution, adopted on November 10, 1975, that stated, in part, "Zionism is a form of racism and racial discrimination." This resolution represents a low point in the history of the United Nations. It catered to those who have sought to incite division rather than promote peace and unity in the Middle East. I think the President should be commended for this action.

Israel was born out of the tremendous suffering of millions of Jews just

44 years ago. The United States has been the most important friend of the nation of Israel in the time since independence. It is appropriate that the United States take the lead in seeking to repeal this resolution. As the President stated, "Zionism is not a policy. It was an idea that led to the home of the Jewish people in the State of Israel." It was a movement that captured the imagination of Jews everywhere who felt that the time had come to establish a Jewish homeland. Zionism also captured the spirit of a people who yearned to live in a place where they would not be subjected to holocausts, pogroms, or other campaigns to deny them basic human rights and the freedom to practice their religion.

Instead of condemning Israel, the United Nations should have been taking constructive steps to reassure her that peace with the Arab nations was possible. This resolution is a thorn in Israel's side. The President is right to try to remove it so that we may move toward peace in the region.

The United Nations should once and for all renounce this harmful and hurtful resolution.●

MORNING BUSINESS

Mr. INOUE. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. INOUE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar 314, Mr. Edward P. Djerejian, to be an Assistant Secretary of State; and Calendar 315, C. Payne Lucas, to be a member of the Board of Directors of the African Development Foundation.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid on the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

Mr. STEVENS. There is no objection. The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Edward P. Djerejian, of Maryland, a career member of the Senior Foreign Service, class of minister-counselor, to be an Assistant Secretary of State.

AFRICAN DEVELOPMENT FOUNDATION

C. Payne Lucas, of the District of Columbia, to be a member of the Board of Directors

of the African Development Foundation for the remainder of the term expiring September 22, 1993.

LEGISLATIVE SESSION

The **PRESIDING OFFICER**. Under the previous order, the Senate will now resume legislative session.

THE CALENDAR

Mr. **INOUE**. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the following bills en bloc: Calendar Order No. 213, S. 862; and Calendar Order No. 214, S. 865; that committee amendments where indicated be deemed agreed to; that statements on any of the several bills be printed at the appropriate place in the **RECORD**; that the bills be deemed read for the third time, passed, and the motion to reconsider the passage of the bills en bloc be laid upon the table.

Mr. **STEVENS**. There is no objection. The **PRESIDING OFFICER**. Without objection, it is so ordered.

The bills considered and agreed to en bloc are as follows:

CRIMINAL VOIR DIRE DEMONSTRATION ACT

The bill (S. 862) to provide for a demonstration program for voir dire examination in certain criminal cases, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Voir Dire Demonstration Act of 1991".

SEC. 2. CRIMINAL VOIR DIRE DEMONSTRATION.

(a) **IN GENERAL**.—During the 4-year period beginning on January 1, 1992, the Judicial Conference of the United States shall conduct a demonstration program in accordance with subsection (b).

(b) **PROGRAM**.—The Director of the Administrative Office of United States Courts shall select 4 United States district courts to serve as demonstration districts. No State shall have more than one demonstration district.

(2) Each demonstration district shall adopt and follow a local rule as provided in subsection (c).

(c) **EXAMINATION OF JURORS**.—Notwithstanding rule 24a of the Federal Rules of Criminal Procedure the demonstration district shall adopt the following local rule:

EXAMINATION OF JURORS.—Except upon an affirmative finding by the court that the interests of justice require otherwise, upon the request of the defendant or the Government, the court shall permit the defendant or his attorney and the attorney for the Government each a minimum of 30 minutes to conduct an oral examination of the prospective jury. Additional time for examination by the attorneys may be provided at the court's dis-

cretion and the court may, in addition to such examination, conduct its own examination. The court shall have the authority to impose reasonable limitations with respect to the questions allowed during such voir dire examination. In a case in which there are multiple defendants each side shall have an additional 10 minutes for each additional defendant, except that the total time required to be allowed shall not exceed 1 hour per side."

(d) **REVIEW OF DECISIONS**.—Decisions made by a court under subsection (c) shall not be reviewable except for an abuse of discretion.

SEC. 3. STUDY OF RESULTS.

The Judicial Conference of the United States, in consultation with the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall study the experience of the district courts under the demonstration program authorized by this Act.

SEC. 4. REPORT.

Not later than June 1, 1996, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives, a report of the results of the demonstration program authorized by this Act.

CIVIL VOIR DIRE DEMONSTRATION ACT

The bill (S. 865) to provide for a demonstration program for voir dire examination in certain civil cases, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Voir Dire Demonstration Act of 1991".

SEC. 2. CIVIL VOIR DIRE DEMONSTRATION.

(a) **IN GENERAL**.—During the 4-year period beginning on January 1, 1992, the Judicial Conference of the United States shall conduct a demonstration program in accordance with subsection (b).

(b) **PROGRAM**.—(1) The Director of the Administrative Office of United States Courts shall select 4 United States district courts to serve as demonstration districts. No State shall have more than one demonstration district.

(2) Each demonstration district shall adopt and follow a local rule as provided in subsection (c).

(c) **EXAMINATION OF JURORS**.—Notwithstanding rule 47(a) of the Federal Rules of Civil Procedure the demonstration district shall adopt the following local rule:

EXAMINATION OF JURORS.—Except upon an affirmative finding by the court that the interests of justice require otherwise, upon the request of the plaintiff or defendant, the court shall permit the plaintiff and defendant or their attorneys each a minimum of 30 minutes to conduct an oral examination of the prospective jury. Additional time for examination by the attorneys may be provided at the court's discretion and the court may, in addition to such examination, conduct its own examination. The court shall have the authority to impose reasonable limitations with respect to the questions allowed during such voir dire examination. In a case in

which there are multiple parties, each side shall have an additional 10 minutes for each additional party, except that the total time required to be allowed shall not exceed 1 hour per side."

(d) **REVIEW OF DECISIONS**.—Decisions made by a court under subsection (c) shall not be reviewable except for an abuse of discretion.

SEC. 3. STUDY OF RESULTS.

The Judicial Conference of the United States, in consultation with the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall study the experience of the district courts under the demonstration program authorized by this Act.

SEC. 4. REPORT.

Not later than June 1, 1996, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives, a report of the results of the demonstration program authorized by this Act.

UNITED STATES COMMISSION ON CIVIL RIGHTS REAUTHORIZATION ACT OF 1991

Mr. **INOUE**. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1754, a bill to reauthorize the U.S. Commission on Civil Rights, introduced earlier today by Senators **SIMON** and **HATCH**.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1754) to amend the United States Commission on Civil Rights Act of 1983 to reauthorize the Commission, and for other purposes.

The **PRESIDING OFFICER**. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. **SIMON**. Mr. President, I am pleased to introduce this bill to reauthorize the U.S. Commission on Civil Rights. This legislation represents a bipartisan compromise effort and I am proud that Senator **ORRIN HATCH** is its chief cosponsor.

Like my earlier bill on this subject, this compromise bill extends the life of the Commission for 4 years. As chairman of the Constitution Subcommittee, I held a hearing on reauthorization and believe that the Commission merits continuation.

The challenge of living up to our principles on equality and civil rights will be made easier if the U.S. Commission resumes its historic role as the conscience of the Nation on these issues. The Commission, since its last reauthorization, has begun the long trek back to having a responsible voice in the civil rights area. When it is necessary to speak with an independent voice, such as its opposition to the administration's position on the Civil Rights Act and on minority scholarships, it has done so. Yet it has tended to stay on the sidelines of other civil

rights concerns and has not produced the comprehensive assessments of civil rights that we were accustomed to previously. So, based on the promise the Commission has shown, I am offering this reauthorization bill. Nonetheless, I will continue to watch the operations of the Commission closely over the next 4 years.

I stand ready to work with any of my colleagues in this or the other body to support the efforts of the Commission and guide the necessary improvements in order for it to truly serve the national interest.

Again, I wish to recognize the cooperation and fine work of Senator HATCH and his staff in reaching this bipartisan compromise.

Mr. HATCH. Mr. President, I am pleased to have worked out this compromise legislation with the distinguished Senator from Illinois, PAUL SIMON, in order to save the U.S. Commission on Civil Rights. I want to commend Senator SIMON for his leadership on this important civil rights issue. Without his efforts, we would have no chance to preserve the Commission.

The Civil Rights Commission has been less visible in recent years than earlier in its history. The Commission, however, can still play a role in the effort to secure the civil rights of all Americans, regardless of race, ethnicity, religion, or gender.

By reauthorizing the Commission for 4 years, we preserve its independence. Earlier this year, I introduced a bill providing for a simple, 10-year reauthorization of the Commission. The bill Senator SIMON and I are now introducing, while of a shorter duration, allows the Commission to proceed with its work without the fear of going out of existence constantly hanging over it. The bill also requires the Commission to submit to Congress at least one report annually on civil rights, or any subject or subjects under its current jurisdiction. The Commission is entirely free to choose the subjects of such reports.

I thank again my distinguished friend from Illinois, Senator SIMON, and Susan Kaplan, John Trasvina, and Brant Lee of his staff.

The PRESIDING OFFICER. Without objection, the bill is deemed read a third time and passed.

So the bill (S. 1754) was deemed read a third time and passed, as follows:

S. 1754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Commission on Civil Rights Reauthorization Act of 1991".

SEC. 2. ANNUAL REPORT.

Section 5 of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975c) is amended by striking subsection (c) and inserting the following new subsection:

"(c) The Commission shall prepare and submit to the appropriate committees of

Congress and to the President at least one report annually on the status of civil rights in the United States, which report shall address any matter set forth in subsection (a)."

SEC. 3. REAUTHORIZATION.

Section 7 of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975e) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this Act such sums as may be necessary for each of the fiscal years 1992 through 1995."

SEC. 4. TERMINATION.

Section 8 of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975f) is amended by striking "1991" and inserting "1995".

SEC. 5. COMMISSION CHAIR AND VICE CHAIR.

Section 2(c), subsections (a), (d), and (f) of section 3 and section 6(f) of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975(c), 1975a (a), (d), and (f), and 1975d(f)) are amended by striking "Chairman" each place the term appears and inserting "Chair".

Mr. INOUE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

CHINESE POLITICAL PRISONERS AND CHINESE PRISONS

Mr. INOUE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of Senate Resolution 178, a resolution expressing the sense of the Senate on Chinese political prisoners and Chinese prisons, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 178) expressing the sense of the Senate on Chinese political prisoners and Chinese prisons.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

The resolution (S. Res. 178) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 178

Whereas, in February 1991, the Government of the People's Republic of China sentenced the co-founders of the Beijing Social and Economic Science Research Institute, Wang Juntao and Chen Ziming, to 13 years in prison on charges of sedition for "masterminding" the 1989 pro-democracy movement;

Whereas Wang Juntao and Chen Ziming had peacefully engaged in the exercise of

their internationally recognized human rights of free expression and association;

Whereas, in April 1991, these two courageous men have been held in punitive solitary confinement in Beijing Prison No. 2 in squalid, inhumane, and unsanitary conditions;

Whereas the Government of China has denied Wang Juntao's many requests for improved diet and living conditions and access to adequate medical care, in disregard of his serious liver disease and declining health, and it has been impossible to verify Government claims that he is receiving improved treatment;

Whereas the Government of China has denied to Members of Congress, the United States State Department, human rights groups, and others that Wang Juntao and Chen Ziming are in poor health.

Whereas the Government of China has refused regular access to Wang or Chen by their relatives since both men began a hunger strike on August 14 to protest their solitary confinement and to demand proper medical care;

Whereas Wang Juntao's life is in danger unless he is granted immediate medical parole, as allowed under Chinese law;

Whereas Chen Ziming is also ill due to the poor conditions of his confinement;

Whereas the United States Government has denounced Wang's trial and protested the harsh treatment suffered by Wang and Chen, but the Government of China has thus far not responded to low-level United States appeals; and

Whereas the Government of China has an international responsibility to respect and uphold the rights of all of its citizens: Now, therefore, be it

Resolved, That the Senate hereby urges the President—

(1) to communicate directly to the leadership of the Government of the People's Republic of China the urgent concern of the Congress and American people for the life and welfare of Wang Juntao and Chen Ziming and to call for their immediate release from prison on medical parole so that they may receive treatment by independent physicians of their choosing; and

(2) to request the Secretary General of the United Nations to use his good offices to urge Beijing officials to provide quality medical care for all political prisoners, including Wang Juntao and Chen Ziming, and to dispatch representatives of the United Nations Human Rights Commission to China to assess and report on the treatment of political prisoners and the general condition of Chinese prisons.

Mr. INOUE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

GOVERNMENT SECURITIES OFFERING ENFORCEMENT ACT OF 1991

Mr. INOUE. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 1699, the Government Securities Offering Enforcement Act of 1991, and that the Senate then proceed to its immediate consideration.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1699) to prevent false and misleading statements in connection with offerings of Government securities.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time by title and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1204

(Purpose: To extend the authority of the Secretary of the Treasury regarding government securities brokers and dealers)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUE], for Mr. DODD, for himself, Mr. GRAMM, Mr. RIEGLE, and Mr. GARN, proposes an amendment numbered 1204.

At the end of the bill, insert the following new section:

SEC. 3. EXTENSION OF SECRETARY'S AUTHORITY REGARDING GOVERNMENT SECURITIES BROKERS AND DEALERS.

Section 15C(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(1)) is amended by striking "October 1, 1991" and inserting "October 1, 1992".

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1204) was agreed to.

Mr. DODD. Mr. President, I rise in support of S. 1699, the Government Securities Offering Enforcement Act of 1991, with a further amendment I offer with Senators GRAMM, RIEGLE, and GARN to extend the Treasury's rule-making authority under the Government Securities Act for 1 year. This legislation is needed to ensure that the Securities and Exchange Commission and self-regulatory organizations have the broadest possible authority to prevent, detect, and prosecute those who make false or misleading statements in connection with bids for, or purchases of, U.S. Government securities. In addition, the amendment is necessary to ensure that the Treasury continues to have the authority to respond to challenges in the Government securities market, as the congressional debate over broader reforms moves beyond October 1 of this year, the date on which Treasury's authority expires under current law.

Mr. President, this is the second time in 2 months the Senate has acted to amend the Government Securities Act. In July, the Banking Committee reported, and the Senate passed, S. 1247, the Government Securities Act Amendments of 1991. The legislation was

based on studies by the Treasury, Federal Reserve, and SEC, as well as an extensive hearing record, in which experts and market regulators recommended that Congress reauthorize Treasury's rulemaking authority and make further amendments to the Government Securities Act. Those further amendments included the authorization of new sales practice rules for Government securities dealers, and a requirement that the Treasury, SEC, and Federal Reserve closely monitor the market and report back on the need for legislation to require greater price and volume information. In addition, the Senate bill required greater disclosure about SIPC insurance coverage for customers of Government securities dealers.

The revelations by Salomon Brothers, Inc., and the subsequent reports of the Treasury, Federal Reserve, and SEC on the illegal and improper activities in Treasury auctions, has added a new dimension to the debate. None of the reports issued before Salomon's disclosures suggested that there were any problems or gaps in the regulation of Government securities auctions. The Salomon case has prompted a wide-ranging investigation by the SEC into the activities of all primary dealers in Government securities, as well as many other firms and individuals. It has prompted the Treasury, Federal Reserve, and the SEC to undertake a comprehensive, 90-day study of the need for reform of Treasury auctions. Indeed, it has forced all of us—the regulators and the Congress—to take a long hard look at the adequacy of existing laws, rules, and policies to prevent and detect abuses in the auction of Government securities. It also has forced us to take a fresh look at whether the existing auction structure provides for the issuance of Government securities at the lowest possible cost to the American taxpayer.

Mr. President, although the House has not acted on the amendments to the Government Securities Act passed by the Senate in July, I believe members fully intended to act on that legislation, and would have met the October 1, 1991, date on which Treasury's authority expires, but for the Salomon revelations. Chairman MARKEY and his colleagues held a hearing on the Salomon case and related issues in early September. He indicated his intention to move comprehensive legislation relating to sales practice rules and access to pricing information—issues the Senate already has addressed—and to consider, as well, tough reform measures to address potential gaps in regulation revealed by the Salomon case.

While Chairman MARKEY and his colleagues continue their important work, while the SEC completes its investigation, and while the agencies and other congressional committees continue

their wide-ranging inquiry into the Government securities market, it is important that we extend the Treasury's authority for a period sufficient to enable us to gather information and make decisions about the reforms that may be needed in this important market. That is what the Dodd, Gramm, Riegle, and Garn amendment is intended to do.

At the same time, it is clear that there is at least one reform measure with respect to which all sides should agree. In a September 3 letter to me, SEC Chairman Breeden requested legislation to supplement the antifraud and antimanipulation provisions of the Exchange Act with a provision that specifically makes it unlawful to use false or inaccurate information in the making of bids in Treasury auctions or in connection with the distribution of any Government security. I introduced S. 1699 on September 10, 1991, together with a majority of members of the Banking Committee, including the committee's chairman, Senator RIEGLE, and the ranking minority member, Senator GARN.

The legislation is supported by the Securities and Exchange Commission, the Department of the Treasury, the Federal Reserve, the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, the New York Stock Exchange, the National Association of Securities Dealers, the Public Securities Association, and others. I would also note that Chairman MARKEY has discussed the need for similar legislation to address problems in the Government securities market and, specifically, in offerings of Government securities.

As the reports by Salomon, the Treasury, the Federal Reserve, and the SEC set forth in painful detail, individuals at Salomon bid for, and bought, excessive amounts of Treasury securities. These actions were part of an apparent attempt to corner the market for Treasury securities, squeeze their competitors, and drive up the price of the securities. According to the reports, Salomon traders gave false information to the Treasury and to the Federal Reserve in submitting bids for the securities. They falsified documents and made unauthorized bids in the name of customers. When Government officials raised questions, Salomon traders acted to cover up their activity.

The SEC's existing antifraud authority is clear and far reaching. Fraudulent or manipulative conduct that occurs in the context of a Treasury auction, or in the when-issued market for Treasury securities, falls within the scope of section 10(b) of the Securities Exchange Act of 1934.

Although, as Chairman Breeden has pointed out, the coverage of current law is unquestionable, S. 1699 adds to that authority and sends a clear mes-

sage that any false or misleading written statements in connection with bids for or purchases of Government securities, in connection with an issue of securities, is a violation of the law.

The legislation applies to statements that are knowingly inaccurate; it also applies to statements that are willfully inaccurate. It is limited to written statements, and would not cover false or misleading oral information provided in connection with an offering. However, the Treasury and other Government issuers can control the information to be covered under the new provision by specifying the items that must be provided in writing. If a Government securities dealer, in connection with a bid, is required to provide a written report of its position in certain securities, false information included in that report would be covered by this provision.

It is hoped that managements of Government securities firms will understand that they have a clear responsibility to supervise to prevent violations of this provision. In addition, this provision will increase the ability of the New York Stock Exchange and the National Association of Securities Dealers to police the Government securities market and to develop examination procedures to test for compliance with this provision. This will greatly increase the likelihood that violations will be uncovered.

I would note that section 10(b) and other already-existing antifraud provisions would continue to apply to oral statements, as well as written statements, to the same extent that they currently apply. In addition, private rights of action would continue to be based on current provisions of law, including the implied rights of action under section 10(b) of the Exchange Act.

Mr. President, the U.S. Government securities market is the most important securities market in the world. Conditions in this market determine the cost to the taxpayer of financing our Government operations. It is absolutely essential that when the Treasury auctions its bills, notes or bonds, it has broad participation from investors, who have confidence in the integrity of the market and are willing to participate in it. The broader that participation, the more liquid and efficient the market will be, with a lower cost to the American taxpayer.

As experts have pointed out, in the \$2.3 trillion Treasury market, for each one-hundredth of 1 percent reduction in the interest rate paid on the debt, American taxpayers will save \$230 million annually. And, since all other markets use Treasury's interest rate as a benchmark, that translates into lower interest rates for home mortgage loans, consumer loans, and college loans, as well as for loans made to virtually every business in this country.

The Securities Subcommittee has held 2 days of hearings on the Salomon case and the broader issues related to market structure. Additional hearings will be held as information develops. It may take some time to fully explore the broader issues.

In this connection, I would note that Chairman RIEGLE has insisted that the regulators, and the committee as well, fully explore the issues relating to the structure of the Government securities market. The debate over structural reforms will not have the high drama of a discussion about the facts of Salomon's violations. However, in the end, what we do in this area could have far greater consequences for the American taxpayer.

Mr. President, it is absolutely essential that the integrity and efficiency of the Government securities market be maintained. This legislation is one important step in ensuring that the regulators, as well as the self-regulatory organizations, have the necessary authority and tools to prevent abuses in this important market.

Mr. RIEGLE. Mr. President, the bill before us today is a simple 1 year extension of Treasury's rulemaking authority under the Government Securities Act and adoption of the Government Securities Offering Enforcement Act of 1991. As you may remember, the Banking Committee—and in fact the full Senate—has already acted to reauthorize the Government Securities act earlier this year. Since Senate passage, the Salomon Bros. case has raised a number of fundamental questions about the entire Treasury auction process which must be addressed but also requires some careful reevaluation.

The Securities Subcommittee of the Senate Banking Committee has already held 2 days of hearings on the events that transpired at Salomon Bros. and the implications of those events for the Government securities market. As should be expected, numerous investigations of the bidding and trading violations at Salomon are now underway. But equally important, at its hearing, the subcommittee was informed that the Treasury, SEC, and Federal Reserve are undertaking a 90-day examination of market practices, structure and regulation in the Government securities market. It is expected that this study will result in recommendations for changes needed to ensure and enhance the efficiency and integrity of this market. During this period, the Banking Committee will continue its own examination of the Government securities market.

We are, however, faced with the fact that the Treasury's rulemaking authority under the Government Securities Act expires on October 1. In light of the ongoing investigation of Salomon and possibly other participants in the Government securities

market, Treasury must maintain its rulemaking authority under this legislation. For these reasons, the bill before the Senate today provides Treasury a 1-year extension of its rulemaking authority. I believe, however, that Congress should move to enact legislation to improve this market well before that time has ended.

In addition to the rulemaking extension, the bill before us today includes the Government Securities Offering Enforcement Act of 1991 which was introduced earlier this month. This legislation expressly prohibits a bidder for or purchaser of government securities to knowingly or willfully make any false or misleading written statement or omit any fact necessary to make such written statement not misleading. This enforcement provision is cosponsored by a majority of the members of the Banking Committee and is supported by the Treasury, SEC, the Federal Reserve, the New York Stock Exchange, National Association Securities Dealers, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and the Public Securities Association. I know of no opposition. I want to make clear that this bill does not make any new activities unlawful—making false or misleading statements in connection with the purchase of Government securities is unlawful under current law. This provision is necessary because it will aid in enforcement and compliance examinations.

Upon enacting this legislation, we must turn to the larger issues concerning the government securities markets as soon as possible. Modernization of the Government securities market is long overdue. In response to the Salomon case, Treasury has announced some modest changes to its auction process. However, as the hearings that have already been held make clear, some experts in the Government securities market believe that far more fundamental and comprehensive reforms are needed.

I remain deeply concerned about the favoritism shown to the primary dealers. It would seem far preferable to allow equal access to all who want to purchase Government securities. Similarly, computerization of this market is almost nonexistent. It is unbelievable that in the age of personal computers, the Treasury sells billions of dollars of securities based upon bids written on scraps of paper and stuffed into wooden boxes. These practices are absurd for one of the largest securities markets in the world and the market most depended on by the American taxpayer.

The Treasury Department, who is the issuer and rulemaker for this market, shares regulatory responsibilities with the SEC and the Federal Reserve. This provides for a convoluted and seemingly inefficient supervisory environ-

ment which should also be reconsidered when we return to this legislation. The questions of whether it would be more efficient to have a primary regulator from this market and who that regulator should be are still outstanding as far as I am concerned.

Congress' priority should lie in maintaining the integrity and liquidity of the Government securities market. Allowing the Treasury Department's rulemaking authority to lapse will only harm the confidence in the market and tie the agency's hands from implementing any necessary intermediate changes. Again, it is clearly my intention to have further improvements made to the Government Securities Act prior to the sunset date of October 1, 1992, once the extent of the Salomon case and any other violations are fully understood. The time has come to bring this market up to date, and ensure that the abuses that have been exposed are not repeated. This will be a major immediate priority of the committee.

Mr. GARN. Mr. President, earlier this year, the Senate passed legislation (S. 1247) to make permanent the authority of the Secretary of the Treasury to issue rules and regulations under the Government Securities Act [GSA]. Without passage of this legislation, such authority will expire as of October 1. In that legislation, we also made other important amendments to the GSA regarding sales practices by brokers and dealers and the dissemination of price and volume information in the Government securities market. I continue to support S. 1247 and would urge its enactment into law.

Unfortunately, our House colleagues have not yet acted on the legislation. Until the House acts on S. 1247, an interim, 1 year extension of Treasury's rulemaking authority is necessary, and that is why I am supporting passage of S. 1699.

In addition, since the Senate passed S. 1247, the Government securities market has been roiled by admissions of irregularities in bidding for Treasury and agency securities, which have been well documented in the financial press. Some have used these problems as an excuse to call for the immediate enactment of sweeping new regulation of the Government securities market.

I believe that a rush to judgment would be a serious mistake, one that could adversely affect the ability of the Treasury to issue the public debt in the most efficient manner, and at the lowest cost possible to the American taxpayer. Although a comprehensive review of the Government securities market is warranted in light of recent events, auctions of Treasury securities since disclosure of trading irregularities have demonstrated that the market continues to function smoothly and effectively.

Importantly, the regulatory authorities are taking the steps necessary to protect confidence in the market and ensure that the U.S. Government securities market remains the largest, fairest, and most liquid securities market in the world. The Treasury and the Federal Reserve Bank of New York, as the Treasury's fiscal agent, have implemented a number of changes in the manner in which auctions of Treasury securities are conducted, specifically directed at preventing the kinds of abuses that have occurred. In addition, the appropriate civil and criminal authorities, including the Securities and Exchange Commission and the Department of Justice, are conducting investigations to learn the full extent of wrongdoing.

A 1 year extension of the GSA is entirely appropriate to enable the Treasury, the Board of Governors of the Federal Reserve, and the SEC to complete their review of recent events and make recommendations as to appropriate action that Congress should take. It will also provide enforcement authorities with an opportunity to complete their investigations into the various allegations of wrongdoing, so that the marketplace and Congress have a better understanding of whether the wrongdoing was, in the words of SEC Chairman Breeden, "a problem of a few individuals where the law wasn't adequately enforced or where the law itself is not adequate."

That is not to say that we need to wait until a year from now before we begin to act. The regulators have indicated that they hope to have their review and recommendations to Congress in 3 months from now. I think it is entirely appropriate to hold hearings on their findings early in the next session. By that time we should have a better understanding of the scope of wrongdoing and the results of the rule changes that Treasury has recently adopted. If we can reach an early consensus on an appropriate congressional response, then we should move legislation as quickly as possible.

S. 1699 is a prime example of steps that can be taken when a consensus is achieved. This legislation not only extends Treasury's rulemaking authority for 1 year, it also amends the Securities Exchange Act of 1934 to make explicit that false or misleading statements in conjunction with purchases or sales of Government securities are violations of the Federal securities laws. This clarification of existing law is supported by all the relevant regulatory authorities, and was cosponsored by several members of the Banking Committee.

I urge my colleagues to support passage of S. 1699.

The PRESIDING OFFICER. There being no further debate, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Securities Offering Enforcement Act of 1991."

SEC. 2. OFFERINGS OF GOVERNMENT SECURITIES.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 780) is amended by inserting after paragraph (6) of subsection (c) the following new paragraph:

"(7) In connection with any bid for or purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker, government securities dealer, or bidder for or purchaser of securities in such offering shall knowingly or willfully make any false or misleading written statement or omit any fact necessary to make any written statement made not misleading."

SEC. 3. EXTENSION OF SECRETARY'S AUTHORITY REGARDING GOVERNMENT SECURITIES BROKERS AND DEALERS.

Section 15C(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 780-5(g)(1)) is amended by striking "October 1, 1991" and inserting "October 1, 1992".

Mr. INOUE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

**CONTINUING APPROPRIATIONS,
1992**

Mr. INOUE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 332, the continuing resolution, just received from the House.

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

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 332) making continuing appropriations for the fiscal year 1992, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 1205

Mr. INOUE. Mr. President, on behalf of the distinguished Senator from West Virginia, Mr. BYRD, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUE], for Mr. BYRD, proposes an amendment numbered 1205.

On page 7, line 11, strike "October 17, 1991", and insert "October 29, 1991".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1205) was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 332) was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. INOUE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Thursday, September 26, that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein with the following Senators recognized to address the Senate: Senator ADAMS, for up to 10 minutes; Senator GRAMM for up to 5 minutes; Senator BROWN for up to 5 minutes, and Senator HEFLIN for up to 15 minutes.

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

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. INOUE. Mr. President, if there is no further business to come before the Senate today I now ask unanimous consent that the Senate stand in recess as under the previous order until 9:15 a.m., Thursday, September 26, 1991.

There being no objection, the Senate, at 8:10 p.m., recessed until Thursday, September 26, 1991, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate September 25, 1991:

DEPARTMENT OF STATE

CURTIS WARREN KAMMAN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 563(A); AND 3385:

ARMY PROMOTION LIST

To be colonel

- MARK D. AHNER
KENNETH W. BRAY
EDWARD P. CANTY
LARRY E. COOPER
JOHN C. CRUMP
CHESTER C. DAVIS
DENNIS E. PETTY
ALBERTO RODRIGUEZ
ROBERT C. WEVER
DAVID M. WILSON
RICHARD P. WOLFE

JUDGE ADVOCATE GENERAL CORPS

To be colonel

- THOMAS W. ERES

ARMY PROMOTION LIST

To be lieutenant colonel

- IVAN T. BEACH
WILLARD C. BROADWATER
JOSE M. BERGODERE-COLON
LARRY R. BULLOCK
MELVIN L. BURCH
JAN M. CAMPLIN
JAMES E. CHRISTENSEN
JAMES C. CROWDER
THOMAS E. DACAR
DAVID G. DENZER
OTIS W. FOX, JR.
JOHN D. GAINES
PAUL HARVEY
JOHN K. IRELAND

- LARRY W. JESSUP
MICHAEL J. JOHNSON
KIM KIMMEY
STEPHEN E. KING
JOHN E. LEATHERMAN
DAVID G. LEE
CLEAVE A. MCBEAN
PERRY W. MCDONALD
JESUS M. MOLANO
JAMES H. MONTGOMERY
ROBERT R. MORAN
GARY J. NYSTROM
KENNETH C. OPPER
ANGEL I. PABON
DONALD T. POMAR
NORMAN L. REDDING, JR.
JAMES L. ROHRBAUGH
TOM L. SHIRLEY
LESTER R. STADIC
ROBERT B. WANGEN
JEROME T. WRIGHT

MEDICAL CORPS

To be lieutenant colonel

- REGINALD A. ALEXANDER

MEDICAL SERVICE CORPS

To be lieutenant colonel

- LARRY J. DUBOSE

CONFIRMATIONS

Executive nominations confirmed by the Senate September 25, 1991:

AFRICAN DEVELOPMENT FOUNDATION

C. PAYNE LUCAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTIONS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 22, 1993.

DEPARTMENT OF STATE

EDWARD P. DJEREJIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message, transmitted by the President to the Senate on September 25, 1991, withdrawing from further Senate consideration the following nomination:

U.S. ARMY

MAJ. GEN. RAPHAEL J. HALLADA, U.S. ARMY, FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A), WHICH WAS SENT TO THE SENATE ON APRIL 9, 1991.