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SENATE—*Friday, August 7, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

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

Let us pray:

* * * *whosoever will be chief among you, let him be your servant* * * *.—Matthew 20:27.

Eternal God of infinite love, this morning we want to thank You for the many, many faithful men and women working behind the scenes, without whom the Senate simply could not function. We thank You for the tireless labors of those who begin their workday long before the Senate opens and remain long after it recesses, often working on weekends as well.

Thank You, God, for food service people, for those in maintenance and those who provide security 24 hours a day, for office personnel, for hard-working committee staffs, for the pages, clerks, doormen and floormen, constant in their responsibilities.

Gracious Father in Heaven, grant to each of these faithful ones and their families a special measure of Your grace. Keep them in Your love. Strengthen them when weak, encourage them when discouraged, somehow help them know they are profoundly appreciated, even when appreciation is not expressed.

We ask this in the name of Him who was the Servant of servants. 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 7, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later in the day.

VOTING RIGHTS LANGUAGE ASSISTANCE ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 4312, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4312) to amend the Voting Rights Act of 1965, with respect to bilingual election requirements.

The Senate resumed consideration of the bill.

Pending:

(1) Simpson amendment No. 2911, to modify the application of the bilingual voting requirements and require certain studies.

(2) Simpson amendment No. 2915, to require Federal funding for the costs of compliance.

VOTE ON AMENDMENT NO. 2911

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Wyoming relating to the 5-year extension.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Utah [Mr. HATCH]. If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 32, nays 63, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—32

Baucus	Dole	Pressler
Brown	Fowler	Pryor
Bumpers	Garn	Roth
Burns	Gramm	Rudman
Byrd	Grassley	Simpson
Coats	Hollings	Smith
Cochran	Lott	Symms
Cohen	Lugar	Thurmond
Conrad	Mack	Wallop
Craig	McConnell	Warner
Danforth	Nickles	

NAYS—63

Adams	Glenn	Mikulski
Akaka	Gorton	Mitchell
Bentsen	Graham	Moynihan
Biden	Harkin	Murkowski
Bingaman	Hatfield	Nunn
Bond	Heflin	Packwood
Boren	Inouye	Pell
Bradley	Jeffords	Reid
Breaux	Johnston	Riegle
Bryan	Kassebaum	Robb
Chafee	Kasten	Rockefeller
Cranston	Kennedy	Sanford
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Sasser
DeConcini	Kohl	Seymour
Dixon	Lautenberg	Shelby
Dodd	Leahy	Simon
Domenici	Levin	Specter
Durenberger	Lieberman	Stevens
Exon	McCain	Wellstone
Ford	Metzenbaum	Wofford

NOT VOTING—5

Burdick	Hatch	Wirth
Gore	Helms	

So the amendment (No. 2911) was rejected.

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

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

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2915

The ACTING PRESIDENT pro tempore. The question now is on agreeing to the amendment of the Senator from Wyoming relating to the Federal funding of cost to local jurisdictions.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Utah [Mr. HATCH]. If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—35

Bond	Garn	Pryor
Brown	Gramm	Roth
Bumpers	Grassley	Rudman
Burns	Hollings	Seymour
Coats	Kasten	Simpson
Cochran	Leahy	Smith
Cohen	Lugar	Stevens
Conrad	Mack	Symms
Craig	McConnell	Thurmond
Danforth	Murkowski	Wallop
Dole	Nickles	Warner
Fowler	Pressler	

NAYS—60

Adams	Exon	McCain
Akaka	Ford	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Harkin	Nunn
Boren	Hatfield	Packwood
Bradley	Heflin	Pell
Breaux	Inouye	Reid
Bryan	Jeffords	Riegle
Byrd	Johnston	Robb
Chafee	Kassebaum	Rockefeller
Cranston	Kennedy	Sanford
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Sasser
DeConcini	Kohl	Shelby
Dixon	Lautenberg	Simon
Dodd	Levin	Specter
Domenici	Lieberman	Wellstone
Durenberger	Lott	Wofford

NOT VOTING—5

Burdick	Hatch	Wirth
Gore	Helms	

So the amendment (No. 2915) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I would like to briefly explain why I voted against the amendment offered by my good friend from Wyoming, Senator SIMPSON, which would delay the effectiveness of this bill until the Federal Government provides funding to implement it.

As a general matter, I oppose Federal mandates imposed upon the States unless the Federal Government provides adequate funding for those mandates. But I think that this case is different.

As many members of this body have pointed out, section 203 of the Voting Rights Act expired yesterday. Unless we reauthorize section 203 immediately, States and localities may not have adequate time to prepare bilingual assistance for the election in November. This means that thousands of language minority citizens who are eligible to vote may be denied meaningful access to the voting booth in the next election.

In addition, the cost of providing language assistance has proved to be a very small percentage of total election costs, easily absorbed by States and localities.

We cannot delay the extension of section 203 any longer. This is a case in which justice delayed would certainly be justice denied. For this reason, I will be voting against this amendment.

The ACTING PRESIDENT pro tempore. Under the previous order, Senators are authorized to propose amendments, if they so desire.

Mr. SIMPSON. Mr. President, there are two remaining amendments on the list. But in view of the vote totals on the previous two, I ask unanimous consent to withdraw my right to offer the other two amendments.

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

Mr. KENNEDY. Mr. President, this legislation sends an important message to all Americans: every American citizen has an important role to play in the electoral process, and barriers to the exercise of the vote will not be tolerated.

Providing bilingual assistance to eligible voters who need it will not divide us as a country; it will bring us together by giving everyone a chance to participate in the democratic process.

Section 203 has made a real difference. Where bilingual assistance is available, Hispanic, Asian-American and native American registration rates are demonstrably higher.

I want to commend Senators SIMON and HATCH for the leadership on this important legislation.

I also want to thank Jeff Blattner and Suzanne Ramos of my staff for all their assistance in making this legislation possible.

I urge my colleagues to support the extension of this important legislation.

Mr. DURENBERGER. Mr. President, I rise today with a great deal of pride in being an original cosponsor of the voting rights language assistance amendments, the Senate version of the bill that we are now considering.

Since 1975, section 203 of the Voting Rights Act has torn down barriers to the political process for many Native Americans, Asian-Americans, and Hispanic-Americans. Without this provision, English-only elections would have operated to deny thousands of American citizens their right to vote.

Over the last 17 years, section 203 has required that language assistance be provided in voting jurisdictions where at least 5 percent of eligible voters are non-English speaking and of Hispanic, Asian-American, or Native American origin. This provision expired yesterday. I hope this body feels the same sense of urgency to reauthorize section 203 as our House colleagues did when they passed H.R. 4312 on July 24.

H.R. 4312 will extend the effectiveness of section 203 until the year 2007, the year that other provisions of the Voting Rights Act will expire. This bill will also extend Voting Rights Act coverage to areas in which language minority citizens are a significantly large group but do not amount to 5 percent of the total population.

Under this bill, counties with at least 10,000 voters of a single language minority would be covered by section 203. If counties contain all or part of an Indian reservation, single language minorities who make up 5 percent of that reservation's population will trigger section 203 coverage.

Improving the coverage of section 203 is wholly consistent with the goals of the Voting Rights Act. Significant groups of language minority citizens should not be prevented from participating in elections simply because a large surrounding population dilutes their numbers as a percentage.

The administration has enthusiastically endorsed the 15-year reauthorization and strengthening of section 203. The cost of providing language assistance in elections is minuscule and the payoff is enormous—the enfranchisement of thousands of eligible voters.

Mr. President, I urge my colleagues to recognize the stake that all American citizens have in our political process by voting to support this bill.

Mr. GRASSLEY. Mr. President, I think that it is a worthy goal the sponsors of S. 2236 are pursuing—ensuring that every American citizen is able to fully understand the ballot when he votes. But I question whether the Multilingual Voting Assistance Program really accomplishers that goal. As Senator SIMPSON noted last night, the evidence of the program's success since 1975, when it was introduced, is mixed. Overall Hispanic voting participation has actually declined in the 1978–90 period, even relative to the overall decline in voter participation. Nor has voting participation increased among other language-assisted minorities.

The usefulness of spending taxpayers dollars on this program is therefore unclear, at best. For that reason, I support the efforts of Senator SIMPSON and others to temper the time extension and expansion of jurisdiction in the bill. I think it would be wise to limit the time extension to 5 years and to limit the expansion of jursidiction to counties with 20,000 or more members of a given language minority, rather than 10,000. I also think it would be a particularly good idea to undergo a thorough study of the usefulness of this program during that period. Today we are rushing forward to reauthorize the Multilingual Assistance Program because of various groups' insistence that the program is an important one, but without any clear evidence that the program works. In the future, I hope we will proceed with a little more reason in the matters.

Mr. GARN. Mr. President, I wish simply to rise to make sure that all of my colleagues understood why my distinguished junior colleague from Utah, Senator ORRIN HATCH, was not here to participate in the debate as one of the chief cosponsors.

Senator HATCH has not been able to be here all week. His father last weekend had a serious stroke and naturally ORRIN needed to be there with his family. His father did die yesterday. The funeral is tomorrow at 11 o'clock. I am sure I speak on behalf of all of my colleagues in the Senate in extending our sympathy and remorse at the loss of Jesse Hatch and wish our colleague, Senator HATCH, well.

I thank the Chair for allowing me to make certain everyone knew that Senator HATCH wished he could have been here but the very difficult circumstances of why he was not.

Mr. BRADLEY. Mr. President, it is entirely proper for the Government to act affirmatively to increase voter participation in this country. I am proud to be associated with legislative efforts which recognize that barriers to full participation exist and can be broken down. Both the motor-voter bill and the legislation which we are now debating remove barriers to voting, improving the system for us all.

The political process holds the key to empowerment in this country. Voter registration and active participation in the process remain the critical link. The history of American democracy is a history of broadening the vote: When the Constitution was adopted, the only Americans who had the vote were white males with property. In the 1830's, it was extended to white males without property and in the 1860's to black males. It was not until the 1920's that the franchise was extended to women. In 1965, the Voting Rights Act was passed to protect the right to vote which had been illegally withheld from racial and ethnic minorities for generations, and in 1971 the right to vote was extended to those 18 years of age or older. This reauthorization of the language assistance amendments is in the tradition of those farsighted efforts.

Mr. President, limited-English proficiency is a serious barrier to voting in this country. This bill reauthorizes section 203 of the Voting Rights Act for 15 years and makes bilingual voting assistance available to more areas suffering from limited-English proficiency. I am proud to be a cosponsor. As a result of the broadened coverage, the Hispanic residents of Essex, Union, and Middlesex Counties, NJ, will be able to receive registration or voting notices, forms, instructions, and ballots in Spanish. Asian-Americans, Native Americans, and Hispanic citizens will also benefit in other areas of the country. Bilingual assistance will now be available to Chinese-Americans in Queens and Brooklyn. It will also be available to Asian groups in Los Angeles. In a sense, all American citizens will benefit from the increased participation anticipated by the supporters of this legislation, and the increased number of informed voters.

I have often said that ethnic diversity is our greatest strength. Our diverse ethnic and racial makeup allow us a great opportunity to show the world how a pluralistic democracy can operate to insure that everyone participates in the social and economic life of this country.

No one doubts that to function effectively in this society one should be able to speak English. However, this bill recognizes that English classes are overflowing, waiting lists abound, and citizens who are not yet proficient in English should also be able to enjoy the fruits of our democracy as they are learning English. Too many people who are not proficient in English have been unable to participate in the democratic process. Recognizing our past and taking steps to open up the voting process are the goals of this reauthorizing legislation.

Mr. BINGAMAN. Mr. President, I rise today to express my support for H.R. 4312, the Voting Rights Language Assistance Act. I urge my colleagues to join me and the bill's authors, Senators SIMON, HATCH, and KENNEDY, in swiftly approving this legislation, which will ensure millions of Americans continued access to the most basic of all American rights: The right to vote.

I am fortunate, Mr. President, to represent the State of New Mexico, a State rich in cultural and ethnic diversity. I am particularly proud that our State has, since its inception, recognized, and protected the right of each and every citizen to vote. Since becoming a State, New Mexico has required, by constitutional provision, that all constitutional amendments be printed on ballots in English and Spanish. In fact, by tradition and statute, New Mexico has always printed its entire ballot in English and Spanish and has provided oral and written assistance, in any language, to any voter who requests it.

Mr. President, every State should practice the traditions of New Mexico. As a nation, we should feel a strong obligation to ensure that the unique needs of our diverse population are met, and we should work to preserve and promote the heritage of all our citizens. The legislation before us today will help us meet part of that obligation.

In New Mexico, from San Juan, Rio Arriba, and Colfax Counties in the north; to Cibola and Grant Counties in the west; Quay and San Miguel Counties in the east; and Hidalgo, Luna, Dona Ana, and Eddy Counties in the south, 26 of our 32 counties fall within the bill's provisions. Thousands of New Mexicans of Hispanic, Navajo, Pueblo, and Apache descent will benefit from this legislation. Across the Nation, this bill will provide American Indians, Hispanics, Asian-American, and Alaska Natives with critically needed language assistance so that they can play a role in the electoral process. We should approve this legislation without delay and affirm the right to vote for all Americans.

The PRESIDING OFFICER. Do the Senators yield back their time.

Mr. KENNEDY. Yes, I yield the remainder of my time.

Mr. SIMPSON. Mr. President, I yield my time.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Utah [Mr. HATCH]. If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Utah would vote "yea".

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

The result was announced—yeas 75, nays 20, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—75

Adams	Ford	McCain
Akaka	Fowler	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nunn
Boren	Harkin	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Reid
Brown	Hollings	Riegle
Bryan	Inouye	Robb
Burns	Jeffords	Rockefeller
Chafee	Johnston	Roth
Cohen	Kassebaum	Sanford
Cranston	Kasten	Sarbanes
D'Amato	Kennedy	Sasser
Daschle	Kerrey	Seymour
DeConcini	Kerry	Shelby
Dixon	Kohl	Simon
Dodd	Lautenberg	Specter
Dole	Leahy	Stevens
Domenici	Levin	Warner
Durenberger	Lieberman	Wellstone
Exon	Mack	Wofford

NAYS—20

Bumpers	Garn	Rudman
Byrd	Lott	Simpson
Coats	Lugar	Smith
Cochran	McConnell	Symms
Conrad	Nickles	Thurmond
Craig	Pressler	Wallop
Danforth	Pryor	

NOT VOTING—5

Burdick	Hatch	Wirth
Gore	Helms	

So the bill (H.R. 4312), was passed.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

(Later, the following occurred:)

CORRECTION OF VOTE TALLY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the official copy of the last vote be changed to correctly show that Senator DECONCINI voted "aye" on final passage of H.R. 4312. Due to a clerical error, the tally shows him as having voted "no." This has been cleared on both sides of the aisle.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. NUNN. Mr. President, on behalf of Senator MITCHELL, I ask unanimous consent that Calendar No. 537, S. 2236, be indefinitely postponed.

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

Mr. SIMON. Mr. President, I want to again thank the staff on both sides who were very helpful on this, and particularly Senator BIDEN, chairman of the full committee; Chairman KENNEDY, who was extremely helpful; Senator HATCH, who was a principal cosponsor, who is not here because his father died yesterday, but who was extremely helpful; and my worthy adversary on this, Senator SIMPSON. He is a legislator. I appreciate that. He is a good man to work with, even when we oppose each other.

Mr. SIMPSON. Mr. President, I thank the Senator from Illinois. He is a friend of many years—Senator SIMON. We knew each other long before we came to this body. We were legislators together in our respective States. He is a man of great stability and extraordinary patience, which oftentimes we do not observe in his way of steadiness and constancy. So it is a pleasure to work with him.

I thank Senator BIDEN and Senator THURMOND for allowing me to speak at length without attempting to delay or stall or filibuster. I promised that, and I kept my word. I also want to thank Senator KENNEDY, the chairman of the subcommittee where I serve as ranking member. I particularly appreciate the work of the esteemed ranking member of the full committee, Senator THURMOND. I want to particularly commend my staff. Dick Day is a trusted friend whom I asked to help me with immigration and refugee matters when I first came here. He was practicing law at the time in Cody, WY. Dick is an exception to the old saying about Washington: If you want a friend in Washington, buy a dog. He has been with me since the beginning, and he has always been a true friend and counselor. And I certainly needed such a counselor and friend who cared about me, because these issues are filled with emotion, guilt, fear, and racism. A fairly recent addition to my subcommittee staff is Cordia Strom. She previously provided excellent counsel to the House Republicans on the Judiciary Committee. I am fortunate now to have her here. She has been a great help to Dick and me.

I thank the chairman for allowing me to go forward without a time agreement, and I thank the majority leader particularly for his trust and patience in that operation, and Senator DOLE for allowing that to go forward.

I am most appreciative. I will be working with Senator SIMON and Senator KENNEDY on a separate bill with regard to a study of the effectiveness of this law: Does it work? Is it fulfilling its role? Is there fraud in the process? And an examination of certain things within the census that we will agree to. I think my friend will concur that that is the next step. It will be a separate bill. That will be a bill of Senator KENNEDY, Senator SIMON, and myself, and we will agree to press forward.

Mr. SIMON. Mr. President, that is correct. Let me also thank the people my friend from Wyoming identifies as the groups, the various associations who have spoken up for frequently the voiceless in our society in this legislation.

NATIONAL DEFENSE AUTHORIZATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3114, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities in the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, before beginning the bill, I yield to my friend from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair, and let me thank my friend, the chairman of the Armed Services Committee, Senator NUNN of Georgia.

Mr. President, I will be brief. Fifty years ago today in 1942, exactly 8 months to the day from the bombing of Pearl Harbor, U.S. marines landed on Guadalcanal, a remarkable achievement for the U.S. Armed Forces, only 8 months after the tragedy at Pearl Harbor. The marines landed and carried on a bloody campaign in the Pacific that lasted until late December of 1942.

On that morning of 50 years ago today, our colleague, JOHN CHAFEE, then 19 years of age, landed with troops of the 1st Marine Division on the beaches of that desolate South Pacific Island. Senator CHAFEE, of course, went on to great distinction as Governor of his State, as Secretary of the Navy, as a Member of this body. But it is significant to note that only a few years after leaving the service in 1945, JOHN CHAFEE again served his country, then as an officer in the U.S. Marine Corps in the hills of Korea and, again, with great distinction.

So I thought, Mr. President, I would take a brief moment this morning to remind our colleagues that among us are Americans who fought bravely for their country, JOHN CHAFEE on two occasions. And I am proud to serve with him, my colleague from New England. I thank the Chair.

Mr. WARNER. Mr. President, if I could add to that, after serving on Guadalcanal, he went back and was commissioned in the Marines and then fought again in the battle in Okinawa. So among us is a gentleman, a soldier who truly understands the meaning of service to his country and the awesome consequences of war.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. NUNN. Mr. President, first let me respond briefly to the Senator from New Hampshire. I think all of us greatly value the Senator from Rhode Island and his role in the U.S. Senate. I can think of no better way to begin the debate on the defense bill than with words of honor for one of our own who

we are proud to serve with and who has served his country with great distinction. I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I simply would like to join in the commendation offered this morning by the Senator from New Hampshire for our distinguished and able and highly respected colleague, JOHN CHAFEE of Rhode Island.

I, too, remember very well that landing on Guadalcanal half a century ago. I was 6 years old—5 years old, really—at that time and my father was among those marines who made that landing on that island that none of us had ever heard of. His battalion commander at that time, later to become a very famous officer of the Marine Corps, was Lt. Col. Chesty Puller.

But I remember vividly the great encouragement that the actions of that brave 1st Marine Division gave to this country because it came following the defeats at Corregidor, following the fall of Wake Island, following the disaster at Pearl Harbor, and there was a feeling across this great land of ours that perhaps our American military and our soldiers and our marines were not strong enough; they were simply too soft to stand up against the battle-hardened veterans of the Imperial Japanese Army.

But these gallant men of the 1st Marine Division, personified in men of the caliber of JOHN CHAFEE, turned the tide and gave this whole country a feeling of exhilaration that we can win this war, that we can rectify the events that had occurred at Pearl Harbor.

The 1st Marine Division earned the title of the "Old Breed" on Guadalcanal. They were made up primarily of marines who had served for many years, many of them old China hands, and some, like JOHN CHAFEE and my father, who had been activated out of the Reserves to serve in making this first landing in the South Pacific.

So I thank my friend from New Hampshire for being perceptive enough and thoughtful enough to bring this matter before the Senate this morning. I am pleased to join in the commendation of our colleague from Rhode Island.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. NUNN. Mr. President, I yield to the Senator from Rhode Island.

Mr. PELL. I would just like to add a word of support for the commendations and praise for my colleague, Senator CHAFEE. He has as gallant a war record as anybody in this body, enjoys the respect of our people at home, not only because of his intelligence and his integrity but also his war record. I am very glad, indeed, to join in this praise and support of my colleague.

Mr. NUNN. Mr. President, one footnote. I understand that 1st Marine Division is the most decorated division in all of our Armed Forces, and my chief of staff, Arnold Punaro, served in that division in Vietnam and informs me that that division itself recently celebrated its 50th anniversary.

So I appreciate the Senator from New Hampshire bringing this to our attention.

Mr. NUNN. Mr. President, is the defense authorization bill now the pending business.

The PRESIDING OFFICER. It is the pending business.

Mr. NUNN. I thank the Chair.

Mr. President, I am pleased to bring before the Senate S. 3114, the National Defense Authorization Act for Fiscal Year 1993. This bill provides the authorization in law for almost all of the major functions under the jurisdiction of the Committee on Armed Services, including programs and activities of the Department of Defense; the Department of Energy nuclear weapons programs, and civil defense.

This authorization bill continues the process of reshaping the U.S. defense establishment for a post-cold-war world. It promotes an across-the-board review of military roles and missions. It includes a major initiative to assist individuals, communities and businesses in adjusting to the effects of the defense drawdown. And we will be discussing those provisions in just a few moments. Finally, it calls for increased civilian-military cooperation to meet some of the critical needs in cities and communities across the Nation.

At the outset of this debate, I want to thank my friend, the ranking minority member of the committee, Senator WARNER, for all of his help and cooperation on this bill and in every other aspect of our committee's work.

I also want to thank his staff under Pat Tucker and I want to thank my staff under Arnold Punaro for their unusual, as usual, diligent and effective work.

Senator WARNER's thorough and cooperative approach to the committee's work is one of the principal reasons for the bipartisan spirit in which the Armed Services Committee conducts its business.

This will be the last authorization bill which Senator WARNER will manage as ranking minority member of the Armed Services Committee because Senator THURMOND has announced he will be taking over as ranking minority member of the committee next year. I look forward to working with Senator THURMOND, a longstanding member of our committee, who has provided leadership in the defense arena for years and years and years, and I know that Senator WARNER will continue to be one of our leading experts on national security issues on the Armed Services Committee and in the Senate and will continue to play a very vital role in our Nation's defense.

BUDGET IMPACT OF THE COMMITTEE BILL

Mr. President, the committee bill authorizes a total of $274.5 billion in budget authority for the national defense function in fiscal year 1993. This level is $7 billion below the President's amended budget request, and $2.9 billion below the level contained in the budget resolution for fiscal year 1993. These figures include approximately $1 billion in budget authority reductions in intelligence programs recommended by the Intelligence Committee.

I note the chairman of the Intelligence Committee from Oklahoma, Senator BOREN, was on the floor a few moments ago.

But those savings in the intelligence budget have been folded into the savings in this budget, and we have passed those through so we are, in effect, allowing the defense portion and intelligence portion of the overall budget to be $2.9 billion below the budget resolution which means that this money will be available for deficit reduction which I think is enormously important. In outlays, this bill is $3.5 billion below the budget request and $1 billion below the budget resolution.

Some Senators may be surprised the Armed Services Committee is recommending a bill that reduces defense programs below the level of the budget resolution. Every member of the committee was sensitive to the need to reduce the deficit, particularly after the recent debate on the balanced budget amendment. I think that all Senators, after a careful review of the committee's recommendations, will join the bipartisan majority of our committee in concluding that the savings recommended by the committee can be made without undermining our national security.

MAJOR COMMITTEE INITIATIVES

Mr. President, a large portion of the committee's recommendations can be summarized under seven major initiatives which I want to outline briefly for my colleagues. The details of these and all of the committee's recommendations are contained in the committee's report on this bill, Senate Report 102-352.

ASSISTING PERSONNEL, COMMUNITIES AND THE INDUSTRIAL BASE IN ADJUSTING TO THE DEFENSE DRAWDOWN

Some of the most important provisions in the bill relate to the subject of defense conversion and transition.

As our Nation proceeds to restructure our defense establishment, we must recognize the impact this restructuring is having on the military personnel, civilian employees, and defense industry workers who have been the foundation of our national defense policies.

Earlier this year, the Office of Technology Assessment projected that the reductions in defense spending in the President's fiscal year 1992 defense budget could lead to a loss of up to 2.5

million defense-related jobs by the year 2001. With the subsequent reductions proposed by the President and the Congress in the fiscal year 1993 defense budget, these projected job losses could be higher. Many communities that have a significant concentration of defense facilities will experience serious dislocations as defense procurements are reduced and bases are closed or realigned. Reductions in defense research and procurements will also challenge our Nation's ability to maintain the vitality of the technology and industrial base that supports our national defense.

In the long run, Mr. President, these cuts will help our Nation put money and emphasis on other compelling needs, including domestic needs, including education, including health care for our people, including R&D in the commercial sector. But there is no getting around the fact over the next several years these cuts are going to be harmful to certain communities and to certain individuals.

What we have tried to do in this bill is not promise anyone we can eliminate all the pain but try to ease the pain in this transition which is inevitable.

Mr. President, we must find ways to make use of the tremendous pool of talent from the military and civilian employees of the Defense Department and the large number of civilian workers in defense industries whose jobs are disappearing as a result of the defense drawdown. At the same time, our technology and industrial base policies must ensure that the skills and capabilities developed with our past investment in defense can be applied in the future to our defense and domestic needs through the development of dual-use capabilities and skills.

Earlier this year, a Democratic task force on defense transition headed by Senator PRYOR and a Republican task force on adjusting the defense base headed by Senator RUDMAN made a series of recommendations to address the problems associated with the downsizing of our defense establishment.

The Armed Services Committee has drawn heavily on the recommendations of these two task forces in developing a broad range of programs to address the needs of individuals, communities and businesses affected by the defense drawdown.

In the area of personnel transition initiatives, the committee bill:

Authorizes active duty personnel in nontransferable skills, such as combat arms, to apply for up to one year of educational leave of absence to obtain civilian skill training.

Authorizes active duty personnel who have 15 but less than 20 years of service to apply for early retirement, and to accrue additional military retirement credit if they take jobs in critical areas such as education, law enforcement, and health care.

Authorizes selected reservists who have 15 but less than 20 years of service to apply for reserve retirement, with benefits commencing at age 60, and authorizes selected reservists who have at least 20 years of service to apply for an immediate, reduced retirement annuity.

Authorizes separation pay and continued GI bill benefits for selected reservists who are involuntarily separated.

Authorizes Job Training Partnership Act assistance for DOD civilian employees 12 months in advance of a base closure or realignment.

Authorizes a resignation incentive of up to $20,000, and an early retirement incentive of up to $20,000, for DOD civilian employees in surplus skills and for employees at military installations facing closure or realignment.

Authorizes DOD pay for up to 18 months the Government's contribution for a Federal health insurance plan for a DOD civilian employee who is involuntarily separated due to a reduction in force.

Authorizes $50 million for DOD support for the Department of Labor's worker relocation and training programs under the Job Training Partnership Act.

To assist communities in dealing with the problems of defense transition and conversion, the committee bill:

Adds $25 million to the $4.9 million requested for the DOD Office of Economic Adjustment. Of this amount, $20 million would be for planning grants to communities adversely affected by the closure of military installations of the drawdown of defense business.

Authorizes $150 million for economic development grants administered by the Department Administration for the capital investment needs of communities adversely affected by base or defense plant closures.

Authorizes $50 million for DOD to make supplemental grants to local school districts with large numbers of DOD dependents to mitigate the effect of the dependents on the districts. The bill also authorizes $8 million for payments to local school districts that are losing large numbers of DOD dependents through base closures or realignments.

In the area of defense industry and technology, the Committee bill:

Authorizes $100 million for dual-use critical technology partnerships to stimulate industry investment in vital defense technologies.

Authorizes $50 million for commercial-military integration partnerships to foster the development of viable commercial technologies that can also meet future reconstitution requirements and other needs of DOD.

Authorizes $100 million for regional technology alliances to promote the development of products that build upon regional strengths in particular industries and technologies.

Authorizes $25 million for defense advanced manufacturing technology partnerships to encourage Government-industry cooperative efforts in manufacturing technologies, especially those which would significantly reduce the health, safety, and environmental hazards of existing manufacturing processes.

Authorizes $100 million defense manufacturing extension programs to support the manufacturing programs of regions, States, local governments, and private, nonprofit organizations.

Authorizes $200 million for dual-use technology and industrial base extension programs. The bill would enable the Secretary of Defense, working with the Secretaries of Energy and Commerce, to support programs sponsored by the Federal Government, regions, States, local governments, nonprofit organizations, and private entities that assist defense-dependent companies in acquiring dual-use capabilities.

Requires cost sharing from non-Federal sources for all the technology and industrial base programs.

Expands the Small Business Innovative Research Program, which uses a percentage of funds from each agency's research and development budget to fund research proposals from small business concerns. DOD and other agencies would increase their share from the current rate of 1.25 to 1.5 percent in fiscal year 1993, 2 percent in fiscal year 1994, and 2.5 percent in fiscal year 1995 and thereafter.

Establishes a DOD Office of Technology Transition which would be responsible for monitoring DOD research and development activities, identifying activities that have potential commercial applications, serving as a clearinghouse to facilitate the transition of technologies to the private sector, and assisting firms with regulatory problems associated with technology transition.

PROMOTING A COMPREHENSIVE REVIEW OF THE MILITARY SERVICES' ROLES AND MISSIONS

A second major initiative in the committee bill addresses the long-standing problem of the assignment of roles and missions to the Armed Forces of the United States.

In my view, the key question facing the military services—and the Defense Department as a whole—is how to preserve the military capability we need to protect our vital interests in the face of the changes in the threat, changes in technology, and the large reduction in the size of our forces. I think a large part of the answer to this question lies in a thorough, systematic review of the current roles and missions of the military services.

Roles and missions are the crown jewels of the military services. The fact is, Mr. President—as I outlined in a speech on the Senate floor last month—there is a great deal of redundancy and duplication in the current

allocation of the roles and missions among the military services that costs billions of dollars each year. The time has come for a serious reexamination of this subject.

The landmark Goldwater-Nichols Department of Defense Reorganization Act which Congress passed in 1986 requires the Chairman of the Joint Chiefs of Staff to submit to the Secretary of Defense at least once every 3 years recommendations for any changes in the assignment of roles and missions among the military services. The first roles and missions report under the statute was completed in 1986. The next report is due later this year.

The committee bill contains a provision that would require the JCS Chairman's report, together with the Secretary of Defense's views on the report, to be submitted to the Congress. This provision would also expand the Chairman's report to include recommendations on efficiencies that can be achieved within the military services and defense agencies; changes in operational tempos and operating patterns; changes in unit readiness; and the reassignment of functions from the active to the reserve components.

Until the comprehensive review of roles and missions is completed, the committee is concerned about starting new programs or substantially increasing ongoing programs that might be affected by this review. As a result, the committee bill includes fences on funding for a number of key defense programs—including new tactical aircraft; the proposed new aircraft carrier; and upgrades to the B-1B and B-52 bomber fleets—until the roles and missions review has been completed.

The committee also recommends several actions that can be taken now to consolidate activities in the military services to achieve efficiencies. For example, the committee bill assigns the mission of standoff jamming for all tactical air operations to the Navy, and requires a competition between the Navy EP-3 and the Air Force RC-135 aircraft for performance of the airborne tactical intelligence mission.

ENCOURAGING CIVIL-MILITARY COOPERATION IN ADDRESSING DOMESTIC PROBLEMS

Mr. President, the outstanding performance of our men and women in uniform during the Persian Gulf conflict reflects the considerable investment our Nation has made in developing the skills and capabilities of our armed forces. The committee concluded that these resources can be matched with local needs and coordinated with civilian efforts to assist in addressing domestic problems and challenges.

The committee recommends a number of actions to facilitate this effort. The bill contains a provision that would establish a Civil-Military Cooperative Action Program. The program would build upon a variety of past DOD efforts to develop programs that are consistent with the military mission and that can assist in meeting domestic needs. The program would be structured to fill needs that are not otherwise being met, and to provide this assistance in a manner that does not compete with the private sector or with services provided by other Government agencies.

The bill also contains a provision that would establish a National Guard Civilian Youth Opportunities Program. This would provide an environment, using the Guard's training establishment, for high school dropouts to learn life skills while working on community service projects, consistent with the State missions of the Guard.

INCREASING EFFICIENCY AND REDUCING COSTS OF DEFENSE DEPARTMENT OPERATIONS

The committee made a concerted effort to increase efficiency and reduce costs of operations throughout the Department of Defense. S. 3114 includes a number of legislative provisions in this category, some of which were proposed by the Defense Department. Many of the funding adjustments recommended by the committee are based on recommendations made by the General Accounting Office; the DOD Inspector General; and the military service audit agencies.

The bill contains a major initiative to improve inventory management in the Department of Defense that result in savings of $3.2 billion in fiscal year 1993.

This is an area where the Senator from West Virginia [Mr. BYRD], as well as the Senator from Michigan [Mr. LEVIN], have taken a lead, and the committee followed through in a thorough and we believe a very diligent way in reforming our inventory system.

This initiative would:

Reduce new inventory coming into the DOD supply system;

Encourage the military services to return excess inventory held in units to the DOD supply system to reduce future purchases;

Address the problem of excess on order procurements identified by GAO—procurements for items for which a requirement no longer exists;

Reduce overall funding available to operating units and weapons system program offices to purchase secondary items by 5 percent, or $1.1 billion, in fiscal year 1993; and

Direct DOD to conduct a comprehensive review of its retention policy for secondary items in the DOD supply system.

The committee recommends authorization of the sale of 51 different commodities which the Defense Department has determined are no longer required in the national defense stockpile. DOD projects revenues from sales of these excess stockpile materials at approximately $500 million in fiscal year 1993 and $600 million in fiscal year 1994. The bill also includes provisions to streamline the management and operations of the stockpile.

To improve the efficiency of DOD recruiting programs, the committee recommends a reduction in recruiting support costs by 5 percent, or $27 million in fiscal year 1993; requires a reduction of 10 percent in the number of military personnel serving in recruiting activities over the next 2 years; and directs the Navy and the Air Force to consider consolidating their active and reserve recruiting functions into a single organization like the Army and Marine Corps.

Additional actions by the committee in this area of economies and efficiencies would:

Reduce funds requested in the fiscal year 1993 budget for administrative travel, −$200 million; consultants, −$60 million; printing and reproduction costs, −$16 million; and administrative airlift flying hours, −$18 million;

Reduce funds for classroom training and education programs for military members, −$200 million, to reflect lower force levels;

Apply $600 million in prior year funds for low priority Navy programs to offset funds requested for fiscal year 1993 programs;

Require efficiencies in the operation of the military service academies that, when fully implemented, will result in annual savings of $70 million;

Put a ceiling on permanent change of station moves for military members to stabilize tour lengths, saving $150 million in fiscal year 1993; and

Lower the ceiling on enlisted aides for flag and general officers from 300 to 240.

INCREASING UTILIZATION OF THE NATIONAL GUARD AND RESERVE FORCES

As the military services transition to a post-cold-war force structure, they must redefine the roles and missions of their Reserve components in the total force.

During the cold war, National Guard and Reserve units were primarily designed to provide combat and support units and personnel to deploy and fight in a large-scale land battle in Europe as part of a forward defense strategy. The number and composition of National Guard and Reserve units were based on the threat, and shaped by a well-defined war fighting scenario. The post-cold-war threat is not as well defined. The military services are finding it more difficult to develop realistic war fighting scenarios on which to base requirements for forces.

The committee concluded that, in addition to the combat, combat support, and combat service support units and personnel that the National Guard and Reserve currently maintain for deployment, the National Guard and Reserve must have more capability to reconsti-

tute the Active Forces then they currently have.

FOR THE NATIONAL GUARD AND RESERVE FORCES, THE COMMITTEE'S RECOMMENDATIONS WOULD:

Place a moratorium on further reductions in National Guard and Reserve units and personnel to allow time for the Department of Defense to realign their roles and missions beyond those that have already been called for in last year's bill, which was a 2-year drawdown in the National Guard and Reserve units and personnel beyond those called for last year.

The reason for this is to allow the time for the Department of Defense to realign their roles and missions.

We also provide more combat support and combat service support equipment for the National Guard consistent with the committee's view that the National Guard should have a greater role in these areas, and consistent with the expectation of the committee that the National Guard will have a greater role in civil-military cooperation projects; which I have alluded to in other remarks at length.

We also authorize an expansion of the Junior Reserve Officer Training Corps [JROTC] Program from 1,600 to 3,500 high schools; and this can be a big assistance in particularly our inner city areas, and in it also can provide young people who in the future may enjoy and want to be a part of the Armed Forces of our country.

We authorize funding for a program initiated by the National Guard called Science and Technology Academies Reinforcing Basic Aviation and Space Exploration [STARBASE]. In partnership with private sector sponsors, the program would encourage disadvantaged youth in the areas of science, mathematics, technology, and personal achievement.

REQUIRING MULTISERVICE COOPERATION ON FUTURE TACTICAL AIRCRAFT

On the question of tactical aircraft, which is a very big question facing the committee, and our decisionmakers in the defense arena, the modernization of tactical aircraft in the military services is a major issue the Congress and the Defense Department. The services have earmarked more funds for tactical aircraft modernization than for any other combat mission. Five major tactical aircraft currently on the drawing boards require over $6 billion in fiscal year 1993 and over $400 billion in total investment costs over the next 20 years. There is no question that we have to modernize our tactical air. The question is how much duplication we can afford.

Mr. President, the committee concluded that there are four fundamental problems with the Department's plans for tactical aircraft modernization.

First, this plan constitutes a massive financial commitment, with most funds required in future years, during a period when future defense budgets are shrinking.

Second, there is virtually no interservice coordination in these modernization programs. Only the Navy's AX Program at this time is scheduled to be a joint program between the Navy and Air Force, but the Air Force will not start to procure AX aircraft until after the year 2010. Each of the other programs is being pursued for only one military department.

Third, despite claims to the contrary, the committee concluded that there is no consistent acquisition strategy to guide these programs. The Defense Department's new acquisition strategy called for the use of prototyping for new systems, for product improvements instead of new production, and for production of new systems only when the technology and associated subsystems are thoroughly tested and proven; the technical production and operational risks are significantly minimized; the production is cost-effective; and the absolute need for a new system is verified.

DOD's tactical aircraft modernization programs deviate substantially from this acquisition strategy. For example, the Army's Comanche helicopter is much further along in development than the Navy's AX. However, the budget contains all the funds needed to develop the AX aircraft, while the Army budgeted only for three prototypes of the Comanche helicopter. The Air Force conducted a prototype competition for the F-22, but the Navy believes no comparable prototype competition is needed for the AX.

Finally, the Defense Department has not completed the comprehensive assessment of roles and missions that is needed during this period of fundamental change. The so-called base force has permitted each service to develop its own solution to the build-down. There is no comprehensive assessment of the kind of threats we face in the future and which types of capabilities are likely to be most effective in dealing with those threats.

While the committee believes that the Department needs a strong modernization program for tactical aircraft, we also concluded that the Department's currect plans are unaffordable, reflect inadequate coordination of parallel service requirements, and do not reflect a thorough assessment of roles and missions. They are redundant in some areas. As a result, the committee bill:

Authorizes the budget request of $2.2 billion for the F-22 Air Force fighter, but directed that not more than half of the funds may be obligated until a comprehensive roles and missions analysis has been completed;

Authorizes $50 million—a reduction of $115 million from the budget request—to initiate a competitive prototype development of the Navy's AX long-range bomber, and directs that its future should be determined by a DOD roles and missions analysis that compares long-range, land-based aviation with carrier-based aviation;

Authorizes $943.6 million—a reduction of $190 million from the budget request—for development of the Navy's F-18E/F aircraft, and directs the Air Force, to use it as its future multirole fighter again trying to eliminate duplication.

These are very, very large savings if they are carried through in terms of the final bill that comes out of the Congress, and implemented.

The bill also restricts the funds until DOD caps the development and production costs, conducts a cost and operational effectiveness analysis, and independently assesses the risk of proceeding without prototyping, which is the current plan.

Terminates further development of the RAH-66 Comanche Army helicopter, and accelerates modification of the existing AH-64 Apache helicopter fleet, for a net savings of $365 million; and we scaled back procurement of existing F-18C/D aircraft, a reduction of $580 million from the requested amount—in light of prospective consolidation of Navy and Marine Corps F-18 squadrons, and eliminates the final 24 F-16 aircraft, which we do not believe are needed because of excess F-16 inventories. This has been one of the best aircraft we have ever built. The question is: How many do we need?

IMPROVING TRAINING AND WEAPONS DESIGN WITH ADVANCED SIMULATION TECHNOLOGY

Mr. President, the committee's final major initiative that I want to highlight involves the use of advanced simulation technology to improve training at lower cost and to facilitate the cost-effective development of new weapon systems.

The committee held a landmark hearing earlier this year that demonstrated the critical role simulation can play in the future in maintaining the combat effectiveness of our forces. In the past it was necessary to move personnel and equipment around the country for large and expensive field exercises. Advanced simulation—and especially the linking together of simulators in geographically separated placed—lets us move electrons around the country instead of people.

This is especially important for reserve forces which have to travel long distances to get to armories and training areas on weekends. Now we can link simulators together so that reservists can spend their time in joint training on weekends, even if they are conducting their training in different locations. In order to accelerate the introduction of advanced simulation into the Reserves, the committee initiated two programs: First, to create an advance simulation center for the National Guard; and, the second, to con-

tinue a program jointly sponsored by the National Guard Bureau and the Defense Advance Research Projects Agency to use advance simulation technology to improve the mobilization potential of National Guard roundout brigades.

The committee's hearings also highlighted the role simulation can play in helping to improve joint operations in future contingencies. The Joint Staff has been working to develop military doctrine to guide joint operations. The committee believes that a simulation center—much like the Warrior Preparation Center that has been so influential in Europe—would be of great benefit to the Joint Chiefs of Staff. For that reason, the committee authorized funds to establish a simulation center for joint doctrine and warfighting concepts development.

In addition to these seven major committee initiatives, I want to highlight several other actions taken by the committee on this bill. On strategic programs, the committee authorized a total of $4.3 billion for the strategic defense initiative, SDI, including $1.1 billion for theater missile defenses; $2.1 billion for development of an initial treaty-compliant ABM system; and $350 million work on the Brilliant Pebbles space-based interceptor program. This level is $1.1 billion below the President's request.

One of our top priorities in acting on the SDI Program this year was to reduce the level of technical risk and concurrency that the SDIO had built into their planning. In the future, the program must be conducted according to sound acquisition procedures, including not committing to production or deployment until adequate testing has been completed.

In this regard, Mr. President, the committee deleted last year's 1996 target date for deployment of the first ABM site, a date which last year had been represented to us in testimony as realistic, but which turned out to be clearly unrealistic and impractical. We now anticipate that the initial treaty-compliant ABM deployment would likely occur in the 2002–03 timeframe. But that depends, of course, on appropriate technology being available and also depends on the results of the test program, as well as the assessment, as we go along, of the threat.

SDIO has identified an option for fielding some test missile prototypes and a test radar at the first site on an earlier timetable. In the bill we do not prohibit them from planning these options, but we have included a provision in law making it clear that we have not authorized SDIO to exercise any such option. Whether we might at some point in the future authorize an early deployment using test prototypes—as we did with the JSTARS radar surveillance aircraft during the gulf war—will depend on the development of the test program, the maturity of the technology, and our assessment of the threat.

The bill also incorporates an important change in the Brilliant Pebbles Program. I have been concerned that SDIO has continued to spend excessive amounts on this program, despite Congress' clear direction last year excluding it from the architecture for the multiple-site limited defense system. Since that eventual multisite system will not likely be completed until the second half of the next decade—in other words, sometime after 2005—ther is no need to develop Brilliant Pebbles for possible deployment any sooner.

We had considerable debate in the committee on the space-based interceptors funding level. We finally settled on $350 million. That level is $225 million below the administration's request and $110 million below last year's appropriation. This action puts the Brilliant Pebbles funding profile on a downward slope, a course the committee believes is fully justified given the uncertainty over how and where this option might fit into the picture.

For the B–2 bomber, the committee authorized the requested amount of $2.6 billion for four additional aircraft. However, these funds cannot be released for the B–2 program until the Secretary of Defense has submitted to Congress the reports and certifications on the B–2's performance required by last year's authorization act; a report on the status of low observability testing, planned actions to improve these capabilities, and an assessment of the B–2's survivability; and a report identifying the full cost of a force of 20 fully operational B–2 bombers.

V–22 TILTROTOR AIRCRAFT

The committee recommends authorization of $755 million in fiscal year 1993 for the V–22 tiltrotor aircraft. These funds will continue the development and testing of production representative aircraft according to the plan Congress approved last year.

The committee is concerned about the potential effects on the V–22 program of the recent and tragic crash of one of the prototype aircraft. In order to ensure that the V–22 program does not proceed too far before more is known about the cause of the crash, the committee recommends a provision that would prohibit obligation of more than 50 percent of the fiscal year 1993 funds until the Commandant of the Marine Corps provides a report on the crash investigation to the Congress.

Mr. President, another important subject that has been very much on the minds of all of us on the Armed Services Committee, and increasingly on the minds of our Nation, is the treatment of women in the military services. Long before the publicity about the alleged events at the Tailhook convention, our committee has been concerned about the treatment of women in the military services. In hearings before the Subcommittee on Manpower and Personnel during the past year, officials from the General Accounting Office and from the Defense Department have testified about the continuing problems in the military services concerning the treatment of women, sexual harassment, as well as sexual assault.

The difficulties in the ongoing investigations of the Tailhook matter underscore the need here to give priority attention to improving the record of the military services in this area. We still are not perfect in the area of racial relations in the military. But I say that with all the work that has been done in that area, the military of our country are probably the best place in our Nation in terms of equal opportunity of all people, regardless of race.

We must make that record clear in regard to the professional and equal and fair treatment of women in the military. This is not simply a social issue, although it is that. It goes far beyond that. The role of the women today in our military is crucial to our national security. The decision has already been made that the women are playing a vital role; they continue to play a vital role, and they must be treated as such. So this is not simply a social matter. It is also a compelling security matter.

The committee concluded that the Defense Department must undertake a prompt and thorough review of policies and programs relating to the treatment of women in the military services. A report on the results of this review, along with any recommendations by the Defense Secretary, will be submitted to Congress by December 15, 1992. During that timeframe, we will also receive the report from the commission that has been created to study the role of women in combat, and that very important subject will be addressed in detail in that report.

Mr. President, it is very important that we complete action on this bill before the August recess. I had hoped we would have 4 days on this bill. The leadership of the Senate has to juggle every consideration, not just this one. The tax bill is another matter of great importance. We are not, obviously, going to have 4 days on this bill. I am hoping that our colleagues will understand and cooperate, not in not bringing up amendments they believe are important, but in limiting the debate to only the essential debate, so that we can move this bill as rapidly as is possible, and as prudent.

The Appropriations Committee is anxious to get to work on the defense appropriations bill. The House already passed this authorization bill, and we must begin working in September with the House in basically ironing out hundreds and hundreds and hundreds of differences between the two bills.

We have a very large section here on nothing but defense conversion. It is going to take several weeks just to work out the differences between the House and the Senate version on nothing but that subject. So we are going to have to move this bill and move it before we leave town.

Before closing, I thank all of the members of the Armed Services Committee. In particular, I thank the subcommittee chairmen and ranking members for their hard work in bringing this bill to the Senate floor. The committee disagreed on some of the individual provisions in the bill. There is no doubt about that. We had many fights and votes, but the bill, as a whole, was supported by a bipartisan majority of the committee.

Mr. President, the National Defense Authorization Act for fiscal year 1993 represents the culmination of a great deal of hard work by our staffs, and I thank them again for their diligent effort, which goes beyond the call of duty.

I also pay a particular word of thanks to Gregg Scott and Charles Armstrong of the Legislative Counsel's Office, who made an indispensable contribution to the entire Senate by preparing this bill, which is one of the most complicated and comprehensive we are required to vote on each year. I believe this is a solid bill which continues the process of reducing and restructuring our defense establishment in an orderly process, and I urge our colleagues to support the bill.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE ON S. 3114

Mr. NUNN. Mr. President, the Congressional Budget Office cost estimate on S. 3114, the National Defense Authorization Act for fiscal year 1993, was not available in time to be included with the committee report on the bill. The Congressional Budget Office conducted their normal thorough review and completed their cost estimate on this bill on August 6. I ask unanimous consent that the CBO cost estimate be inserted in the RECORD at this point.

I would also like to commend CBO for all the assistance they provide the committee throughout the year, and in particular for the assistance and advice they provided on drafting the complex provisions in this bill affecting military retirement and other benefits in a way that complies with all the requirements of the Congressional Budget Act.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 6, 1992.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 3114, the National Defense Authorization Act for Fiscal Year 1993, as ordered reported by the Senate Committee on Armed Services on July 24, 1992.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer.)

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 3114.

2. Bill title: National Defense Authorization Act for Fiscal Year 1993.

3. Bill status: As ordered reported by the Senate Committee on Armed Services on July 24, 1992.

4. Bill purpose: This bill would authorize appropriations for 1993 for the military functions of the Department of Defense (DOD), the Department of Energy, and the Federal Emergency Management Agency. This bill also would prescribe authorized personnel strengths for each active duty and selected reserve component.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

Category	1992	1993	1994	1995	1996	1997
Direct spending						
Estimated budget authority	0	−117	−106	−123	−127	−133
Estimated outlays	0	−120	−105	−122	−127	−133
Amounts subject to appropriations						
Stated authorizations:						
Authorization level	912	196,779	15	15	0	0
Estimated outlays	68	106,499	49,226	22,905	9,482	4,575
Estimated authorizations:						
Estimated auth. level	0	54,664	368	194	−216	136
Estimated outlays	0	50,583	4,048	196	−200	123
Bill total						
Estimated BA/auth. level	912	251,326	277	86	−343	3
Estimated outlays	68	156,962	53,169	22,979	9,154	4,566
Asset sales						
Estimated budget authority	0	−473	−450	−450	−460	−450
Estimated outlays	0	−473	−450	−450	−460	−450

Note.—Totals may not add due to rounding.

Basis of Estimate: All estimates assume that funds will be appropriated for the full amount of the authorization and will be available for obligation by October 1, 1992. Outlays are estimated based on historical outlay rates. Costs of the bill would fall under function 050, National Defense, except for certain items noted below.

Direct Spending and Asset Sales: The direct spending and asset sales in this bill stem from provisions affecting stockpile sales, veterans' benefits, military retirement, certain retroactive benefits, land sales, and construction programs (see Table 1).

Stockpile Sales. Section 3301 of the bill would authorize disposal of many obsolete or excess materials from the National Defense Stockpile. CBO estimates that the manager of the stockpile would sell approximately $600 million of commodities in each year of the estimate. Further, section 3303 strikes from current law previous authorizations to purchase other materials, but it would authorize (subject to limits in appropriation bills) the spending of $100 million from the fund during 1993.

Direct spending savings occur in 1993 because the bill repeals authority to acquire materials for the stockpile. Lower direct spending occurs in 1994–1997 because the bill would require stockpile sales that would not otherwise happen. Nevertheless, CBO views sales from the stockpile in amounts over $150 million per year as a sale of assets under the rules of the Budget Enforcement Act. The Budget Enforcement Act allows credit for sales of assets up to the ongoing level of activity of an agency. Annual stockpile sales have recently been limited to $150 million. Therefore, the change in net sales up to $150 million each year would be considered direct spending credit since this authorization would be sufficient to allow the disposals to take place. The amounts by which these newly authorized disposals exceed recent levels of disposals from the fund (the remaining $450 million each year) would be considered an asset sale for the purposes of the Budget Enforcement Act.

Veterans' Benefits. The bill contains a provision affecting the Montgomery GI Bill Educational Assistance (MGIB) program. It would allow participants in the Voluntary Separation Incentive (VSI) and Special Separation Benefit (SSB) programs to train under the MGIB program if they contribute $1,200, which is required for current participants. CBO assumes 20 percent of VSI and SSB participants would contribute the $1,200 and would train under the program. Each would train for approximately 18 months and would be paid an average of $350 per month. Thus, the provision would cost $75 million over five years.

In addition, if people who elect to train under the MGIB program are enrolled in the Chapter 32, Post-Vietnam Era Educational Assistance Program, they must disenroll from the Chapter 32 program and receive a refund for any amounts they contributed toward their education. CBO assumes that those who elect to train under the MGIB program would have trained under the Chapter 32 program in the absence of this bill. Thus, there would be costs for paying disenrollment refunds and savings due to fewer education payments. The average cost of a refund is approximately $1,750 and the average training cost per person is approximately $2,000. CBO estimates the net effect on federal outlays would be an increase of $9 million over five years.

TABLE 1.—DIRECT SPENDING PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1993, AS ORDERED REPORTED BY THE SENATE ARMED SERVICES COMMITTEE

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Stockpile sales:					
Estimated budget authority	−150	−150	−150	−150	−150
Estimated outlays	−150	−150	−150	−150	−150
Veterans' education benefits:					
Estimated budget authority	20	34	18	12	5
Estimated outlays	20	34	18	12	5
Retirement programs:					
Estimated budget authority	2	6	8	10	10
Estimated outlays	2	6	8	10	10
Retroactive benefits:					
Estimated budget authority	4	0	0	0	0
Estimated outlays	4	0	0	0	0
Health benefits for former personnel:					
Estimated budget authority	4	4	1	1	2
Estimated outlays	4	4	1	1	2
Construction projects:					
Estimated budget authority	3	0	0	0	0
Estimated outlays	(1)	1	1	(1)	(1)

TABLE 1.—DIRECT SPENDING PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1993, AS ORDERED REPORTED BY THE SENATE ARMED SERVICES COMMITTEE—Continued

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Total direct spending:					
Estimated budget authority	−117	−106	−123	−127	−133
Estimated outlays	−120	−105	−122	−127	−133

[1] Less than $500,000.

Note.—This table does not show the direct spending for three provisions for which CBO cannot estimate annual costs. In each case the net costs would sum to zero over a period of years, but individual years could have net spending or receipts.

Section 549 continues benefits under the Montgomery GI bill for reservists that leave the Armed Services. Costs for this provision average $1 million per year.

Retirement Programs. Several sections of the bill affect military retirement. Section 534 of the bill gives the secretaries of the military services temporary authority to allow active duty military personnel with at least 15 years of service to retire from service and to receive retirement pay beginning at that time. Currently members must have 20 years of service in order to retire and to receive immediate payments of retirement benefits. The bill would require the Secretary of Defense to fund benefit payments for up to five years (to cover the period between an early retirement and retirement permitted under current law) in advance with amounts that are subject to the availability of appropriations. CBO estimates that added payments from the military retirement fund would occur only for those individuals who are allowed to retire early and would otherwise not have completed 20 years of service and would not have retired under the current rules. These payments would constitute direct spending. In the past, more than 98 percent of individuals who complete 15 years of service have stayed on to complete at least 20 years of service, so this group is quite small and their pensions would cost less than $1 million annually during the period of this estimate.

Another provision of the bill would provide an increase in basic pay to military personnel who have completed 24 years of service. These individuals are eligible for retirement and in recent years approximately 2,500 of them have retired annually. Because retired pay is based on basic pay, they would now receive a larger pension, for an average total cost of about $5 million in 1993–1997.

The bill would require certain limited duty officers who would otherwise serve in the Navy between July 1, 1993, and October 1, 1995, to retire early. According to the Navy, this would apply to 45 officers during this period, all of whom would retire with more than 30 years of active duty service. Annual retired pay for this group would be about $2 million. The estimate assumes that one-fourth of this amount would be paid during fiscal year 1993, and that in later years the estimated change in payments from the fund would reflect the full-year costs.

Enlisted retirees credited with extraordinary heroism are entitled under current law to receive 10 percent more in retired pay. The bill would provide this same bonus for such retirees who had returned to service and later had resumed retirement. There are very few retirees meeting all of these requirements. Consequently, CBO expects yearly costs of this provision to be less than $1 million.

The bill also would provide retired pay to certain armed forces reservists. This group would include reservists serving before August 16, 1945, who had subsequently earned 20 years of reserve service but who had never performed service with forces on active duty. Under current law, if a reservist serving during this period had not been on active duty, he or she is not eligible for retired pay. This provision would apply to fewer than 100 people and would cost about $1 million in each year from 1993–1997.

Section 547 would allow reservists with only 15 years of service to retire. Currently, reservists must have completed 20 years of service to be eligible to receive retired pay at 60 years of age. The reservist would still have to wait until age 60 to collect retirement benefits, but would be allowed to retire with fewer years of service. In the long-run, retirement costs would decrease because the lower benefit payments for those retiring with 15 to 19 years of service would far outweigh the added costs from the small portion of reservists who could retire under this bill but would not have qualified for retirement under current law. Nevertheless, because no payments are made to retired reservists until age 60 and we do not expect anyone affected by the bill to reach age 60 during the five year period of the estimate, the budget effect of the provision is zero each year from 1993 to 1997.

Section 1058 would unify the retirement system for judges on the U.S. Court of Military Appeals (COMA). Under current law, these five judges could retire under the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), or, with sufficient tenure, a special COMA system. This section would require judges who fail to qualify for the COMA system to retire under FERS and would provide credit under FERS for all service since November 1989. Judges that had contributed to CSRS would receive a refund of their contributions in excess of the contribution required under FERS for the period between November 1989 and enactment. Refunds for the COMA judges would take place in 1993 and would not exceed $500,000.

Health Benefits for Former Personnel. The bill would provide optional coverage under the Federal Employee Health Benefits Program (FEHB) for certain former civilian employees of the Defense Department as well as for certain military personnel who are involuntarily separated. The individual would pay part of the premium associated with this coverage. Enrollment would be optional, and therefore those who choose to enroll would likely be more expensive to insure than the current population. Because claims costs for these enrollees would exceed premium receipts in the FEHB trust fund, this increase would constitute direct spending. CBO estimates the amount to be $4 million in 1993 and 1994 and smaller amounts thereafter. This amount is only the cost of the increase due to the more expensive population and does not include the additional costs of paying premiums for participants at current rates. The premiums would be discretionary costs to the federal government totalling $34 million in 1993—see discussion under Operation and Maintenance Programs below.

Retroactive Benefits. Several sections of the bill provide benefits that are to paid out of discretionary funds and would not constitute direct spending in the future. Nonetheless, the bill specifies effective dates that have already passed for these provisions. CBO considers the cost of providing such benefits to be direct spending for the period of retroactivity. One provision provides retroactive medical coverage for certain individuals who are already covered under Medicare at a cost of $1 million. Another provision provides eligibility for certain travel benefits to past participants in the Special Separation Benefits program at a cost of $3 million.

Section 551 would continue coverage under the Serviceman's Group Life Insurance program for a year to certain reservists who leave the service. This provision contains direct spending because it is retroactive. It specifically covers reservists who left in the past two years. Costs, however, for the retroactive group as well as the future group are minimal.

Land Sales and Construction Programs. The bill would authorize DOD to convey land at several locations for either money or other property. In these cases, the bill allows the construction of reserve centers or family housing using the proceeds of those exchanges. CBO projects $3 million of direct spending in 1993 from the use of proceeds. Conveyances for cash would be classified as asset sales. CBO estimates that these sales would bring in about $23 million.

The bill would allow the lease of two pieces of land at the Naval Air Station in Oakland, California. It would also allow the Air Force to grant an easement for land in Miramar Air Force Base in return for fair market value. CBO cannot estimate the amounts that would be collected.

This bill would provide for the transfer of more than 16,000 acres of land at the Rock Mountain Arsenal in Colorado from the U.S. Army to the Department of the Interior (DOI).

Other Direct Spending. One provision would allow the direct spending of receipts from the public gained through the sale of logos, licenses, and similar trademarks for a program to commemorate World War II. Over time, the spending from the proceeds of these sales would equal the amounts of the sales. Consequently, net direct spending would equal zero.

Section 315 deals with the promotion of civilian marksmanship. The provision would allow any receipts collected from sales of arms and ammunition to be credited to the relevant appropriation. Also, rifle ranges would be available to civilians to use. Fees would be charged and the proceeds would be used to operate the range. Both of these provisions constitute direct spending, but the amount would be equal to zero.

Section 351 deals with the sale of obsolete ammunition to Korea from War Reserve stocks. These proceeds would be considered as offsetting receipts from the sale of excess property under budget function 051. This provision would not change the CBO baseline because the estimate for receipts is not specific to certain sales. Thus the direct spending would be zero.

Authorizations of Appropriations: The bill states the amount authorized for appropriation for several accounts totaling about $197 billion for 1993. The specific amounts authorized and CBO's estimate of the related outlays are shown in Table 2. In addition, the bill contains provisions that affect several budget functions and that do not specify the amounts authorized for appropriation. CBO has estimated both the amounts authorized and the related outlays for such provisions. The following section presents CBO's cost estimates and provides information about them.

End strength. The bill would authorize 1993 end strengths for active and reserve components of the Defense Department. End strengths authorized for active-duty person-

nel would total 1,767 thousand—the same as the Administration's request and 99,000 below estimated 1992 levels. Reserve end strength levels for 1993 would be authorized at 1,107 thousand—101 thousand more than requested, but 12 thousand less than 1992. Compared to the request, the reserve authorization would cost $356 million in pay and allowances in 1993.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Function 050:					
Estimated authorization level	75,283	0	0	0	0
Estimated outlays	71,699	3,584	0	0	0
Function 400:					
Estimated authorization level	66	0	0	0	0
Estimated outlays	64	2	0	0	0
Function 950:					
Estimated authorization level	−23,658	0	0	0	0
Estimated outlays	−23,658	0	0	0	0

TABLE 2.—SPECIFIC AUTHORIZATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1993, AS ORDERED REPORTED BY THE SENATE ARMED SERVICES COMMITTEE

[By fiscal year, in millions of dollars]

Category	1992	1993	1994	1995	1996	1997
Procurement:						
Authorization level	0	53,621	0	0	0	0
Estimated outlays	0	9,564	14,409	15,141	6,849	3,702
Research, development, test, and evaluation:						
Authorization level	0	38,942	0	0	0	0
Estimated outlays	0	20,905	13,430	3,110	808	492
Operation and maintenance:						
Authorization level	0	81,701	0	0	0	0
Estimated outlays	0	63,432	14,462	2,132	1,112	54
Military construction:						
Authorization level	0	8,900	0	0	0	0
Estimated outlays	0	3,063	3,020	1,518	686	322
DBOF and stockpile acquisitions:						
Authorization level	0	1,224	0	0	0	0
Estimated outlays	0	1,070	121	16	12	0
Atomic energy defense activities:						
Authorization level	0	11,882	0	0	0	0
Estimated outlays	0	7,347	3,597	938	0	0
Other 1993 programs:						
Authorization level	0	420	15	15	0	0
Estimated outlays	0	338	76	29	5	0
Transfer authorities:						
Estimated outlays	0	14	102	−60	−27	−30
Desert Storm funding:						
Authorization level	429	88	0	0	0	0
Estimated outlays	68	427	22	0	0	0
Environmental supplemental:						
Authorization level	483	0	0	0	0	0
Estimated outlays	0	353	88	22	10	5
Total:						
Stated authorizations	912	196,779	15	15	0	0
Estimated outlays	68	106,499	49,226	22,905	9,482	4,575

DOI would retain most of the property and sell a relatively small part. Sale of surplus property is estimated to yield about $10 million in fiscal year 1996 and thereafter.

Also, the bill would authorize an end strength of 15,150 people for the Coast Guard Reserve in 1993. This authorization would cost $66 million and falls under budget function 400.

Budget function 950—undistributed offsetting receipts—records offsets to the accrual payments from function 050 associated with military retirement, and employer contributions to the social insurance funds. The $24 billion for function 950 relates to both the costs of civilian personnel included in Table 2 (under Operation and Maintenance) and for military personnel.

Compensation and Benefits. The bill contains several provisions that affect compensation and benefits paid from Military Personnel appropriations. The costs of these provisions are shown in the table below. The provision with the largest budget impact would authorize a 3.7 percent pay raise in 1993 for military personnel at a cost of $1.8 billion. This is the same pay raise assumed in the Administration's budget request.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Military pay raise:					
Estimated authorization level	1,848	0	0	0	0
Estimated outlays	1,761	88	0	0	0
Enlistment/reenlistment bonuses:					
Estimated authorization level	244	0	0	0	0
Estimated outlays	232	12	0	0	0
Health care provider/aviator bonuses:					
Estimated authorization level	52	0	0	0	0
Estimated outlays	50	2	0	0	0
Other expiring authorities:					
Estimated authorization level	8	0	0	0	0
Estimated outlays	8	0	0	0	0
Cap on permanent change of station:					
Estimated authorization level	−137	0	0	0	0
Estimated outlays	−130	−7	0	0	0
Early retirement-active members:					
Estimated authorization level	254	−111	−373	−805	−430
Estimated outlays	242	−94	−361	−784	−448
Reserve personnel transition benefits:					
Estimated authorization level	40	39	38	37	39
Estimated outlays	38	39	38	37	39
Other compensation and benefits:					
Estimated authorization level	−277	129	134	139	144
Estimated outlays	−264	97	133	138	143

Several sections would extend for an additional year certain payment authorities currently scheduled to expire at the end of 1992. Extending authority for payment of enlistment and reenlistment bonuses would result in costs of $244 million in 1993. Health care provider and aviator bonus authorization would cost $52 million in 1993. Other extensions would result in bonus payments of $8 million in 1993.

The bill limits the amounts that can be spent for permanent change of station moves to $2,863 million, or $137 million lower than the budget request.

Section 534 provides authority through 1995 for certain active duty military personnel to retire from service after completing 15 years of service instead of the 20 years required under current law. Nevertheless, the service secretaries may allow these retirements only to the extent that funding is available in that year to cover the pension costs of these individuals up until the time they would have reached normal retirement eligibility.

CBO estimates that approximately 50,000 such retirements would take place over the next three years. Advance funding of pension costs for these individuals would cost about $500 million per year in each of those three years. Some of these costs would be offset, however. CBO assumes that this program would not be used to lower end strength below the levels in the current plan. Rather, these additional retirements would for the most part be replaced with new recruits, whose pay is significantly lower than that of more senior personnel. In 1993, this savings would amount to more than $200 million, and savings would increase in subsequent years by enough to more than offset the initial retirement costs. Thus, the net cost of early retirement is $254 million in 1993, and for the period 1993 through 1997 pay savings exceed retirement costs by nearly $1.5 billion.

Subtitle E of Title IV establishes a set of Guard and Reserve transition initiatives which would provide a variety of benefits to reservists leaving military service. Section 546 would provide a special authority to give reservists who have 20 creditable years of service and would qualify for retirement—except that they are less than 60 years of age—an annual payment for up to five years in lieu of retired pay. The cost for this provision in 1993 is $30 million. Section 548 would provide separation pay to members with greater than six years of service, but less than 15 years. Estimated costs for this provision are $10 million in 1993. Also, the bill includes medical benefits for these people costing $57 million in 1993—see section below on Operation and Maintenance Programs.

Section 565 would expand the Junior Reserve Officer Training Corps (JROTC). Currently, there are about 1,500 units across the United States. This provision would expand that to 3,500. The provision also will allow the secretary to waive the requirement for certain school districts to pay a portion of the instructor salaries; the Department will cover the whole cost. In addition to about $31 million authorized under the Operation and Maintenance account (shown in the table below), this provision would cost about $19 million in 1993 for uniforms and other military personnel expenses.

The bill expands an existing program that reimburses military personnel for certain related expenses when they adopt children. The current program is applicable to adoptions that are conducted through government programs or voluntary agencies and costs about $3 million annually; the bill would expand the eligibility to so-called private adoptions, which essentially covers all other adoptions. The Department of Defense estimates that approximately half of all adoptions by military personnel are private adoptions; thus this change would increase costs by about $3 million each year.

The bill includes a provision authorizing appropriations for Military Personnel in the amount of $77,316 million for 1993. Because the cost of provisions in the bill would exceed this amount by $309 million, the effect of this provision is to limit the amount authorized by that amount.

Operation and Maintenance (O&M) Programs. A number of provisions in the bill affect medical benefits for military personnel. One provision creates an expanded dental insurance program at an cost of about $85 million. Another provision allows CHAMPUS coverage of certain home health care benefits. This change would save money, approximately $50 million annually, because it would replace hospital care with less expensive home-based care for certain individuals with chronic illnesses. The bill also reduces the limit on out-of-pocket costs that individuals under CHAMPUS can pay for health care annually from $10,000 to $7,500. This change would affect about 5,000 individuals annually who exceed the current cap at a total cost of $12 million. Finally, the bill would extend secondary CHAMPUS coverage to certain individuals who are eligible for Medicare benefits because of end stage renal disease at a cost of $1 million per year.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
CHAMPUS benefits:					
Estimated authorization level	0	−39	−42	−46	−49
Estimated outlays	0	−31	−41	−45	−48
Dental program:					
Estimated authorization level	0	83	86	89	92
Estimated outlays	0	66	85	88	91
Civilian transition benefits:					
Estimated authorization level	0	43	53	59	60
Estimated outlays	0	34	51	58	60
Health benefits for former employees:					
Estimated authorization level	0	195	255	263	237
Estimated outlays	0	151	232	254	237

The bill also provides benefits for certain civilian employees of the Department of Defense whose employment is terminated. One provision establishes a government-wide list of vacant positions in government agencies and a toll-free telephone number to provide information from the list, at a cost of $2 million annually. The bill also allows the Department of Defense to offer separation payments to certain civilian employees who voluntarily leave their jobs. CBO estimates such payments would cost a total of $39 million in 1993.

The optional coverage under FEHB that the bill provides for certain former military and civilian personnel would increase authorizations because the Department of Defense would pay all or part of the insurance premiums for some of those individuals. At current rates, this provision would have discretionary costs of $34 million in 1993—$30 million for former military personnel and $4 million for civilian former employees. Direct spending of about $4 million per year would result from people with relatively great medical needs enrolling in the program.

The early retirement provisions for active duty military personnel would temporarily increase medical costs because retirees would be eligible for medical benefits sooner. Costs would increase to $121 million in 1996 but would decline after that as early retirees reach the point where they would normally have been expected to retire.

Under the Reserve Transition Program, those individuals under 60 years of age who were separated and receive the five-year annual payment (see page 9 of this estimate) would be eligible for medical benefits, as if they were retired. Costs in 1993 for this provision are $57 million.

Energy-Related Environmental Provisions. Subtitle B of Title III contains three environmental provisions that could affect the prices charged by contractors performing work for the DOD. Section 312 would require contractors to eliminate the use of ozone-depleting substances and could increase procurement contract costs because it allows contractors to charge the DOD for any additional costs arising from this requirement.

Sections 313 and 319 would reduce the risk faced by contractors performing environmental restoration work for the DOD. This could increase DOD's potential liability in the event of an accidental release of hazardous substances during a contractor's routine performance of an environmental contract. If such an accident were to occur under current law, a contractor probably would request DOD to share or cover completely any costs incurred as a result of the accident.

These provisions may have no practical effect on future liabilities of the DOD. Many contractors may refuse to bid on DOD environmental contracts because of the lack of specific indemnification. These sections could increase the number of contractors bidding on environmental work and thus lower DOD's restoration costs. CBO cannot predict the net cost or savings of any of these environment-related sections.

Other Department of Energy Programs. Three provisions included in Title XXXI could increase estimated authorizations for the Department of Energy (DOE) and the Department of Justice. Section 3137 would change certain payments for injuries to the atomic weapons testing program. Neither DOE nor CBO have data to estimate these costs.

Section 3151 would require the Secretary of Energy to devise and implement a restructuring plan for the portion of DOE workforce currently employed at defense nuclear facilities. This plan must include retraining for displaced DOE workers (for those who work directly for DOE and for those who work for a contractor to DOE) and local impact assistance for communities affected by the restructuring. DOE has testified that as many as 20,000 such workers could be affected by restructuring between 1993 and 2005. The estimate assumes that approximately 2,000 workers per year would receive retraining at a cost per person of about $2,000. The estimate further assumes that the aid to communities would average about $1 million for each year of the estimate.

Section 3152 would require DOE to extend their program for monitoring workers exposed to hazardous and radioactive substances. DOE currently spends over $15 million annually on health surveillance programs. The amount of increase in DOE's level of effort that would be required by this section is not clear. The estimate assumes that the health surveillance workload would approximately double and thus would require about $16 million in each year of the estimate.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Estimated authorization level	0	21	21	21	21
Estimated outlays	0	21	21	21	21

Armored Vehicle Upgrades. Section 112 authorizes the appropriation of funds received from the sale of tanks, fighting vehicles, and armored personnel carriers after fiscal year 1989. The estimate assumes this indefinite authorization is limited to funds that have been, or will be, deposited in the Treasury as offseting receipts. These receipts include the net proceeds from the sale of equipment not intended to be replaced and charges for nonrecurring costs of research, development, and production. Based on information provided by the Department of Defense, CBO estimates an authorization of $300 million in fiscal year 1993. It is possible that costs for 1994-1997 could total the amount estimated for 1993. The estimate requires information about the number of weapons to be sold, their prices, and related policies, which DOD could not provide.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Estimated authorization level	300	(1)	(1)	(1)	(1)
Estimated outlays	6	(1)	(1)	(1)	(1)

(1) Not estimable.

Land Sales and Construction Programs. This bill would provide for the transfer of more than 16,000 acres of land at the Rocky Mountain Arsenal in Colorado from the U.S. Army to the Department of the Interior (DOI). One time costs to implement these provisions would be limited to site preparation and the construction of a visitor/education center at the new refuge. Total costs on the facility would be about $5 million in 1996 or thereafter.

The bill would allow, subject to appropriations action after the sale of a parcel of land, the purchase of up to 350 units of family housing at Puget Sound. CBO estimates an implied authorization of $20 million for the 350 units.

This bill would allow the Air Force to enter into lease agreements with a present value of $108.4 million at Bolling Air Force Base and Andrews Air Force Base. CBO estimates that this would result in lease payments of about $8 million per year. Another provision would allow the Air Force to enter into rental guarantee programs for 1,419 units at four different locations in the United States. CBO estimates that the Air Force would be responsible to guarantee $14 million in rents per year starting in 1995, after the completion of the units.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Rocky Mountain Arsenal (section 2852):					
Estimated authorization level	0	0	0	5	0
Estimated outlays	0	0	0	1	2
Lease/purchases and rental guarantees:					
Estimated authorization level	8	8	22	22	22
Estimated outlays	8	8	22	22	22
Puget Sound land-conveyance:					
Estimated authorization level	20	0	0	0	0
Estimated outlays	(1)	8	6	3	1

[1] Less than $500,000.

Transfer of Funds. The bill also would allow the transfer, subject to appropriations action, of up to $612 million from proceeds of stockpile sales to the account, O&M, Defense Agencies.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Estimated authorization level	612	0	0	0	0
Estimated outlays	528	66	9	7	3

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. The direct spending costs of this bill are subject to the pay-as-you-go procedures are shown in the following table.

[By fiscal years, in millions of dollars]

	1993	1994	1995
Change in outlays	−120	−105	−122
Change in receipts	(1)	(1)	(1)

[1] Not applicable.

7. Estimated cost to State and local government: None.

8. Estimate comparison: None.

9. Previous CBO cost estimate: None.

10. Estimate Prepared by: Eugene Bryton, Alan Fairbank, Barbara Hollinshead, Cory Oltman, Amy Plapp, K.W. Shepherd, Lisa Siegel, and Joseph Whitehill.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Mr. WARNER. Mr. President, before the Senator steps aside here momentarily, perhaps we could acquaint our colleagues with the understanding that the Senator and I have now with the majority leader and the Republican leader about how we hope to progress today, and the order of amendments we anticipate will be taken up here.

Mr. NUNN. Mr. President, I respond to my friend from Virginia by saying that the first amendment we would like to see presented will be in the form of a committee amendment, which is on a subject that almost everybody in the Senate has been very interested in, and that is the whole question of defense conversion.

I have alluded to the outstanding leadership of the Senator from Arkan-

sas in this, along with Senator RUDMAN from New Hampshire on the Republican side. We anticipate 1 hour of discussion on defense conversion, and I will be asking for a rollcall vote on that particular measure. It is important to the communities, and it is important to the personnel in the military, and it is important to civilian employees; it is important to those that work in industry. So that will be the first order of business.

I hope that, after that, we will have an amendment—or we have discussed it and, of course, there is no time agreement on this or a time order. But the Senator from Arkansas has an amendment on SDI contributing, and it is my understanding that there will be an amendment by the Senator from Tennessee [Mr. SASSER] and the Senator from Arkansas [Mr. BUMPERS] on reducing the funding for overall SDI Program.

Then it is my hope that we can turn to the B-2 debate. We have discussed that with Senator LEAHY and Senator LEVIN, who will be basically moving to strike the last five B-2's. If we can get these very important matters done in the next several hours, that would be a major start or good start on this bill.

Mr. WARNER. Mr. President, I thank the chairman. We have worked together, and I have agreed with him on this. I am wondering if it is at all possible, given that it is Friday, and a lot of Members have plans, if we could ask the leadership to probe the possibility of a unanimous-consent agreement which would accommodate first the chairman's amendment on defense conversion. Then perhaps we could turn to the testing amendment.

I know the Senator from Maine [Mr. COHEN] and others are very anxious to deal with that early on. Then that would be followed by the two major ones that we anticipate, the Bumpers and Leahy amendments. I think we can find time for the Senator from Tennessee [Mr. SASSER]. That would enable Senators to better plan this day. Would the chairman be willing to explore that possibility?

Mr. NUNN. I would certainly be willing to explore the possibility. I do not want to propose a unanimous-consent agreement now, because I know it would be objected to now. I believe we are better served to talk about that, and let the business proceed while we are talking about that with the leadership.

I believe we are much better off not trying to seek the unanimous-consent agreement now, though I certainly hope later on we can get one.

On the testing amendment, I know the Senator from Maine has been very involved in this, in both the committee and on the floor, and I meant to sit down with the Senator from Maine and the Senator from Nebraska to discuss this to see if there can be some kind of meeting of the minds between us. And there are many other parties involved, including the Senator from Oregon, who has taken a very vigorous leadership position on an amendment passed last week, and the Senator from Maine, Mr. MITCHELL, who also will be a cosponsor.

I hope we can move forward with SDI while that testing matter is being discussed and, hopefully, bring something up on that later on today.

Mr. WARNER. Mr. President, I thank the chairman.

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

Mr. WARNER. Yes.

Mr. COHEN. Could the Senator give us some indication as to how he intends to proceed, certainly through today and perhaps into the evening? Also, there is some question about Monday. I have been advised that the leadership would like to conclude this bill by 1 o'clock on Monday. Is that the Senator's understanding?

Mr. NUNN. That was the understanding yesterday. I had asked, as I said, for 4 days. The Senator from Maine [Mr. MITCHELL] has to consider this as well as other matters—the tax bill is going to take some time—and I was given word from the leadership yesterday that they would like to move to the tax bill at 1 o'clock on Monday.

At the time we had that understanding, we also had an understanding there would be a time agreement on SDI and a time agreement on B-2 and, also, that we would start at the beginning this morning or last night.

So the underlying assumptions of that have changed considerably. I think it is going to be very difficult, if not impossible, to conclude this bill by Monday at 1 o'clock. We will do our best. We will make as much progress as possible, but we will have to see as we go along.

Mr. COHEN. Is it the Senator's position that we would be voting Monday morning and afternoon until 1 o'clock?

Mr. NUNN. If we do not vote Monday morning, we will not make any progress Monday morning. So it would be my view that we would vote Monday morning as the votes come up.

Mr. COHEN. Am I correct that you do not anticipate having votes tomorrow?

Mr. NUNN. That is above my pay scale here.

I would be glad to be here tomorrow and I will announce later on today that I will be available if we can have any amendments that will not require a rollcall vote. I have been informed by the leadership that they do not desire rollcall votes tomorrow, but that, again, is a matter of the leadership.

Mr. COHEN. I thank the Senator.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I thank the Senators for yielding to me and the Chair for recognizing me.

I have been unable to talk to the distinguished chairman and ranking member this morning, but I did have a discussion with Senator SASSER earlier in the day.

We have decided, if it meets with the approval of the chairman and the ranking member, that in the SDI area of amendments, the amendment that I am going to offer relative to contracting out in the SDIO office, that that amendment actually now follow the amendment offered by the Senator from Tennessee and, I believe, Senator BUMPERS and possibly Senator LEAHY of Vermont. But my amendment, I think now will follow their amendment, if it meets with the chairman's approval.

Mr. NUNN. I understood the Senator's desire yesterday was to go first.

Mr. PRYOR. That is correct.

Mr. NUNN. I have no objection to that at all.

Mr. PRYOR. The chairman is very generous in granting us that. I think, for the benefit of planning for all those involved in these amendments, that my amendment will follow the Sasser amendment.

Mr. NUNN. I know, having talked to the Senator from Tennessee, that he prefers not to have a time agreement at this point on SDI. We had anticipated the schedule on the basis of no more than about 3 hours on that subject. That is not applicable unless we have an agreement.

But I do hope, as we move through the debate on this, we might be able to reach some time certain for a vote. We will be discussing that with the Senator from Tennessee.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I first would like to express to the chairman of the Senate Armed Services Committee, on behalf of all members of the committee, the majority and minority, and on behalf of staff, majority and minority, our profound appreciation for his leadership throughout this year. It parallels that same leadership he has given on a successive number of years when we were building up the Armed Forces of the United States. And now, because of the changing world situation, it is the decision of the President and others, joined in by the Congress, that we will, in an orderly manner reduce the size of our Armed Forces.

This poses a special challenge to our chairman and the members of the committee.

To our chairman, we express profound thanks for the leadership you have provided over these many years.

This is the sixth year I have been privileged to work with you as the ranking member on our side.

All of us are laboring to understand more clearly the role of our military

forces in a world where we no longer are directly confronted by an organized superpower equipped with nuclear weapons. The several states of the Soviet Union, primarily Russia, continue to possess these weapons. They continue to pose a threat to the world, but the combined forces that were once present are rapidly now being downsized in the former Soviet Union.

The demise of the Warsaw Pact in the Soviet Union clearly indicates the need for a major reduction in and restructure of our own Armed Forces. The President has indicated a measured, carefully structured plan to accomplish these reductions over time.

For those who might desire additional cuts in our budget, let me remind you that the Department of Defense is already making major reductions. The Secretary of Defense, with the counsel of the chairman and members of the Joint Chiefs of Staff, has outlined to our committee the administration's plans to reduce our Armed Forces by roughly 25 percent by fiscal year 1995, a process which is well underway at this time.

These reductions would cut from 1990 force levels the active duty Army force structure by roughly one-third, from 18 divisions to 12; the Air Force by about 25 percent from 36 fighter wing equivalents to 26, including a reduction of 9 active and 1 Reserve fighter wing; the Navy by about 20 percent, from 546 ships to only 450.

Under the administration's proposed reduction plans, the Reserve components and DOD civilians would be reduced by about 200,000 each. Over 200 military facilities worldwide would be closed or realigned.

The U.S. military, under these reduction plans, would be reduced to its lowest end strength since before the Korean war; the defense share of the Federal budget, which at one time was as high as 57 percent, would be reduced to only 17.2 percent, the lowest level in 40 years. The defense budget by 1997 would represent only about 3.6 percent of GNP, by far the lowest level since Pearl Harbor.

There are those who want to reduce our military capabilities even further. This bill authorizes a total of $274.2 billion in budget authority, which is $7.3 billion below the administration's requested level and $3.1 billion below the Senate's budget resolution for fiscal year 1993.

This bill also provides for an additional $250 million for aid and assistance to the former Soviet states and $1.2 billion for defense conversion efforts.

Aid to the former Soviet states is a subject that has been thoroughly debated in this Chamber. I want to acknowledge the leadership in moving forward with these programs by our chairman, the Senator from Georgia, the Senator from Maine, and the Senator from Indiana. I have been privileged to join with them in this effort over a period of many months now. I believe that we are now beginning to see the early fruits of those initiatives, and I commend my chairman.

The bill provides for an additional $250 million for assistance to the former Soviet states. While I support these efforts, I must point out to my colleagues that these are defense dollars along with the $1.2 billion earmarked for defense conversion—these defense dollars will not be spent to maintain our own military forces or increase their readiness and capabilities.

The end result of all this is a defense authorization bill that could possibly end up as much as $10.5 billion below the level requested by the President—a level based on plans which already include dramatic reductions of our military forces and capabilities.

I urge my colleagues as you examine the defense budget, to take into consideration once again the dollars that are being forwarded to the states of the former Soviet Union, as well as those dollars identified for defense conversion, because these dollars will not—I repeat will not—be directly invested in the strength of our own forces.

Any further cuts in this bill would be ill-advised in view of the sharp reductions already under way. We must also understand that further reductions will translate into additional job losses throughout the defense industry at a time when the economy will have great difficulty absorbing more displaced workers.

And there lies another special challenge to the Congress, to work with the Secretary of Defense to preserve the industrial base in the United States, particularly that industrial base that relates to certain technologies—foremost among them the ability to produce nuclear propulsion units for our ships. That base must be preserved, and I think this bill goes a long way toward doing just that.

Mr. President, I have joined with the chairman of our committee in his initiative to urge the Department of Defense to conduct a thorough review of the roles and missions of our military services. This review would be focused primarily on reducing duplication and redundancies among our military services, providing for more efficient and effective Armed Forces.

There has not been, in my judgment, a serious review of roles and missions for many, many years. It is long overdue. And I predict that the end result will be one that is primarily determined by the Congress of the United States.

It is exceedingly difficult, no matter how strong a Secretary of Defense may be or a Chairman of the Joint Chiefs, for them to put the final framework on an Armed Force which must then go forward for a number of years in that configuration. The complexity within the Department of Defense of the three military departments, the competition—yes, the competition that exists between the three military departments—is of such a magnitude that these tough decisions, historically, have been made by the Congress of the United States. And I know of no more difficult undertaking that the chairman and I and members of the committee, and eventually the Members of this body, will have in the coming year, than to fabricate a framework for the future of our Armed Forces which provides for an adequate defense for this country and that of our allies. It will be a difficult job.

Mr. President, the chairman of our committee has taken the primary initiative on defense conversion. I wish to commend him for doing so. The defense conversion package is designed to assist defense industries in making a transition from primary reliance on defense contracts to a more diversified business base.

Our committee has recommended spending some $600 million on a series of programs, creating partnerships between the Federal Government, States and localities, and the private sector.

These programs would foster such efforts along with the development and application of critical advanced technologies and manufacturing technologies. Other programs would provide technical assistance to smaller defense firms attempting to enter the commercial marketplace or to market products overseas.

These programs all share similar features. They are based on the principle of cost-sharing among the Department of Defense and other participants in the partnerships. In some cases, the partnerships would even mandate a decreasing share from the Defense Department over time. This will ensure that DOD enters into only those partnerships in which the private sector and the other participants are willing to invest at least half of the resources.

Another feature of the programs recommended by the committee is that, to the maximum extent, the Defense Department will participate in existing efforts by other Federal agencies and State and local governments. Finally, our bill mandates the use of competitive procedures for the award of all cooperative agreements under this authority.

The committee adopted a provision within this bill that would establish a civil-military cooperative action program to draw on the resources of the military services to assist in meeting domestic needs.

I believe that there are areas where the capabilities of our military services can be used effectively—without in any way denigrating their military readiness—to assist in alleviating domestic problems that exist in the civil

sector. Military people are highly skilled in leadership, training, and education and present outstanding role models for young people.

We should be able to work out ways at local levels between military and local community officials to use the capabilities of both our active and reserve components along with local resources to alleviate domestic problems.

While there are no resources specifically identified wihin this bill for civil-military programs, the Secretary of Defense is authorized in section 1060 to use the skills, capabilities, and resources of the Armed Forces to assist civilian efforts to meet the domestic needs of the United States.

Mr. President, as I have already indicated, I believe that there are certain areas where we can use military personnel and assets to assist in meeting domestic needs. It is possible, however, that under this broad authority, Department of Defense resources could be used in the future to an extent and in a manner not intended within the spirit of this legislation as passed by the committee. I remain concerned about providing this kind of broad authority to a Secretary of Defense.

And I would like to acknowledge at this time the ever-helpful contribution by the Senator from Oklahoma [Mr. BOREN]. He has worked with out chairman and myself on this program and I hope we have, to a large measure, met his goals. I join him on independent legislation, which is still being considered by the Senate.

Mr. President, while I support this bill and believe that our committee did a commendable job of achieving agreements on very tough issues, there are several areas about which I still have some measure of disappointment and, indeed, concern.

I was extremely proud of our committee and, indeed, this body last year when we joined to approve the Missile Defense Act of 1991.

That act was the result of many individual efforts. My regret is that it was not fulfilled as we intended it here in the Congress. As a consequence, our committee had to readdress that act and this whole area of SDI in an intensive manner this year.

Recognizing the growing threat of the proliferation of ballistic missiles and related technology, as well as nuclear, chemical, and biological weapons capabilities, we charted a course to provide for a defense for the American people as soon as technology would allow.

Working in close concert, the Armed Services Committee agreed on a missile defense program with three primary features:

First, rapid development and deployment of highly effective theater missile defenses;

Second, rapid development and deployment of a multiple-site, ground-based, limited defense system [LDS] to protect the United States;

Third, continued robust funding for space-based systems such as Brilliant Pebbles to provide the potential for enhancing theater and strategic defenses at a future date.

Unfortunately, several members of our committee no longer seem to view this situation with the same level of seriousness as last year. However, in my opinion, the threat to the United States of an accidental, unauthorized or limited missile attack continues to be great. And the threat is growing. The breakup of the Soviet Union and the Warsaw Pact into several states which still possess nuclear weapons, and the technology that is spreading throughout the world, continues to pose, in my judgment, a serious threat to the security of our country and that of our allies.

The committee voted this year to support a funding level of only $4.3 billion for the SDI Program, a reduction of $1.1 billion from the President's request and $300 million less than the committee recommended last year.

After a considerable amount of debate, the committee recommended only $350 million for the space-based interceptor program. It is essential that we maintain the Senate position in conference to sustain the minimum funding necessary for this important system. I hope that the Senate will send a strong signal reinforcing the commitment to missile defenses that we made last year. The urgency and the need not only persists but it grows, Mr. President.

We must be resolute now in order to ensure that we have missile defenses in place before this danger poses a threat which could bring about severe damage to sections of our country and perhaps to our allies and, most importantly, the troops of our Armed Forces deployed around the world. We have an obligation when we send them to the far corners of this world to equip them with every known means to protect themselves. With the ever-increasing proliferation and, I might add the simple, fabricated weapons, crude weapons like the Scud which we witnessed in the gulf operation, I think the threat is increasing to the point where we have to increase our own efforts in this area.

I would like to turn now to the question of the selected Reserve. This is another area of the bill that causes me concern. Once again, the committee has recommended higher authorizations for the selected Reserve than requested by the administration. In fact, the committee has recommended a reduction in the selected Reserve amounting to only 22 percent of that reduction recommended by the Secretary of Defense, and that recommendation was predicated on the advice and counsel of the Chairman and the members of the Joint Chiefs of Staff.

In my opinion, this figure that we have incorporated in this bill is imprudent. The committee indicated that it took this action to justify this size of the selected Reserve based on uncertainty about the threat. But the committee has been certain enough about the threat to approve 100 percent of the active duty reductions each year while refusing to make real reductions in the selected Reserve. Even if we had approved 100 percent of the reductions, mind you even if we approved 100 percent, as requested by the President for the Reserve components, the selected Reserve would still be 200,000 stronger than it was when President Reagan took office in 1981. The year 1981, you will recall, was really the apex of the strength of the combined forces of the Soviet Union and the Warsaw Pact. So that gives you some idea of how we have failed to face up to our responsibilities to make appropriate reductions in the selected Reserve.

Today, forces of the former Soviet Union and the Warsaw Pact, are in rapid decline in strength and effectiveness, yet we still cannot agree to cut the selected Reserve of our own forces. At the same time, we are drawing down the strength of our active duty forces to the lowest levels since the beginning of the Korean war.

I think that is a failure on our part.

The committee recommended on operations and maintenance a funding level of $81.7 billion. After considering transfers involving O&M accounts, the total reduction in O&M funding is approximately $4.2 billion. Military readiness and activity levels are directly and severely affected by this decrement in funding. We have tried to minimize these effects by directing a number of associated management changes, primarily in secondary inventory management policy. This series of changes is projected to save $3.2 billion by reducing the excess secondary inventory.

While we have taken steps to alleviate the negative impact on military readiness, if we continue to reduce these accounts or use these accounts to fund other activities, we will certainly incur serious readiness problems and morale problems.

Mr. President, I would like to conclude with just a comment once again thanking my chairman, the members of the committee and two superb professional staffs for the opportunity to work with them as ranking member now in my sixth year. I look forward to, of course, remaining on the committee. Next year the minority side, or it could be the majority side—time will tell—will be under the stewardship of a great American, the senior Senator from South Carolina [Mr. THURMOND].

I remember when I came to the Senate 14 years ago, he was the first to greet me. I have sat next to him now these 14 years on the committee. I have watched when he has labored with a de-

cision as to whether or not he wanted to leave the Judiciary Committee—where he has been ranking and, indeed, chairman in that period of time—to take on comparable responsibilities in the Armed Services Committee. Many times I sat with him when he counseled with my predecessors Senator Goldwater and Senator Tower, each of whom were able to have the stewardship of the Republican side by virtue of his forbearance, a forbearance that he felt was necessary to continue to fulfill certain objectives he had in the Federal judiciary system of our Nation and other responsibilities associated with the Judiciary Committee.

But now this illustrious and well-known and beloved American will assume the duties in the next Congress as the ranking member, or chairman, as the case may be, of the Armed Services Committee.

Earlier today, we recognized the contributions to our Nation's defense by the distinguished Senator from Rhode Island [Mr. CHAFEE] with whom I had the privilege of serving in the Navy Department for many years. He was honored in particular for his participation in the Battle of Guadalcanal. I thought it would be appropriate if I concluded my remarks by inserting in the RECORD the distinguished military history of the senior Senator from South Carolina who went across the beaches of Normandy 40-plus years ago and who will soon take up the responsibilities as the ranking member of the Armed Services Committee.

So, Mr. President, I ask unanimous consent that a full recitation of the distinguished military record of the senior Senator from South Carolina [Mr. THURMOND] be printed in the RECORD.

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

SENATOR THURMOND'S RECORD OF MILITARY SERVICE

ASSIGNMENT RECORD—U.S. ARMY RESERVE SERVICE—EXTENDED ACTIVE DUTY AND ACTIVE DUTY FOR TRAINING

Date, grade, and unit assignment

09 Jan. 24: 2LT; Commissioned in Infantry, USAR, from ROTC Clemson College.

11 Apr. 26/25 Apr. 26: 2LT; Platoon Commander, Company E, 325th Infantry Fort Screven, Georgia.

11 Jul. 26/25 Jul. 26: 2LT; Student, Unit Cadre Training, Company Officer Course 327th Infantry, Fort McPherson, Georgia.

17 Jul. 27/30 Jul. 27: 2LT; Command Training, 327th Infantry, Fort McPherson, Georgia.

30 Mar. 32/12 Apr. 32: 1LT; Platoon Commander, Company B, 8th Infantry, Fort Benning, Georgia.

08 Aug. 37: 1LT; Terminated USAR Commission.

(Break in Reserve Service for Active Duty World War II, 6 April 1942 to 20 January 1946.)

07–21 Aug. 49: COL; 96th Military Government Group, Fort Bragg, North Carolina.

06–20 Aug. 50: COL; Instructor, Military Government Training, 412th Military Government Company, Fort Bragg, North Carolina.

05–19 Aug. 51: COL; Commander, 360th Military Government Area (USAR) Columbia, South Carolina (Duty at Fort Gordon, Georgia).

17–31 Aug. 52: COL; Commander, 360th Military Government Area (USAR) Columbia, South Carolina (Duty at Fort Gordon, Georgia).

16–30 Aug. 53: COL; Commander, 360th Military Government Area (USAR) Columbia, South Carolina (Duty at Fort Gordon, Georgia).

15–29 Aug. 54: COL; Commander, 360th Military Government Area (USAR) Columbia, South Carolina (Duty at Fort Gordon, Georgia).

20 Aug. 55/03 Sept. 55: BG; Advisor, Army War College, Carlisle Barracks, Pennsylvania.

01–15 Jul. 56: BG; Deputy Chief, Civil Affairs and Military Government School, Fort Gordon, Georgia.

RECORD OF ARMY RESERVE ASSIGNMENTS

Date, grade, and unit assignment

14 Oct. 56/03 Nov. 56; BG; Duty with Assistant Secretary of Defense for Manpower, Personnel and Reserves, OSD, Washington, D.C.

20 Sept. 57/13 Oct. 57; BG; Duty with Commander in Chief, US Army Europe, Heidelberg, Germany.

30 Aug. 58/14 Sept. 58; BG; Deputy Chief, Office of the Chief of Civil Affairs and Military Government, Department of Army, Washington, D.C.

24 Oct. 59/07 Nov. 59; MG; Student Officer, US Army Command and General Staff College, Fort Leavenworth, Kansas.

06–07 May 60; MG; US Army Civil Affairs School, Fort Gordon, Georgia.

19 Oct. 60/04 Nov. 60; MG; Assistant Chief, Office of the Chief of Civil Affairs, Department of the Army, Washington, D.C.

27 Nov. 60/11 Dec. 60; MG; Office of the Chief of Legislative Liaison, Office of the Secretary of the Army, Washington, D.C.

04 Aug. 61; MG; Office of the Chief of Civil Affairs, Department of the Army, Washington, D.C.

07–21 Oct. 61; MG; Office of the Chief of Civil Affairs, Department of the Army, Washington, D.C.

22 Oct. 61/05 Nov. 61; MG; Office of the Chief of Legislative Liaison, Office of the Secretary of the Army, Washington, D.C.

14–23 Oct. 62; MG; Assistant, Deputy Chief of Staff for Military Operations, Department of the Army, Washington, D.C.

11–25 Nov. 62; MG; Office of the Secretary of the Army, Washington, D.C. (with duty Europe and the Middle East).

09–14 Dec. 62; MG; US Army Special Warfare School, Fort Bragg, North Carolina.

05–11 Jan. 64; MG; US Army Special Warfare School, Fort Bragg, North Carolina.

07–22 Nov. 64; MG; Office of the Chief of Legislative Liaison, Office of the Secretary of the Army, Washington, D.C.

ASSIGNMENT RECORD—WORLD WAR II SERVICE, ACTIVE DUTY

Date, grade, and unit assignment

06 Apr. 42 CPT; Appointed AUS, Corps of Military Police.

17 Apr. 42/19 Nov. 42 CPT; Executive Officer/S–3, 713th Military Police Battalion, Albany, New York, and later Camp Picket, Virginia.

20 Nov. 42/31 Dec. 42 CPT; Assistant Provost Marshal, Headquarters, Eastern Defense Command, and 1st Army, Governors Island, New York.

01 Jan. 43/25 Oct. 43 MAJ; Assistant, Assistant Chief of Staff, G–2, Headquarters 1st Army, Governors Island, New York.

3 Dec. 43/7 Jan. 44 MAJ; British Civil Affairs and Military Government Staff College, England.

26 Oct. 43/30 June 44 LTC; Assistant Civil Affairs Officer, Headquarters, 1st Army, European Theater of Operations.

22 May 44/20 Jun. 44 LTC; Attached to 82nd Airborne Division, Orders 300.4, Headquarters, 1st Army, 22 May 1944, Normandy Invasion.

01 Jul. 44/30 Jun. 45 LTC; Assistant, Assistant Chief of Staff, G–5, Headquarters, 1st Army, European Theater of Operations*.

01 Jul. 45/18 Oct. 45 LTC; Assistant, Assistant Chief of Staff, G–5, Headquarters, 1st Army, Pacific Theater of Operations.

19 Oct. 45/20 Jan. 46 LTC; Separation Center, Relieved from Active Duty, Fort Bragg, North Carolina.

"I only regret that I have but one life to lose for my country."—NATHAN HALE.

AWARDS AND DECORATIONS OF MAJOR GENERAL JAMES STROM THURMOND, USAR

I Decorations

Legion of Merit.
Legion of Merit (1st Oak Leaf Cluster).
Bronze Star Medal (with "V" Device).
Army Commendation Medal.
Purple Heart.

Certificates

Third Army Certificate of Achievement.
OCAMG Certificate of Achievement.
Department of the Army Certificate of Appreciation.

II Service medals

American Campaign Medal.
European-African-Middle Eastern Campaign Medal (with Bronze Arrowhead, and one Silver Service Star (in lieu of five Bronze Service Stars).
Asiatic-Pacific Campaign Medal.
World War II Victory Medal.
Armed Forces Reserve Medal (with two 10-Year Devices).

III Foreign awards

France: Croix de Guerre, Order of Army Corps with Silver Gilt Star.
Belgium: Order of the Crown, Degree of Officer.

IV Unit awards

Presidential Unit Citation (previously identified as Distinguished Unit Emblem).

V Non-military awards conferred as a result of national service

Selective Service Medal, awarded by the United States Congress.
Cross of Military Service, awarded by the United Daughters of the Confederacy.

"Let us have faith that right makes might; and in that faith let us to the end, dare to do our duty as we understand it."—ABRAHAM LINCOLN.

Mr. MACK. Mr. President, it is with real sadness I find, that as it now stands, I cannot support committee's bill which comes before the Senate today. Unfortunately, this legislation contains fundamental flaws which left me no choice but to vote against the committee report when it left our markup 2 weeks ago. I sincerely hope that this body will find the collective wisdom and political will required to remedy those flaws and address other important issues as it considers the fiscal year 1993 Department of Defense

*Detailed to General Staff Corps (with troops) until relieved from First Army effective 29 July 1944.

authorization here, on the floor of the Senate.

The bill's first failing concerns fundamental funding levels. Before any congressional action whatsoever, President Bush set the Defense budget on a steep decline which would result in an overall cut of 26 percent between fiscal years 1985 and 1997, even as domestic spending skyrockets by 33 percent. By fiscal year 1997, the President would have us spending only 3.4 percent of our GNP on national defense—the lowest level since before World War II. The committee went even further: This bill is a full $7 billion below the President's amended budget request and nearly $3 billion below the budget resolution agreed to here, on this very floor, only months ago. I regret that such vital decisions about the funding for America's national defense seem to result from political expedience and efforts to meet arbitrary fiscal targets rather than the actual requirements of our military and Nation's defense.

So many seem so eager to declare the cold war over and reap huge peace dividends by ripping the heart out of the Department of Defense. I wish it were that easy. Like all Americans, I have watched the world changes of the last 2 years with equal measures of wonder and delight. Under the leadership of Presidents Bush and Reagan, the chances of an all-out nuclear war have dwindled to the point where we have finally been able to take our bombers off alert, standdown our ICBM force, and stop the production of plutonium and highly enriched uranium. However, a simple truth must now be faced: As expensive as the individual weapons may be, strategic forces are still much less expensive to maintain than conventional forces. And for the foreseeable future, it is those same conventional forces who will continue to bear the weight of preserving our freedom and meeting the challenges which we will face around the world. Highly trained soldiers, sailors, airmen, and marines don't come cheap. Neither do the sophisticated weapons which they use. In the euphoria of this remarkable age, the bill before the Senate makes the mistake of cutting too much too fast.

The bill also falls far short on the matter of the strategic defense initiative. President Bush's request for SDI was $5.4 billion. After intense negotiation, the best the committee could do was $4.3 billion. Moreover, funding for Brilliant Pebbles space-based interceptors is only $350 million, compared with the $400 million cited by SDIO as the absolute minimum necessary to meaningfully continue the program. In any case, even $400 million could hardly be considered robust funding as called for in last year's historic Missile Defense Act compromise.

While some have claimed, rather loudly, that recent world events have made SDI a program in need of an enemy, I believe that sort of thinking is remarkably shortsighted. Wish as we may that the dissolution of the Eastern bloc and the Soviet Union itself has made the world a safe and harmonious place, reality presents a much sterner challenge. Proliferation, not just of ballistic missile technology, but of the missiles themselves, looms large as militarily advanced nations, starved for hard currency, sell virtually anything for which there is a market.

As the world's superpowers step back from the brink of nuclear armageddon, agreeing to historic reductions in these terrible weapons, the time has come to turn our eyes to the shining goal of a real defense against attack, rather than the nightmare threat of utter immolation of the planet in retribution for such an attack. In a world where the credibility of strategic deterrence is increasingly called into question, it is insane not to do everything in our power to provide Americans in their homes the real security which they have every right to expect. For us to walk away from that goal, wringing our hands about cost, concurrency, and the need for blind adherence to an outdated treaty, in the face of technology which is poised to deliver this national security, would be an abdication of our fundamental responsibility to the people of America.

Finally, this bill contains some remarkably ill-conceived priorities when it comes to major defense programs. The Navy's next-generation medium-attack aircraft, dubbed the A-X, which is designed to replace the aging A-6, sees its funding slashed. There is no more vital aircraft development program in the Pentagon than the A-X; for without medium-attack capability, the very mission of our carrier battle groups is called into question. As we embark upon an era in which regional conflict replaces superpower confrontation as the most likely scenario requiring American military action, the power projection capability of our carrier battle groups, our medium-attack aircraft in particular, becomes all the more necessary.

To that same end, the reduction in long-lead funding for America's next aircraft carrier is similarly foolhardy. Many of the old, conventionally powered warhorses among our carrier fleet have been, or will soon be, retired or refitted to noncombatant missions. The names of these marvelous ships conjure glorious pages of history: *Lexington*, *Midway*, *Forrestal*, *Ranger*, and *Independence*. As these ships leave the fleet, we must prepare to replace them, and carry on the legacy and missions unique to naval aviation. The RH-66 Comanche helicopter is terminated, and vital upgrades to the F-14 Tomcat fighter are, again, underfunded. As we did on the rescission package, when we voted to fund the *Seawolf* submarine, this bill often spends our precious defense resources on unneeded and unrequested programs and force mixtures while vital needs go wanting.

These, then, are some of the reasons which compelled me to oppose the committee's bill as it left our markup. In fairness, I must say that there is much here of which I wholeheartedly approve. The efforts made by colleagues on the committee were both constructive and sincerely motivated. I reiterate my hope that we can make some important changes to the bill so that I, in good conscience, can support it, and so that we can continue to provide America with the quality of national defense on which they have come to rely.

Mr. COHEN. Mr. President, I am extremely pleased that the bill before us today, the fiscal year 1993 Defense authorization bill, includes several provisions affecting the future of Loring Air Force Base in Maine. I want to thank the Armed Services Committee for agreeing to include these provisions in the final legislation prepared for the Senate.

Last year, the Air Force announced its recommendation to close Loring AFB. Despite questions about the process used by the Air Force in making its recommendation, the Base Closure Commission concurred. This was a devastating blow to all of Maine, but especially to the people of Aroostook County where Loring is located.

This decision is now being challenged in court. But the people of Aroostook County are resilient and resourceful and are exploring every possible option for reuse as they proceed along the lines of litigation. This will be a very challenging job, given Loring's geographic location.

Because Loring is a Superfund hazardous waste site, however, it is clear that the search for a new use will be an even more difficult task.

The prospects of a new owner being named responsible for the hazardous waste caused by Air Force activities at Loring will no doubt deter many businesses or private groups from considering opportunities there. In addition, the lengthy cleanup schedule—possibly 20 years in Loring's case—leaves open the possibility that reuse might never take place unless we make changes in current law governing federally owned Superfund sites.

The bill under consideration today incorporates the language from two bills I introduced with my colleague from Maine, Senator MITCHELL, to eliminate these uncertainties. The first provision authorizes the Secretary of Defense to indemnify all successors to property at closing military facilities from liability for hazardous waste created by the Department of Defense. Similar language is already in place for Pease Air Force Base in New Hampshire, and I believe Loring and other similarly situated facilities deserve the same treatment.

The second provision would clarify the section of Superfund law regarding the transfer of clean portions of a federally owned installation that has been designated a Superfund site. It would set up standards and procedures by which clean Federal property that is part of a federally owned Superfund site can be transferred to the private sector.

One of the most frustrating aspects of this situation has been the refusal of the Air Force to spend money on the cleanup of the hazardous waste it created at Loring. As my colleagues have heard, we already face significant obstacles to reuse at Loring, one of the greatest being hazardous waste cleanup. The lack of cooperation from the Air Force on the funding issue has only made things worse.

No cleanup funds have been spent at Loring in fiscal year 1992. A whole year of cleanup effort has been lost as a result of the Air Force's intransigence on the funding issue.

I am therefore pleased that the committee has included a provision I requested that authorizes the Air Force to spend the money it claims it is prohibited from using. These funds have been included in the urgent supplemental appropriations bill now being considered by Congress, and I hope that bill is approved in the very near future. The language in the Defense authorization bill simply assures us that the Air Force will still be able to spend this money should the supplemental bill not become law.

I believe that these provisions will help the Loring Readjustment Committee take a step closer to the successful reuse of Loring. I cannot underestimate for my colleagues the economic devastation caused by the closure of Loring Air Force Base. It is essential that we take all reasonable steps to ensure that the reuse of the base, or portions of it, can occur without unnecessary constraints.

Despite the severe blow dealt them by the decision to close Loring, the people of Aroostook County are attempting to convert adversity into economic opportunity. I intend to do whatever I can to help them, and I hope these provisions will make their job a little easier.

Thank you, Mr. President.

POWER PROJECTION AND THE FISCAL YEAR 1993 DEFENSE AUTHORIZATION ACT

Mr. MCCAIN. Mr. President, we face two major challenges in reshaping our forces and strategy. The first challenge is to shift from a mix of strategy and force plans driven by the Soviet and Warsaw Pact threat to a strategy and force mix that focuses on contingency capabilities throughout the world.

The second challenge is to reach a new consensus on defense spending that will ensure the maximum possible peace dividend in terms of reductions in our deficit or taxes, but that establishes a stable floor in defense spending that will still preserve the forces and capabilities we need.

FOCUSING ON FORCE REQUIREMENTS, NOT THE COLOR OF THE UNIFORM

There are many things we have to do to meet these two challenges, but the distinguished chairman of the Armed Services Committee is right in calling for a comprehensive reexamination of the roles and missions of our forces. We cannot rely on the past, or let historical momentum shape our capabilities for the future. We need a zero-based reexamination of the roles and missions performed by each element of our force mix.

We must also recognize that such a reexamination involves far more than simply examining the issue of whether our military services perform duplicative functions or could perform some tasks more cost effectively if the task was performed by a given service. It is far too easy to fall into the trap of debating the uniform, rather than analyze the military need.

In fact, there is a long postwar history of nations that attempted to unify the military services and which ended up by having to reverse their plans. There is an equal history of reorganization efforts that were designed to specialize the armed forces, and achieve major economies, but which actually deprived them of critical mission capabilities and led to increases in cost.

The British and Canadian cases are examples in point. Some changes in roles and missions proved useful, but others simply demoralized the military or deprived them of critical capabilities.

Britain learned in the Falklands, for example, that bombers are not a substitute for carriers, and that depriving its carriers of an effective airborne warning platform could nearly cost it a war. Both nations have seen the economies of unification and specialization turn into nothing more than force cuts or the substitution of a centralized bureaucracy and overhead functions for more effective service activity.

We must remember that our ultimate goal is to find the most cost-effective way to give us the level of forces and capabilities we need for the future. It is not to change uniforms or create interesting new organization charts. There is much to be gained from the proper reexamination of roles and missions.

There is much to be lost if we are careless, or if we prejudge the results of the work now underway by the Chairman of the Joint Chiefs and the military services.

This is why I welcome the fact that our bill calls for needed studies, but does not attempt to decide the issue without military advice and extensive hearings. I do not believe, as some in the House seem to believe, that we should attempt to use the budget to impose a new strategy and force plans on the military without their consultation or advice.

I do not believe that we should use our power of the purse to bypass the service chiefs, the Chairman of the Joint Chiefs, the Secretary of Defense, and the President. "Advice and consent" does not mean "revise and impose."

THE IMPORTANCE OF NAVY AND MARINE CORPS FORCES IN A POWER PROJECTION ERA

At the same time, I would like to join Senator NUNN in raising several issues regarding roles and missions that I believe should be considered by both the Pentagon and in our debates on this issue.

My background as a naval officer and my experience as a member of the Senate have caused me to devote particular thought as to how our Navy and the Marine Corps should change their roles and missions, and force structure, to meet our future needs.

Our country has adopted a new national security strategy that emphasize power projection, and that uses strategic deterrence, forward presence, and crisis response as its principal elements. We must pursue this strategy to meet armed threats that are regional, isolated, perhaps ethnic in origin, difficult to predict and even more difficult to resolve.

The kind of civil war presently being fought in the territory of Yugoslavia is more likely to be the norm than the exception. We must proceed through a period of change and uncertainty as the world makes a transition from the past 40 years of East-West confrontation to a new steady state that will surely involve increased economic interdependence, shifting alliances, increased emphasis on coalition or United Nations action, new domestic agendas and, at least in the near term, greater political instability.

Within this global context the Navy and Marine Corps must reshape themselves to satisfy the demands of this new landscape. This concept implies operations in the littoral areas of the world: emphasizing operations from the sea rather than on the sea; influencing events ashore through forward presence; and supporting U.S. interests overseas by protecting U.S. citizens and property, deterring and containing crises, and, as a last resort, projecting power.

In this effort we must have forces that are able to arrive on the scene quickly and to act decisively.

THE CRITICAL IMPORTANCE OF POWER PROJECTION FORCES IN THE POST-COLD-WAR ERA

As I have discussed the future with our military leaders I have been struck by the fact that, while we designed our cold war naval forces to fight a global war with the Soviets, we instead used them for protection of United States economic and political interests, humanitarian assistance, response to terrorist activities, and civilian evacu-

ation—many of the same tasks we may associate with the new strategic environment.

We have used military force to keep the peace, protect American citizens and our allies, and deter and defeat aggression more than 240 times since the end of World War II. More than 90 percent of these uses of force did not involve contingencies where Soviet or Warsaw Pact forces were involved. Virtually all of these uses of force involved contingencies without strategic warning and occurred where forward presence was vital to U.S. success.

It is important that our leaders and the Congress keep this historical perspective in mind as they reshape our fighting forces. On average during the past 45 years, our naval forces, particularly our aircraft carriers and our marines, were used for crisis response between four and five times a year.

Of course, many of these crises could be attributed to East/West confrontation. We had all hoped that when Mr. Gorbachev withdrew the Soviet Union from a confrontational posture, first by plan, then by collapse, the world would have become more stable.

Instead, the demand for naval forces to respond to regional crises has remained nearly constant. More than 30 times since 1985, we have employed naval forces to control or to resolve an international crisis, none involving the Soviet Union.

At present there are between 20 and 30 areas around the world where armed conflicts are taking place. Just as fighting in Bosnia has drawn naval forces to support peacekeeping efforts, other conflicts could generate a similar demand for protection of our national interests.

THE NEED FOR FORWARD PRESENCE

Experience also shows that forward presence helps to contain a crisis. For example, over half of the crisis control events in which naval forces have been involved were resolved within 40 days, the vast majority within 60, most without the use of force. Measured against the time required for naval forces to arrive at a hot spot from the United States—35 days for the Persian Gulf—forward presence has spelled the difference between resolution and conflagration.

Our willingness to sustain a forward deployed naval presence allows America's leaders to contain a crisis and to put low-key pressure on offenders, and provides time to engage in diplomatic maneuvering without being compelled to commit forces to full scale combat before we are fully prepared—politically and militarily.

Furthermore, many positive results can be achieved through normal naval operations—friendly port visits send an unmistakable message that America cares about what happens. A scheduled multinational exercise involving the Navy and Marine Corps provides an unobtrusive assurance and ensures the capability to operate together in time of need and to offer humanitarian assistance from the sea.

When a crisis does occur, however, forward deployed amphibious ready groups with embarked marines, a maritime action group composed of Tomahawk-armed cruisers and submarines, or carrier battle groups supported by amphibious forces and maritime prepositioning ships are quite capable of exerting overt pressure to resolve it.

These are the expeditionary capabilities inherent in our naval and marine forces, as well as many elements of our Army and Air Force. They can generate a graduated application of power through many stages short of actual combat. When needed, however, they have the ability to project power from the sea as an enabling force for joint operations—seizing a lodgement and continuing operations while additional combined forces are brought to bear from bases in the United States.

As forces arrive in theater, naval forces will act as a bridge from sea to shore. When the joint campaign is complete, naval forces will normally remain behind to cover the withdrawal of land forces and ensure conflict termination goals are met, without a reflash of hostilities.

CRITICAL FUTURE MILITARY CAPABILITIES

Let me stress that all four of our services have a critical role to play in our Nation's new power projection strategy.

The Army's light divisions and contingency forces are critical to any U.S. intervention against all the major potential threats our Nation faces. Not only must we maintain light forces like the 82d and 101st Divisions, we must provide at least three fully ready and rapidly deployable heavy division forces, capable of medium and high intensity combat, and we must maintain a significant forward presence in Europe and Northeast Asia.

The Air Force's bombers, fighters, and attack aircraft are of equal value, as its strategic airlift. A decisive technical superiority in land-based aviation is critical to our future needs. This is particularly true in the case of long range attack aircraft and the attack aircraft we rely on to support our troops in the field.

The Nation must maintain three strong and fully ready Marine Corps Expeditionary Corps, properly equipped and supported for midintensity combat and amphibious operations. We must keep the corps forward deployed, prepositioned, and ready for action.

We must also, however, provide the proper capabilities the Navy needs for the post-cold-war era.

What are these capabilities? To satisy the Nation's security requirements, the Navy must be able to operate forward and respond swiftly to short notice tasking. It must be flexible—capable of operating across the broad spectrum from peace to conflict and generating force packages appropriate to need. It must be agile—massing or dispersing when necessary and shifting easily from one unified command to another as a potent cohesive force. It must be integrated—a Navy-Marine team that can move from sea to shore, and back with ease. It must be able to stay the course—self-sustaining, largely independent of host nation support and foreign basing rights. It must be interoperable—able to work as a seamless member of a joint force in peace, crisis or conflict.

There are several weapons systems in this year's budget that specifically support the Navy's power projection mission. Important among them are those that evolve from the Navy's aviation plan—F/A-18E/F, A/X, and CVN-76. I would like to discuss those crucial weapons systems in turn.

THE F/A-18E/F

The committee has made a wise decision in fully funding the F/A-18E/F. I am all too conscious of the troubled history of naval aviation in recent years. I believe, however, that the Navy has demonstrated to the Congress that it has developed an effective plan for the modernization of naval aviation, and that the F/A-18E/F is a most critical part of this plan.

The Navy must control the cost of this program in constant dollars and keep development within the current program development cost of $4.88 billion. It should be able to buy 48 F/A-18C/D aircraft in the fiscal year 1993 budget, and to develop the F/A-18E/F as a relatively low-cost upgrade of a proven system. This would ensure that we develop a high-low mix of aircraft where the F/A-18E/F complements the A-X and can meet the Navy's needs in many contingencies.

I do not believe that our opposite numbers in the other house are right in attempting to restructure the Secretary of Defense's budget request for naval aviation. We cannot afford to delay development of the F/A-18E/F, which involves relatively benign technical risk, while accelerating the A-X with its much greater degree of technical development.

The F/A-18E/F will only cost about half as much as developing a new type of aircraft, yet it provides a 35-percent increase in range and 50-percent increase in endurance over the F/A-18C/D. It offers an 80-percent increase in time-on-station in some key mission contingencies, and a 25-percent increase in combat air patrol station coverage. It has superior payload flexibility and recovery capability, and it will provide improved survivability in terms of reduced vulnerable area, increased expendables, and improved electronic countermeasures. At the same time, the F/A-18E/F should be affordable if we avoid competitive prototyping.

THE A-X

I firmly believe that we should fully fund the Secretary of Defense's budget request for the A-X. I regret the mistakes that led to the cancellation of the A-12, but I believe that the A-X is absolutely critical to give both the Navy and the Air Force the kind of decisive superiority in long-range attack missions they will need after the year 2000.

The A-X is a model joint program with joint participation by the Navy and the Air Force. It is being developed to replace current strike aircraft that are completing their service lives.

The A-X will replace the Navy A-6 and the Air Force F-111, F-15E, and F-117. The multi-mission capability of the A-X will provide the tools necessary to execute successfully any mission assigned. Its technology will be state-of-the-art, designed to neutralize future threats and to provide superb weapons delivery capability.

The A-X will be fast, highly maneuverable, and able to conduct a wide variety of autonomous missions. It will be able to employ air-to-air missiles, antiradiation missiles, precision guided munitions, and unguided or dumb bombs. It will have the latest survivability upgrades and will be an invaluable asset to every naval or joint commander.

I believe that we must be extremely careful not to force tradeoffs between advanced attack aircraft and our bomber force decades before we can predict the future nature of the threats we face. When we do, we must ensure that we take into account all essential variables. For example, during Desert Storm we learned that airpower can play an extraordinarily important role in hurling back aggression and in limiting casualties provided that we have an absolute and decisive air superiority over the enemy.

We also face a near certainty that the next conflict will be different from Desert Storm, and we must be ready for a wide mix of crisis and short conflicts. While long-range bombers provide the National Command Authority with a first-strike capability that can deliver large quantities of ordnance over great distances, this option has never been employed for crisis control.

The most important aspect of crisis control is an immediate and sustainable strike capability in the theater to illustrate resolve, to provide time for critical political decisions to be made, or to neutralize opposing offensive forces if required.

Now that we have canceled production of the F-15E, the A-X is the only practical road to an advanced medium attack aircraft that either the Air Force or Navy can deploy during the next quarter century. The Air Force and Navy can retain and improve the F-111 and A-6, but we learned from the Persian Gulf war that our existing attack fighters were less effective than we thought and had problems in survivability, range-payload, and their ability to deliver advanced conventional munitions.

The A-X will offer major advantages over both the F-111 and A-6, some of which will be as much as 42 years old by the time the first A-X squadron is active with the Navy or the Air Force. The A-6 and F-111 will average 25 years of service, and even the best mix of upgrades of the F-111 and A-6 cannot prepare these aircraft for the complex threat environment that will then exist in many Third World nations—both in terms of air defense and the need to find and kill highly mobile targets.

A carrier-based A-X will provide the capability to execute this mission effectively. If military intervention is decided upon, forces will be moved into the theater to execute the orders of the President. Because of the critical nature of any conflict, the National Command Authority should always ensure that adequate forces are in place before initiation of combat operations.

If military strike operations are required as a last resort, A-X will not be constrained by host nation limitations or overflight restrictions, nor will its operational effectiveness be limited by lack of targeting flexibility or the fatigue associated with flight times of 13 or 14 hours. Carrier-based tactical aviation, including A-X, will provide a substantial part of the response force, be able to conduct close air support, carry out medium range battle area interdiction, and provide cover and support for other combat assets.

The need for the A-X is particularly striking when we consider the following shifts in our strategic posture:

Our ability to deploy sheer numbers in terms of naval, land, and air forces will be sharply reduced.

Our deterrent capabilities in many contingencies will be dependent on the perception of a given threat that we can repeat and improve on our performance in Desert Storm.

The willingness of the United Nations, and our friends and allies, to support the United States in peacekeeping, and in deterring and ending aggression will be heavily dependent on the perception of our strength.

Our ability to develop a domestic political consensus around military action will depend heavily on our ability to maintain a decisive edge over potential threats that ensures low United States and allied casualties. It will also depend on having highly flexible strike systems that minimize damage to civilians and even enemy casualties.

Our capability to limit escalation, the endurance of conflicts, and to terminate conflicts on favorable terms will be heavily dependent on our tactical airpower.

Our strategic posture will be highly dependent on our presence in every threatened area of the world, and the knowledge that we are both present in a troubled region and able to deploy sustained amounts of military power. We must never forget that Saudi Arabia and Israel are the only two countries in the world—outside of the central region of Europe—that could offer the mix of sheltered, advanced, interoperable air bases we used during Desert Storm.

In most scenarios we will only be able to project air power effectively if we can sustain high sortie rates, if we can rapidly retarget and strike at mobile targets, and if our most advanced attack fighters have both sufficient range and payload to operate at long ranges in extremely demanding missions.

While the A-X will be as important to the Air Force as to the Navy, it is interesting to compare a carrier force using the A-X to the capabilities of land-based bombers. The carrier-based A-X will be able to sustain substantially higher sortie rates than CONUS-based bombers due to its close proximity to the conflict and its designed levels of reliability and maintainability.

As a quantitative comparison, a 6-carrier force, each armed with 20 A-X's, will be able to generate three times as many sorties in a conflict over Southwest Asia as the planned bomber force operating from the United States over a 30-day period. Additionally, during a sustained campaign, the 6-carrier-based strike force, A-X's and F/A-18's, can deliver almost twice as much ordnance tonnage over a much broader target set at lower payload per dollar than long range bombers based in the United States.

The cyclic nature of carrier operations provides for the continuous employment of A-X for an indefinite period of time. Integrated into that capability is the tactical flexibility required for conducting combat operations.

The A-X will be equipped with the latest electronic devices and carry the weapons needed to integrate it into any war-at-sea scenario. It also will be involved integrally as an organic naval strike weapons system in any conflict requiring amphibious operations.

I do not believe, as members of the House Armed Services Committee seem to believe, that we can accelerate development of the A-X. The F-22 will involve a 13-year development cycle, and our experience with the A-12 aircraft has shown that we need a period of 10 years to bring the A-X to the point where it can become the kind of aircraft that can fully meet the needs of the Navy and Air Force during the next decade in order to dominate the skies of the period after 2000.

At the same time, I see no possibility that we can sacrifice the critical air and power projection superiority that only an A-X can provide to the Navy

and the Air Force by relying on older long-range strike fighters like the F-111 and A-6, or a comparatively small force of B1-B and B-2 bombers. We must have an all-weather, all-environment medium attack aircraft.

More broadly, I see no current possibility that we can shift to a mix of roles and missions where even the Air Force can rely on long-range bombers as a substitute for advanced long-range attack aircraft. We need both, but all of our experience with air combat to date has indicated that it is the flexibility of advanced attack aircraft that is critical in the kind of low- and mid-intensity combat we face in the future.

THE CVN-76

Finally, I believe that we should seek a result of the House-Senate conference that will fully fund the Navy's request for $832 million for advanced procurement of long lead items for the CVN-76.

As we examine our future roles and missions, we must not confuse unproven theory with proven practice, or research with reality. When the United States has responded to crises in the world we have used carriers as our instrument and played them through the entire range of diplomatic gambits. They are a well-known and immensely successful quantity and have proven themselves by responding 31 times since 1985 to conflicts around the globe.

As more U.S. bases in foreign countries are scheduled to be closed in the 1990's we can no longer be assured that facilities for land-based air and ground forces will be available when and where they are needed. America's highly mobile aircraft carrier battle groups will become even more important for the protection of our Nation's security interests. Substituting fleets of long-range bombers, flying from Fortress America, is an unproven concept that raises questions about effectiveness when our objective is a show of force, low-intensity combat operations, and sustainability over time.

Let me again stress that our carrier and long-range bomber forces are complementary assets in a world where our ability to deter war, and our ability to halt or to throw back aggression will be very different from our present capabilities. We will have sharply cut our ground forces, and use of nuclear weapons will be unthinkable.

As a result, we cannot ignore the fact that even today, the attack forces of two carriers can deliver as much payload over a 30-day period as our entire projected bomber force. This means a strong, modern, forward deployed carrier force and a strong bomber force are the essential elements of keeping the United States a superpower in a world that will have no other nation that is capable of preserving peace and democracy.

I believe it is premature to plan for a force smaller than 12 carriers, but, even if we do plan for a smaller force, we still need to begin work in the CVN-76 now to ensure we can cost-effectively modernize our carrier force.

If we act now, we can obtain the CVN-76 for an estimated cost of $4.8 billion. If we delay for 1 year, the decline in our industrial base and changes in contracts will raise our costs to $5.2 billion. If we delay 2 years, the cost will reach $5.55 billion, and $6.0 billion if delayed 3 years. This is a saving of $400 million, $750 million, or $1.2 billion, depending on the timeliness of our action.

The advanced procurement funds requested in this year's budget are the critical link for maintaining our ability to build nuclear propulsion plants for both carriers and submarines. Not funding the CVN advance procurement in fiscal year 1993 will be devastating to the nuclear component industry. With neither submarine work nor commercial nuclear work to fall back on, suppliers have only the fiscal year 1993 CVN components to sustain them until *Centurion* later in this decade.

Failure to appropriate funds for CVN components in fiscal year 1993 would likely be the final straw for many, if not all, of the key component suppliers—leaving them virtually no backlog of uncompleted orders and no reason to believe there are any prospects for naval nuclear business. These are the very suppliers upon which the Navy must rely to design and to build the next submarine.

Mr. President, I ask unanimous consent that a listing of the industries which would be adversely affected by the failure to fund CVN-76 this year, be entered in the RECORD at this point.

I do not believe we should fund any defense program simply to preserve jobs. Nevertheless, funding the CVN-76 today makes good business sense in a tight fiscal environment. A trained work force is now paying dividends with improved construction and with additional improvements expected for the follow-on carriers. We are talking about some 120,000 defense jobs at a time when our economy is only beginning to recover, and critical damage will occur to the nuclear industrial base that we really need.

Most importantly, the CVN-76 responds to two basic strategic needs. First, our present carrier force was not sized to fight Russia or the Warsaw Pact. Over the years, the Department of Defense consistently found that it would take a total of 20 to 25 carriers to meet our requirements for such a contingency. It has instead been sized as the minimum force that will allow a flexible forward presence in Asia, the Mediterranean, and the Persian Gulf, and will provide additional contingency capability.

Second, all carriers are not alike. Our oldest carriers are 36 years old, and we face the prospect of block obsolescence during 2003-2007. Even if we cut our carrier forces, the CVN-76 will provide, for over 20 years of operation, critical improvements in speed and survivability that our old carriers lack.

If we compare the CVN-76 to old conventional carriers like the *Kitty Hawk*, *Constellation*, and *Kennedy*—all of which should retire in the early 2000's—it will have more deck spots and be able to sustain higher sortie rates. It will have far more sophisticated sensor and battle management systems, and be far more capable of operating in difficult combat environments and in close cooperation with other services. It will provide 90 percent more aviation fuel storage and 50 percent more ammunition storage. It will be much faster in deployment, and have much more capability to sustain itself once deployed.

MAKING THE PROPER TRANSITION TO THE FORCES WE NEED

As the distinguished chairman of the Senate Armed Services Committee has asserted, it is extremely important that we reduce the defense budget and reshape our Armed Forces in light of changed circumstances. To accomplish this objective we must complete a thorough review of the proposals of the Chairman of the JCS on roles and missions which should be sent to us shortly, and carefully examine the results of the roles and missions studies we have undertaken.

At the same time, I hope that all my colleagues will agree that we should not try to reshape the Navy or any of our services in advance of a comprehensive review of our strategy and the roles and missions of our forces.

We should not delay or threaten such critical programs as the F/A-18F, A-X, or CVN-76 without overwhelming reason. We first must finish the review of the fiscal year 1993 National Defense Authorization Act, the roles and missions required by the Goldwater-Nichols bill, and fully examine the programs and force plans involved. No matter how we approach this issue, we must do it with all the thoroughness and deliberation that has characterized our operations in the past.

We must also recognize that we are in a critical transition year. During the last few years, we have been able to make cuts in our defense forces and expenditures because of the end of the cold war without fully examining whether we will have sufficient forces for the post-cold-war era.

The committees in the other house have already proposed cuts in the fiscal year 1993 defense budget that could put us on a path where we sacrifice resources that will be critical to our future needs.

We must not repeat the mistakes we made after World War II, after Korea, and after Vietnam. We must not cut our capabilities—sacrificing strength, readiness, and our men and women in

uniform—only to have to spend far more in the long run. We must remember that in national defense, cost-effectiveness is measured in lives and hopes, not simply in dollars.

Accordingly, I believe that we should move forward with our critical power projection programs, and only cut them if a comprehensive examination of our global position, our risks, and our overall force posture indicates that we will live in a far safer world than I believe now exists.

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

THE NON-NUCLEAR INDUSTRIAL BASE FOR AIRCRAFT CARRIERS

Steel: U.S. Steel makers should be able to meet CVN-76 requirements for the immediate future.

Pipe: Domestic military pipe production has already been crippled by the loss of the industry leader in 1988. NNS is currently compelled to import critical pipe from Germany and Britain for domestic upgrade. This situation will only grow worse if CVN-76 is delayed, as the few remaining pipe manufacturers to military specifications will have little, if any, business.

Fittings: Since 1975, the domestic fittings industry has been decimated by foreign competition. The few remaining producers in the Naval market are limping along waiting for CVN-76 in 1995. The delay of CVN-76 could cause several of the unique producers to leave the fitting market.

Valves: Due to the proprietary nature and limited application of naval valves, the fortunes of this industry are closely linked to the naval shipbuilding program. During the early 1980's, a significant number of these manufacturers were forced out business by foreign competition and the lack of demand. More recently, an additional 20 percent of the industry has gone out of business. This loss is especially crippling, due to the high start-up costs and proprietary nature of naval valves.

Machinery: This is another highly proprietary market that has begun a significant shift to the commercial market due to the lack of demand in naval shipbuilding.

Driven by the long time spans between CVN work, low profit margins, difficulty in complying with rigid Government contract specifications, and the downturn in naval shipbuilding, more and more suppliers are focusing on commercial markets or simply dropping out of the defense market. The following are some of the impacts being felt on CVN-74 construction:

Crane Co.: The supplier of proprietary converto-gear valve operators decided to get out of the business due to the lack of projected work. Requalification of another vendor will require an increase in the lead time of 31 months.

Mil Vickers, Inc.: Previous supplier of hull units was closed due to lack of business. Requalification of another vendor added another 15 months to the lead time.

Gil Western Corp.: Previous supplier of filter separators and prefilters closed due to lack of business. Qualification of another vendor increased lead time by 15 months.

Goodall Electric: Previous producer of power supplies and rectifiers went out of business. Qualification of replacement vendor added 18 months to lead time.

Tru Weld Grating: Steel suppliers will no longer manufacture ASTM A715 grade 80 type 8 steel. A new source or replacement material will have to be found.

Clark Reliance: Previous supplier has declined additional Government work due to low volume. Another source must be found and qualified.

There are other major manufacturers that will probably continue to support CVN construction. The gap between orders for major components, however, will result in a significant loss of skilled and knowledgeable workers, thus significantly increasing cost. Examples are:

Westinghouse: The Sunnyvale plant is currently operating at 55% capacity and the Cheswick plant is currently operating at 100% capacity. By 1993, both plants will be at about 50% capacity. The bulk of this effort is for CVN-74/75. After delivery of these equipments in 1993, a 41 month production gap will exist between delivery of CVN-74/75 materials and CVN-76 contract production in the plant. This situation has been exacerbated by Westinghouse's loss of business resulting from the loss of a large MX missile contract and from the loss of a turbine generator contract for SEAWOLF.

General Electric: GE plants at Fitchfield, MA, and Lynn, MA, are heavily dependent upon defense work. About 40% of their work is for CVN-74/75. These contracts will deliver in 1993 and a significant production gap of 36 months is expected.

Dresser Rand: Dresser manufactures fire pumps and there will be a significant gap in production between delivery of CVN-74/75 and beginning production on CVN-76. It is unknown if the company will survive until CVN is authorized.

Aurora: Aurora sold its Naval pump line in December 1990. A new member must be qualified.

Additionally, the current vendor for the steam catapults has gone bankrupt and a search is ongoing to find an alternative source. Government Furnished Equipment will also be affected by a delay in the authorization of CVN-76. Current estimates for NATO SEASPARROW, and the AN/SPS-48 radar show that the price will increase significantly due to a break in production if procurement is delayed any longer.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, the National Defense Authorization Act for 1993 is a very important achievement, and I rise to applaud the overall architecture of this bill. The Armed Services Committee has broken from the old pattern, and I wish to commend the distinguished chairman, Senator NUNN, for the job that he has done in a most exemplary fashion. The final spending totals in this bill would not have been possible without the diligence of Senator NUNN and without his leadership.

I would also like to point out, Mr. President, the able assistance that was given the distinguished chairman by the distinguished ranking member from Virginia, Senator WARNER. It is with a heavy heart that I hear from Senator WARNER this morning that he will very likely lay down the burden of being the ranking member of the Armed Services Committee when the next Congress reconvenes.

I think all of our colleagues will join me in saying that JOHN WARNER of Virginia has done an outstanding job in his role as ranking member of the Armed Services Committee and has provided leadership and has kept the best interests of the country uppermost during his years of service in that position.

Mr. President, the authorization before us sets total military spending for fiscal year 1993 at nearly $14 billion below the 1990 budget agreement caps and nearly $3 billion below the level set in our budget resolution of this year.

I think that is a feat worthy of the admiration of every Member of this body, and every taxpayer in this country. In fact, the bill that Senator NUNN and Senator WARNER bring to us today brings defense spending down to a level that was rejected by the Senate just several months ago.

As you will recall, Mr. President, back in April of this year, our able colleague from Nebraska, Senator EXON, offered a defense spending proposal that became a lightning rod for disagreement. The argument then was that Senator EXON's cuts were too precipitous, that they would trigger a nightmare of dislocation and job loss within the Department of Defense. The merits of that proposal succumbed to a fire storm, and the proposal offered by Senator EXON did not pass this body.

But when you compare this authorization that the distinguished chairman brings before us today with the Exon plan that we rejected, you develop an instant appreciation of how far Senator NUNN has brought us with this bill.

In budget authority terms, the Exon plan came to $272.8 billion. The bill that Senator NUNN brings to us today and was passed by his committee comes in at $274.5 billion, a difference of less than $2 billion between the Exon plan that was rejected a few months ago and what the distinguished chairman brings to us today.

So the chairman has been able to deliver a bill with levels remarkably close to those that caused so much anxiety and fear earlier in the year. I think that is a clear testament to the leadership that Senator NUNN has exhibited with his committee. In fact, the distinguished chairman began laying the groundwork for these numbers nearly 2 years ago. I recall very well a series of comprehensive floor statements given by the chairman back in the spring of 1990. In them, he carefully and judiciously, as is characteristic of him, laid out his own defense strategy for the post-cold-war period. Senator NUNN has gone to great lengths to educate this body and to educate the American people about what to expect in the post-cold-war period.

Most recently, in July of this year, the chairman offered the Senate and the American people his expert views on the changing roles and missions of our armed services. Here again, I think

we, in the Senate, are indebted to Senator NUNN for developing a trenchant case for the complete overhaul of the roles and missions of our armed services.

The chairman remarked at that time—and I think it is worthwhile to quote him here this morning, and I will—"We are entering a security era that permits a shift in our overall strategy towards smaller force levels, with smaller overseas deployment and lower operating tempos."

So, Mr. President, this committee-passed authorization bill I think largely reflects that conviction. It reflects Senator NUNN's efforts to conform our military structure to changing world events, and that is entirely as it should be.

In sum, Mr. President, it is difficult to quarrel with the overall direction of this bill, and I suspect the chairman is justly proud of the spending levels he has been able to achieve. In the context of the debate earlier this year, they seem austere, indeed.

Now, having said that, Mr. President, I must proceed further and suggest that if we look closely at some of the program levels, in the judgment of this Senator and in the judgment of many unbiased, dispassionate experts in the field of military spending, these program levels in some areas are not austere enough.

In some very crucial areas, it commits us to high levels of funding for big ticket weapons systems that promise to bloat our military spending and to burden our economy for many years to come.

As I have said, and I want to pay tribute to the chairman for tremendous strides that he has made. But I have to go on and say that when you have room in the armed services bill to give $4.1 billion to a cold-war relic like the B-2 bomber or $4.3 billion for SDI, then it appears to me more reductions can be made.

We simply continue to spend too much on projects that do not make any sense at this time in our history, on projects with ill-defined missions, and on projects that we simply cannot afford.

I can hear the rejoinders that are rumbling in the distance as I make this statement. Some may come to this floor and argue today or later that, well, the real problem with our budget is not military spending; it is entitlement spending. In the context of a defense debate, they will point to the growth of entitlement spending and say defense is not the problem, entitlements are the problem.

I must confess this morning I do not follow the logic of that argument. It simply does not follow in my view that because one area of the budget is allegedly out of control—entitlements in this case—we should spend money wastefully in another area, on unnecessary military projects.

Some argue that entitlements are bankrupting the country. I do not say that is true, but that is the argument made by some of our colleagues. Even granting them for the purposes of argument the validity of their views, it still makes no sense to me to spend money on enormous and expensive projects that we simply do not need, whether they are in the military area or the civilian area.

We had a debate on this floor just the other day about the superconducting super collider, an enormously expensive project. The costs have tripled since it was originally conceived and are continuing to grow.

When that project was originally conceived, it was sold on the idea that foreigners would pay one-half of the cost of the project. We now find that virtually no foreign governments, with the exception of India, with a pittance of $50 million, are participating in the construction of the superconducting super collider.

I felt this was a project that might be worthwhile at a time when the deficit was under control, at a time when the economy was moving forward, at a time when this country had some discretionary money to spend on an exotic scientific project that might have some payoff long in the future, but certainly it did not qualify in this time of horrendous budget deficits, at a time when we are still wallowing in the longest economic malaise since the Great Depression of the 1930's.

It does not follow that we should be spending money wastefully in another area on unnecessary defense projects either. Even if entitlements were bankrupting the country, as some of our colleagues argue, it still does not make sense to spend money on enormous and expensive projects that we simply do not need. If you were a homeowner and had a mortgage on a large house that was bankrupting you, is that grounds to go out and buy a new Cadillac, to further increase the hemorrhage of funds?

I submit quite the reverse. If entitlements are truly uncontained, it makes infinite sense to look for spending cuts wherever we can find them. Let us look for them in entitlements, in domestic spending, and, yes, in military spending also.

I expect to revisit this point perhaps several times during the debate on this particular bill that is before us today. I think it is crucial to formulate at the outset, because the argument of choice for questionable spending now seems to be, well, it is the entitlements that are costing us too much. So, in view of the fact that they are costing us too much, and we are not taking efforts to control them, then it is all right to go out there and spend on everything else, too.

The second argument against further defense cuts is that military spending is coming down, military spending is taking its share of the pain, military spending is coming in under the cap that was agreed on the budget summit agreement.

Mr. President, the caps established in the budget agreement are ceilings beyond which additional spending is not permitted. The cap simply means that you cannot spend beyond the caps. The caps are ceilings. They are not a floor. The caps were never intended to be a floor. The caps mark the outer limit. And the obvious question comes: Why is the defense cap so high? The answer is simple. The world has changed a lot since 1990. The budget agreement was negotiated at a time when we were moving into what we thought might be a large war in the Persian Gulf. The budget caps for military spending were negotiated at a time when the Soviet Union, the other superpower, the other military superpower, was alive and well, and ominous. We set the cap levels in 1990 during the buildup of the gulf war, and before the collapse of the Soviet Union.

The caps for military spending, the ceilings for military spending, were set before strategic reality was turned on its head and the threats to our national security became radically reduced.

In a word, the cap on military spending is simply outdated. It is obsolete. In fact, it was obsolete before the ink was dry on the budget agreement itself.

I say that, Mr. President, not to take anything away from the work of the Armed Services Committee, or from the work of Chairman NUNN. I think they have done a good job. It is to say, however, that the cap levels set back in 1990 are not and cannot be a true barometer for measuring the reductions in military spending that ought to be accomplished in 1993. We are dealing here ultimately with a question of matching resources, of matching the Nation's resources to the Nation's needs.

Since the budget agreement was struck in 1990, I have heard no one on this floor, or in private, argue that the need for available, affordable health care in this country has diminished, or that we no longer need to improve our roads and bridges and infrastructure. In fact, most argue just the contrary. None have said that since the budget summit agreement that we should not have a step-up in crime prevention. Most say we ought to do more in the field of crime prevention. No one that I have heard has said since the 1990 summit agreement that we ought to do less about serious deficit reduction. As a matter of fact, I think most would say that we need to do more in the area of deficit reduction. We devoted days just a few weeks ago to the debate, on the balance the budget amendment to the Constitution of the United States, on the question of what was to be done about the deficit. Some were willing to

take the rather extraordinary path of amending this over-200-year-old document to deal with the problem of the deficit. So clearly we all agree that the deficit reduction is a serious problem.

Our domestic needs have grown larger and they persist since the budget summit agreement was signed. Our fiscal crisis continues to weigh us down. The one thing that is clearly changed since 1990 is that we no longer need to defend ourselves and the rest of the world against a hostile Soviet Union. That need has vanished and, with it, the justifications for spending hundreds of billions of dollars a year to arm ourselves have been drastically eroded.

I think we get into the pattern of believing that large military spending is something that we have simply done as a matter of course forever. That is not the case. Up until 1950, with the exception of the major wars, the United States of America allocated very little of its resources to military spending. As a matter of fact, when the Pentagon was built during the Second World War, it was the plan of then President Franklin Delano Roosevelt to use the majority of the space in the Pentagon as a warehouse after the Second World War was concluded.

It is not in the tradition of this Nation to characteristically year after year after year devote large allocations of funding, a large percentage of our budget to military spending. If you look at the well over 200-year history of this country, it has only been in approximately the last 23 percent of this country's existence that we have taken the pattern of historically year after year allocating a very large portion of our National Treasury to the military. It was done as a result of a threat of the Soviet Union. The Soviet Union has vanished; it is here no more.

I am not stating to my colleagues here today that the United States ought to return to a level of military spending as a percentage of budget, as a percentage of GNP, real outlays, to what we had prior to the Second World War or maybe even prior to the Korean war, or prior to World War I. We do have certain responsibilities as the only remaining superpower in the world. There is no question about that.

But what I am saying is the justification for this enormous military apparatus has evaporated, it has vanished, and we ought to react to that in a more speedy fashion.

(Mr. ROBB assumed the Chair.)

Mr. SASSER. Just last month, we debated a balanced budget amendment to the Constitution. Day after day, we heard the gravest possible tones about the seriousness of our budget deficit and the need to cut spending. And economists of all stripes—whether conservative, liberal, modern, radical, or reactionary, almost all of them—are telling us that the reason we are experiencing a decline in economic growth, the reason we are experiencing a real decline in the average wage of the American citizens, the reason we are not seeing our standard of living go up the way it has in prior years is because of the enormous budget deficits that we are running.

I read a newspaper account yesterday, for example, in which a study indicated that it would take 12 generations for the standard of living of Americans to go up at the same rate that it did in one and a half generations, from 1947 through a period, as I recall, of the early 1970's—12 generations to achieve the increase in the standard of living that we achieved in one and a half generations, from 1947 to a period in the early 1970's.

Many attribute this to the budget defict and to the hemorrhage of revenues and talent that goes into maintaining a large military establishment.

So I say to my colleagues who championed the balanced budget amendment, here is our chance to reduce the deficit. We do not have to wait 5 or 6 years. We can do it right here today, because we are buying weapons systems that were conceived in the darkest days of the cold war, and for which there is no longer any need. We are funding big-ticket items that will drain our resources for years—even decades—to come.

So if we are serious about reducing the deficit, we can start right here today on the floor of the U.S. Senate, without endangering the security of our Nation one whit.

According to the General Accounting Office, the Pentagon, and the planners there are currently pursuing about 100 major weapons acquisition programs that will carry a total price tag of more than half a trillion dollars.

So I say to my colleagues that the opportunities for cuts and reductions are hardly elusive. I know there is going to be a defender of every program. But we all know that the Pentagon is not the tightest ship ever to sail. There is a lot of talk around the country about pork barrel, and the editorial writers love to write about it. But, you know, there is something called military pork barrel, and there is a lot of it around here. We all have to share some of the responsibility for it. I take my responsibility for it.

But here is a chance to actually do today what supporters of a balanced budget amendment talked so passionately about doing a few weeks ago. We can stop talking today and take some action. We can reduce billions of dollars in outlays for fiscal year 1993, and tens of billions in outlays from succeeding years, by votes that we can make here today and in succeeding years.

I know what some of the arguments will be; or I think we can reasonably anticipate them. We are likely to hear that the committee has already done enough this year. They have worked hard, and they have made reductions, and I commend them for those that they made.

Then we will hear the argument that, well, we have cut below the summit caps, and further cuts cannot be made because they will weaken our security. And anyway, if we try to make these reductions here on the floor of the Senate, we are doing it on an ad hoc basis and in an unplanned way, and that is not satisfactory.

We will hear arguments that reducing our military spending even by $1 more will threaten jobs and ruin communities. We are all concerned about that. That is why the distinguished Senator from Arkansas has worked for untold days and weeks to bring to this body his defense conversion amendment, to try to convert jobs lost in the defense industry, jobs lost in the military—to convert those skills of those workers into the civilian economy.

The distinguished chairman of the Armed Services Committee has cooperated and worked closely with the distinguished Senator from Arkansas, Senator PRYOR, in that endeavor.

We all are concerned about those who may lose their jobs, either in the military or in military-related industries. But I submit that the military budget is not a WPA project; it is not a makework operation. I think almost all unbiased observers who have studied it say that to create jobs through expenditures in the military is not even the best way for the Government to create jobs. It is not the most cost-efficient.

So those who say we will lose jobs or threaten jobs if we reduce spending in the military budget, I think, are misled. And it is almost a last refuge for those who will do almost anything to protect military spending. They will do almost anything to keep shovelling dollars into the military-industrial furnace. I think that is regrettable in this period of enormous budget deficits.

Military spending's only justification is for the protection of the American people. We all know it is not a jobs program. To treat it as such, I think, is perversion of the military's purpose. It is a disservice, I submit to the majority of Americans who pay taxes and expect us not to squander their money.

The overriding point is this: The Pentagon simply does not need all the money it requested this year, or that is in this bill. It cannot wisely spend all of the money that it will receive this year, in my judgment.

To illustrate this another way, let us make some of the very comparisons that those who cannot take another dollar out of defense are apt to make. They will tell us that defense spending as a share of total outlays is coming down.

Well, that is true, to a modest extent. When we look at the peak of

peacetime military spending in 1986, defense outlays comprised 27 percent of all Federal outlays. Under the levels proposed by this bill, military spending will consume 18 percent of all Federal outlays—18 percent of the Federal budget.

Well, let us consider the budgets and the spending for the military of our economic competitors. It becomes quickly apparent that military spending as a percentage of the total outlays of our economic competitors, is dramatically less. Our economic competitors spend one-half to one-third of their spending levels relative to their overall outlays for military spending than we do.

Let us just look at the record. In 1988, at the time when the cold war was still going on, France spent 8.8 percent of its budget for the military. West Germany spent 9.6 percent. Bear in mind that West Germany would have been the battleground if the enormous Red Army had moved. That is where the initial battles would have been fought—on German soil.

And the Germans had witnessed one firsthand in World War II, an invasion by Soviet forces, and they knew what that meant perhaps better than any people in the world, save those in Eastern Europe. But even in 1988, when the cold war was still going on and when the Red Army stood poised on the border of West Germany, they spent only 9.6 percent of their total outlays on the military. And we are still spending 18 percent after the Soviet Union has dissolved and become a thing of the past.

Italy spent 4.7 percent of its budget on the military; Japan spent 6 percent; Norway, 6.9 percent; The Netherlands, 5.4 percent; and on and on. Now, this was during the cold war.

And, by comparison, we are still spending 18 percent of our total budget in 1993, in the absence of a cold war threat, 18 percent of our outlays for military spending.

Well, there are other ways to look at it. When you consider military spending as a percentage of the gross domestic product, the story is the same. We have made some modest reductions, no question about it. Defense spending measured 6.3 percent of our total gross domestic product in 1985, at the high point for the eighties. It slopes down to 4.5 percent of gross domestic product in 1993.

But, again, that far exceeds the ratio of defense spending to gross domestic product of our economic competitors. While we are spending 4.5 percent of our gross domestic product on the military, France is only spending 3.5 percent; Norway, 3 percent; Japan, 1 percent; and it goes on and on.

So, Mr. President, in terms of the very comparison often made by those who point to our declining defense expenditures—in terms of total budget outlays and in terms of total gross domestic product—we have seen some modest decline, but we are still spending at many times the levels of our competitors for prosperity in the world marketplace.

And I submit that as we are spending these billions of dollars for aircraft, fighters, bombers, naval vessels, tanks, guns, maintaining an enormous military establishment overseas, these foreign competitors are simply eating our lunch. And how are they doing it? They are allocating more of their resources, their engineers, scientists, they are allocating more of their budgets, they are allocating more of their energy in the direction of improving their economy and developing and marketing the products that their economy and their people produce.

Well, Mr. President, the question that comes to mind is, why are we doing this? Why do we continue to spend this much money on the military? What threat is there on the planet Earth that will cause us to spend $1.4 trillion on the military over the next 5 years? What threat is it? Well, looking for that threat has proven to be an exercise in futility and more than a little irony.

Let us consider our former adversary, the Soviet Union. Now, forget the opinions of our Nation's top security experts for a moment, who say that the former Soviet Union represents no threat, let us just consider the economic reality. It does not take an expert to decipher the evidence.

Now, there is an institution in Russia, the Central Aerohydrodynamics Institute. It is the world's largest aerospace research center. It was the crown jewel of the Soviet military research centers. It was founded a year after Lenin led the Bolsheviks to victory in the Bolshevik revolution.

On the 3-mile runway of the Central Aerohydrodynamics Institute were tested every major Soviet fighter, jet airliner, and spacecraft. They were designed primarily at this institute.

Today, that institute is breaking up and spinning off to private firms, opening new lines of work and seeking foreign partners all the way from Beijing in China to, in the most unlikely places, the Pentagon right across the Potomac River here.

That magnificent Central Aerohydrodynamics Institute that developed these sleek and effective and reliable weapons of war, has now opened a shoe factory with converted equipment that used to be used to test Mig fighter planes. It is assembling ovens for the lumber and ceramics industries in the same cavernous room where the Soviet space shuttle was tested. It is setting up automobile service centers and making and peddling construction materials.

In the words of the Institute's director—and I quote him directly—"We welcome any partner. We are ready to cooperate with America in the sphere of conversion, in civil aviation, and in military technology as well."

So says the director of the Institute that has tested every new combat jet in the Soviet arsenal since the dawning of the jet age.

What about the much vaunted Soviet Navy? Well, the Russians are trying to sell for scrap about 79 nuclear submarines. It is something of a desperate effort to raise funds to build houses for 30,000 officers and families who have been retired from the old Soviet fleet.

In the words of the admiral in charge of the sale: "Our situation is drastic. We have to put into civilian life thousands of officers whose families are homeless. We have to start building the houses right now, yesterday." So that is why they are cutting up nuclear submarines for scrap.

These two dire situations, Mr. President, are symbolic of the condition and direction of the former Soviet military colossus.

The military of the Commonwealth of Independent States, the largest successor to the old Soviet Union, is a mere shadow of its former Soviet self. And the evidence is in the plain view of the entire world.

According to the CIA and the Pentagon, the Commonwealth of Independent States has slashed defense spending by more than 80 percent—by more than 80 percent, I say to my friend from Arkansas, they have reduced military spending in the last year—and 15 percent the year before that.

In reality, both inside and outside the Pentagon, the former Soviet Union is judged to be a minimal threat, so minimal in fact that earlier this year military planners worked overtime here in Washington to find a new threat.

With quite an extensive imagination, they constructed six scenarios. They talked of a Russian invasion of Lithuania through Poland; a coup in Panama and the Philippines—the list goes on and on. Suffice it to say when the scenarios became public, the threats that they were conjuring up were ridiculed as unlikely on the one hand, but also unworthy of the full force and thunder of a superpower, the only remaining superpower of the world, on the other. We are the only remaining military superpower, I might add. There are others who are approaching us from the point of view of economic superpower.

But the whole scenario was so ludicrous that, ultimately, the military withdrew it.

I do not mean to cast aspersions on the military of the United States of America or those who serve in it. Earlier this morning I paid tribute to the contributions made by the junior Senator from Rhode Island, Mr. CHAFEE, when he served gallantly with the First Marine Division on Guadalcanal in 1942. I stated at that time that I am fa-

miliar with the operations of that division throughout the South Pacific in World War II, through family relationships and others. And I think the military establishment of the United States of America is the finest military organization in the world.

It is the finest, not just from the point of view of competence and professionalism and the ability to get the job done—which is enormously important—but the military of this country is unique in another way. Because it is a product of the great middle and lower middle class of this country. It is not made up of elitists, as it is in other nations. It is not arrogant. It does not disparage the American people or its political leadership. The American military is part of the American people and the American military establishment has done a remarkable job in granting to minority groups, equality—equally of opportunity.

I suppose that is best personified in the chairman of the Joint Chiefs of Staff himself, General Powell, who is probably one of the most widely admired Americans in this country at a time when our countrymen are cynical and unhappy, frustrated, and disillusioned with other leaders. But Colin Powell, I think, is revered by the people of this Nation.

So I say these things not to disparage the military and their conjuring up of these threats. The military is like any other bureaucracy, whether it be public or private. Yes, the military bureaucracy is probably one of the oldest in this country and one of the most complex, but it reacted as any other bureaucracy does when it sees its livelihood or its longevity threatened. It tries to come up with a justification for continuing its existence. And that could happen to any other bureaucracy of the civil side of the Federal Government, State and local government, even with the telephone company, the private bureaucracies.

It is in the nature of a bureaucracy to try to perpetuate itself, to go on ad infinitum, that is what the military bureaucracy of the U.S. Defense Department is doing and we ought to recognize that.

So they continue to search for threats, threats to justify their existence in the large scope in which they presently exist. It is against that backdrop that we continue to push ahead with weapons systems conceived in the darkest days of the cold war and we continue to deploy them at the expense of far more pressing national needs.

Despite what some would have us believe, we really do have workable, rational alternatives, alternatives that would not further reduce military personnel and alternatives that would not decimate or destroy military communities.

Bear in mind, I have some of these in my State; some of these military personnel are my constituents and I admire them. And I do not want to see them put out of work—out of jobs.

But here are just some very modest suggestions that could further reduce the expenditures in the bill before us today. Halt the B-2 production at 15 aircraft. Ultimately we are not going to build the B-2's that the administration requested. This bill has funding, as I recall, for four additional B-2 bombers. Why do that? Why not just halt the production now? That would save $1.4 billion in budget authority just in this 1 year alone, of 1993, never mind the outyears where the savings are much, much larger. We are talking about making reductions in spending and reductions in the deficit today.

Look at SDI spending. Let us cut $1 billion off it today. The Armed Services Committee has authorized $4.3 billion for SDI in their bill. Even the Pentagon says we cannot bring the SDI on line as fast as they are requiring us to do in this Missile Defense Act. That still leaves them $3.3 billion this year to move forward with a theater missile defense system and move forward with the system at Grand Forks.

Let us freeze nonmajor procurement at the 1992 level. That would save us over $6 billion in budget authority. A very modest proposal. It was made by the distinguished Senator from Nebraska, Mr. EXON, in the Armed Services Committee, as I understand it. It would save us $6 billion in budget authority.

Let us slow development of the F-22 fighter. That would save us $60 million. I am not going to argue whether or not we need a new supersonic superexotic jet fighter. It goes without saying we have the best fighter interceptor aircraft today. They are state of the art, the F-16; the F-15; the F-18. They are unmatched by any nation in the world and to my knowledge—I may be corrected on this—I know of no other nation that is presently trying to leapfrog ahead of the technology and sophistication contained in these three fighter aircraft. At least no other nation is doing it on an accelerated level. So let us just slow development of the F-22 fighter. That would save $600 million today.

Let us reduce the warhead activities of the Department of Energy below the level now. We do not need to be producing so many warheads. What are we producing them for? What are we going to use them for? Who are we going to use them against? I mean, we have thousands of them now. Why do we want to go ahead and produce more?

But I am not saying do not produce any at all. I am just simply saying reduce the number of warheads we are producing and we could save $500 million today.

Another suggestion, freeze the nonmajor research and development at 1992 levels. I am not saying do not do the research and development. I am just saying freeze it at the 1992 levels.

That was the suggestion advanced by Senator EXON.

That would save us $2.7 billion. That is serious money, even by Washington standards.

Reduce the intelligence budget by 3 percent; just by 3 percent. We are spending $30 billion a year on intelligence in this country. Now bear in mind until after the Second World War, we did not even have an intelligence operation. We had Army intelligence, Navy intelligence, but we had no Central Intelligence Agency.

Since that time, we have built up this enormous intelligence-gathering apparatus to spy essentially on the Soviet Union that cost us $30 billion a year. And, by the way, most of the intelligence is no good. These are the same intelligence operatives who were telling us how tough the Iraqi army was going to be, and they advised us and we went on the offensive against them. That did not happen.

This is the same intelligence apparatus that had no inkling that the Soviet Union was on the verge of collapse even though they were spending enormous resources studying the Soviet Union, and they were going bankrupt. But I am not saying do away with it. I am saying just reduce their budget by 3 percent, just by 3 percent. That would save us a billion dollars today.

Reduce Department of Defense purchase of spares and repairs. We have warehouses full of them—warehouses full of them, Mr. President. That would save us $1.4 billion today.

So what we are suggesting is that with just, these very, very modest efforts we can save $14.7 billion. That could be applied to long-neglected domestic needs at home, or it could be applied to the deficit, whichever we wish to do.

Mr. President, we have a fiscal problem, a fiscal crisis that is upon us. Under the budget summit agreement that we enacted in 1990, we find that the caps for all discretionary spending are going to be compressing this spending, while under current policy that is just spending the same amount we are spending and following the track that is laid out in this defense appropriations bill, the defense spending, and others, we find that the discretionary spending is going up above the cap. We have this cap gap of about $25 billion. Unless we do something about that, if we let this military spending continue on the present path and if we hold the budget summit agreement, we are going to have to take this $25 billion out of domestic discretionary spending.

We do not have to do that. We can reduce some of the expenditures in this bill that is before us today. I have chosen just a few of the most obvious cold war systems and proposing only to slow the development of these systems,

not do away with them, though certainly I think many could be eliminated altogether.

I found with this modest review about $14 billion in budget authority that we could enact today for 1993 alone.

We are familiar with many of these options that I have offered today. They are not new, but they become only more relevant as the cold war recedes from our past and our memory: Halt the B-2 program at 15 aircraft and save us $1.4 billion in 1993; halt production of the D-5 missile. Why do we want to move forward with this missile at this time? We already have missiles that are MIRV'd with hard kill target capability that we can put into Trident submarines. Halt production of it. That will save us $900 million in 1993. Reduce SDI funding to the 1991 level. That would save us $1.2 billion in 1993. Defer production of a new aircraft carrier. I do not think we need a new aircraft carrier, but let us just defer production of it. That saves us $350 million in 1993. The list goes on and on, and the savings add up very quickly.

There are two reasons that we need to make these cuts in so-called big ticket defense items. First, it is the right thing to do for the deficit and the long-term health of this economy. Second, our budget agreement changes dramatically next year. The walls come down between defense and domestic categories, the cap closes in, we have the cap gap and unless we act here, we are going to have to further reduce domestic discretionary spending next year.

The levels contained in this conference report, while under the cap this year, thanks to the skill of Chairman NUNN, these levels actually set us on a military spending path that will require we cut domestic discretionary programs by some $24.9 billion below inflation for fiscal year 1994 and 1995. Let me make no mistake about it, I want all of our colleagues to understand that. The levels set by this military spending path, if we follow the caps in the budget summit agreement will require us to cut domestic discretionary programs by almost $25 billion below the baseline for 1994 and 1995.

So I want to warn our colleagues our options for closing this gap are getting away from us. And we have three options:

We can cut funding for such widely agreed upon domestic priorities as education. Who wants to cut funding for education? We can cut funding with efforts to clean up the environment. Who wants to do that? I do not. We can cut funding for health research out of NIH, cancer research, and others. Is anybody volunteering to do that? Or we can cut transportation, we can cut back on the highway program, cut back on the mass transit, cut back on the airlines, Amtrak, cut back on scientific research, or we can cut back on crime prevention. I do not want to do any of these things. Or we can cut big-ticket weapons systems.

If we do not do that, the only option we have in reducing military spending in the outyears is going to be to cut personnel accounts in the defense budget, which means people are losing their jobs. I do not think any of us want to do that.

So our only option is to try to reduce some of this big ticket spending now.

On the discretionary side of the budget, those are the only credible options. And those measures are required simply to sustain the status quo with regard to the deficit, simply to sustain the savings for which we have already taken credit. That is totally exclusive of the tough choices, including choices about entitlements, that we will have to make to get the currently projected deficit under control.

Those deficits are now at $270 billion in 1998, and, yes, we are going to have to do something about Medicare and Medicaid, no question about it, and all of the booming costs of health care. Yes, we will have to look for savings in the domestic accounts, and, yes, we will even have to look at the Tax Code.

But in the meantime, why are we spending this much money on the military in a changed world? From where are the real threats coming? What perceived enemy threats warrant the startup of huge multibillion-dollar spending on military programs?

I hope we will have an indepth debate on these questions in the next few days. I really think, Mr. President, it is imperative that we have this debate. I think it is important for the country to hear this debate on whether or not we need to spend further treasury on the development of these big-ticket weapons systems. I think it is important for our colleagues to hear that debate and to participate in it.

I found that in debating these issues of military spending out here in the open where we all can have our say, it has had a salutary effect on this bill we have before us today. I think there are reductions in this bill today that might not have been there had we not had our debate on military spending relative to the budget resolution early this spring, and many of our colleagues made their views known at that time, and in an effort to reach a larger consensus, I think some of these reductions were made.

Mr. President, I have gone on for some time here and I now yield the floor.

Mr. WARNER. Mr. President, Chairman NUNN and I have been working to get a unanimous-consent agreement. I am about to propound an agreement which I understand is cleared on both sides, and it is the sequencing of amendments.

I ask unanimous consent that the following amendments be the first three first-degree amendments in order to the DOD bill to be offered in the following order: The chairman from Georgia, defense conversions; the second would be from Mr. BUMPERS or Mr. SASSER, the chairman of the Budget Committee, re SDI; the third would be Mr. PRYOR, re SDI contracting; the fourth—I misspoke. It will be four first-degree amendments—Mr. LEAHY re B-2.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Virginia?

Mr. SASSER. Mr. President, reserving the right to object, and I do not anticipate I will, as I understand the distinguished Senator from Virginia, the sequence will be the Pryor conversion amendment——

Mr. WARNER. No, the sequence will be the Senator from Georgia [Mr. NUNN] re defense conversion; to be then followed by the Senator from Tennessee on SDI; then the Senator from Arkansas [Mr. BUMPERS], another SDI; and the Senator from Arkansas [Mr. PRYOR], again SDI contracting; and then the Senator from Vermont, re B-2.

Mr. SASSER. Mr. President, as I understand the unanimous-consent request, what we are seeking to do is to first move with the conversion amendment.

Mr. WARNER. That is correct.

Mr. SASSER. To be followed by the Sasser-Bumpers SDI amendment.

Mr. WARNER. That is correct.

Mr. SASSER. To be followed then by an SDI amendment offered by the distinguished Senator from Arkansas [Mr. PRYOR].

Mr. WARNER. That is correct. And then the final one would be the Senator from Vermont [Mr. LEAHY], an amendment relating to the B-2. This is simply a UC for purposes of sequencing to convenience Members in their schedules today. No time limitations are set on these amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, if the Senator will yield, I was in the Cloakroom when he said a second Bumpers amendment. There is no second amendment.

Mr. WARNER. What I indicated was in listing the amendments the Senator was No. 2, and as I understand it is a decision between the Senator from Arkansas and the Senator from Tennessee.

Mr. BUMPERS. Senator SASSER and I have only one amendment, not two. We will offer only one.

Mr. WARNER. It is referred to as the Bumpers-Sasser amendment, is that correct?

Mr. BUMPERS. That is correct.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. PRYOR. Reserving the right to object, I do not intend to object, but I seek clarification from the distinguished Senator from Virginia. The Senator from Virginia stated that following the conversion amendment, then we have the amendment by Senator SASSER and Senator BUMPERS on SDI, then the amendment by the Senator from Arkansas on the contracting out in the SDI Program. I was unclear about whether the Leahy amendment automatically sequences after the disposition of my amendment.

Mr. WARNER. That is correct.

Mr. PRYOR. My question to the Senator from Virginia: Does this mean that once we finish these three amendments relative to SDI that all of a sudden we are locked in and have to go to the consideration of issue relating to the B-2?

Mr. WARNER. Under this agreement, Mr. LEAHY would bring the B-2 amendment following the Senator from Arkansas on his SDI.

Mr. PRYOR. Mr. President, I will not object.

Mr. SASSER. Mr. President, reserving the right to object, would the distinguished Senator from Virginia entertain modifying his unanimous-consent request at least for a time to exclude the B-2 from the sequence?

Mr. President, at the present time, I feel constrained to object. I think perhaps we can work out this point.

The PRESIDING OFFICER. Objection is heard.

Mr. BUMPERS. I want to say to my friend from Virginia, the distinguished Senator from Virginia, that Senator LEVIN's name, as a matter of comity, should be added to the SDI amendment.

Mr. WARNER. Mr. President, I understand that the unanimous-consent request propounded by the Senator from Virginia is now acceptable to all Members present. I, therefore, reiterate it once again as stated.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the senior Senator from Virginia? Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, the fiscal year 1993 National Defense Authorization Act as passed by the Senate Armed Services Committee is a good bill for the country. Its funding level of $274 billion provides a sound defense for the Nation despite the fact that it is $7 billion below the President's request and $3 billion below the budget resolution. In my judgment, these cuts can be tolerated under current conditions. However, reductions in future defense budgets may jeopardize the Department's ability to provide for our national defense.

Mr. President, before discussing the details of the legislation, I want to recognize the leadership of Chairman NUNN and the ranking member, Senator WARNER. We are here today following what was a difficult and sometimes rancorous process. The fact that we have reported such a good bill is a tribute to the chairman and the ranking member. It was their persistence, tenacity, and cooperation that molded this lean, yet strong, defense bill. I thank them for their leadership.

Mr. President, the world has changed significantly since this time last year when I spoke in support of the defense bill. The August coup in the Soviet Union had not yet taken place; President Bush had not yet made his dramatic announcement on the unilateral withdrawal and destruction of tactical nuclear weapons; and the complete fracturing of the Soviet Union was still unimaginable.

There is no doubt that those were historic events. They have reduced tensions and the fear of nuclear annihilation significantly. However, these events, as dramatic and historic as they are, have not changed the need for a strong U.S. military. The world is not at peace. There is turmoil, uncertainty, and anger amongst Third World nations, and leaders are poised to take advantage of the situation. The strife in Yugoslavia persists, and many of our colleagues are prepared to commit military force to this conflict.

Mr. President, over the past decade we built the finest military in the world. This force uses the best, and most technically advanced, equipment and is composed of volunteers representing the best men and women this Nation has to offer. If we heed the call for deeper cuts in the defense budget, I am concerned that we will destroy this force. We will inhibit our ability to meet future challenges, such as those posed by tyrants like Saddam Hussein, if we make unreasonable cuts to our production base and high-technology weapons programs.

The fiscal year 1993 Defense bill, in my judgment, is particularly onerous to our Nation's bomber programs. It dooms the B-2 to a demonstration project of only 20 aircraft. It denies funding for upgrades in the 97 B-1 bombers. It limits funding for the AX attack bomber program, thereby limiting our maritime long-range strike capability. If these trends are allowed to continue, we will have to rely on the aging fleet of B-52's which are older than most of the pilots flying them. Without a robust AX program, the Navy will be shackled by the limitations of the A-6, which is showing its age and has serious wing structure problems.

Mr. President, as we withdraw our forward deployed forces, the need for a sophisticated, stealthy bomber fleet will become more critical. This bill does not provide a plan to fill that critical need.

Mr. President, I want to make a few brief comments on the SDI program, which I have supported throughout its transition from President Reagan's initial concept to the Missile Defense Act of 1991.

In my judgment, there is clear evidence which warrants a missile defense program. The intelligence community has explained the threat. However, I must point out that the intelligence community's information is not always flawless, as demonstrated by Iraq's nuclear weapons capability, which they miscalculated. My greatest fear is that they are underestimating the missile threat worldwide, and I believe we must be prepared for that possibility.

I believe the committee's changes and the $1 billion reduction in the SDI program and the Missile Defense Act will seriously impair our ability to develop and build a viable missile defense. It reminds me of Billy Mitchell's effort to demonstrate the viability of the bomber. He was lambasted by everyone, but his vision prevailed, and it eventually became one of the Nation's strongest deterrents. I predict the SDI program will achieve the same result.

Mr. President, there will probably be attempts to make further cuts and alterations to the SDI program during the debate on the authorization bill. I urge my colleagues to join me in resisting any changes to the committee's program. Desert Storm vividly demonstrated the capability of a primitive Scud and its effect on civilian targets. We cannot allow this to happen to our cities.

Mr. President, the bill supports the continued modernization of our conventional forces. It provides $225 million for upgrades to the M-1 tank; procures an additional 120 Bradley fighting vehicles; funds the continued development of the F-22 advanced tactical fighter; and supports the Navy's F-18 upgrade program. I am disappointed that the committee did not fully support the administration's request for the C-17 Airlifter and the Army's Comanche helicopter program. In my judgment, these are critical modernization programs.

The C-17, despite problems in the production process, has demonstrated in nearly 400 hours of flight testing that it is a capable aircraft. If our forces are to be capable of rapid deployment anywhere in the world, they must have the C-17. The committee's action to reduce the administration's request from 8 to 4 aircraft for fiscal year 1993 will force further delays in this capability.

To my regret, the committee elected to terminate the Comanche helicopter, which is the Army's highest priority program. In my judgment this is a significant setback to the Army's aviation modernization program. The com-

mittee based its recommendation on a flawed acquisition process which was forced upon the Army by the Office of the Secretary of Defense. Since the House supports this program, I am optimistic that we can restore it during the joint conference.

Mr. President, the committee's bill reduces funding in the operations and maintenance account from $86.5 billion in the budget request to $82.3 billion. I regret this decrease since it will contribute to further backlogs in equipment repairs and to the deterioration of the infrastructure on our military bases.

Mr. President as I indicated earlier, the geopolitical climate has been altered significantly since the last Defense authorization bill. This, coupled with the reductions in the Nation's defense expenditures, mandates changes in our military. The committee has directed a comprehensive review of the military services' roles and missions. I join the chairman and ranking member in calling for this review. I am, however, disappointed that the committee chose to limit funding for certain programs until this review is completed. In my judgment, this prejudges the Department's review.

Mr. President, the drawdown of our military forces seriously affects our citizens, our communities, and our defense industrial base. The committee authorized $1.2 billion to address these needs. This funding will provide early retirement payments for reservists and DOD civilians; job training programs and relocation assistance for displaced workers; and grants to communities adversely affected by the closure of military installations or the decline in the defense industry. These are important initiatives that will help to ease the transition to a society less dependent on military expenditures.

Mr. President, the Nation's most valuable defense assets are our men and women in uniform—both actives and reserve. The committee's bill includes a compensation package that includes a 3.7-percent pay increase, a requirement for DOD to submit legislation that would permit concurrent receipt of military retired pay and Veterans' disability compensation pay, and a provision that facilitates the retention of enlisted service members who have 18 years of service until they are eligible for retirement. The bill also includes a provision, cosponsored by Senator MCCAIN and myself, that proposes significant changes to the military medical care system, including the delivery of pharmaceuticals by mail, lowering the existing catastrophic pay cap for retirees and their dependents from $10,000 to $7,5000, and more comprehensive dental care.

Mr. President, one of the most sensitive issues before the committee was the proposed reductions in the Reserve components. There should be no doubt that as the defense budget declines and the threat diminishes, we can make reductions to the National Guard and Reserves. However, the cuts proposed by the Department of Defense were, in the committee's judgment, not fully documented or justified. Additionally, in the fiscal year 1992 Defense Authorization Act, the Congress directed an independent study of the active and reserve force structure and end strength reductions. A report on this study is due in December of this year. Until this report is reviewed by the Department of Defense and the Congress, I feel that we would be premature to make cuts in the Reserve components. I applaud the committee's action in disapproving the administration's proposed reductions.

Finally, Mr. President, I want to recognize the accomplishments of our ranking member, the distinguished Senator from Virginia. He has served as ranking member of the committee for the last 6 years—years punctuated with tremendous changes in our Nation's defense program and highlighted by major legislative initiatives. JOHN WARNER has been at the forefront in these endeavors. He has represented both the minority and the administration positions superbly before both the Congress and the public. I personally appreciate the courtesies he has extended me during this period and look forward to his continued counsel and support.

Mr. President, in closing, I urge my colleagues to support this bill and the men and women in uniform.

I yield the floor.

Mr. WARNER. Mr. President, I thank the distinguished Senator from South Carolina. He has my assurance that I will be by his side as he takes up the responsibilities on the Republican side.

I thank him for his kind remarks.

Mr. THURMOND. I thank the able Senator from Virginia.

Mr. NUNN. Mr. President, I, too, thank the Senator from South Carolina for his remarks about the committee and the bill, and for his leadership. And I assure him of my complete cooperation in working with him, as we have in the past. And when he assumes the position of ranking Republican on the committee, or as chairman of the committee, he will have my support and cooperation.

I look forward to working with him, because I do not know of anybody who has spent more time or made more contributions to our overall national security over the years than the Senator.

I look forward very much to working with him.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Georgia, the chairman of the Armed Services Committee, for his remarks, and say it has been a pleasure to work with him.

I think he is one of the ablest and finest chairmen I have served with in my 38 years in the Senate.

Mr. EXON. Mr. President, I rise in support of S. 3114, the Defense authorization bill brought forward by the Armed Services Committee. As chairman of the Subcommittee on Strategic Forces and Nuclear Deterrence, it is my pleasure to describe for members the committee's actions on a number of strategic programs.

Let me begin by noting that the amended budget request for strategic programs in S. 3114 was reduced by over $2 billion during the subcommittee and full committee markup, not counting a reduction of over $700 million in the Intelligence Committee accounts over which we exercise shared jurisdiction. Thus, the strategic accounts have been reduced overall by $2¾ billion, in the bill before Members today.

Let me discuss some of the highlights of the bill related to strategic forces and nuclear deterrence. Our chairman, Senator NUNN, has already discussed the important provision in the committee's bill regarding a full and careful review of a wide variety of roles and missions. Included in that arena, clearly, is the U.S. force of nonstealthy heavy bombers. We presently have some 85 B-52G, 95 B-52H and 97 B-1B bombers in the inventory, or a total of 277 heavy bombers. Moreover, we have now under development a class of improved conventional munitions that will considerably increase the effectiveness of each heavy bomber equipped to use them. And, many of these improved conventional munitions will be dirt cheap, compared to the cost of precision guided weapons that CNN brought into America's living rooms during the war with Iraq. Yet, in Iraq—potentially one of the larger conflicts we can imagine in this new world order—General Schwarzkopf made do with only 70 B-52's, or about one-quarter of the current inventory of heavy bombers.

A series of studies by the Rand Corp., the Air Force, and others all suggest a potentially vital mission for long-range heavy bombers—that of stopping or blunting an armored invasion such as Iraq mounted, but very early on in the war, before we have had time to deploy carrier battle groups or tactical air forces or U.S. ground forces to the theater. Indeed, Air Force witnesses testified at our bomber hearing that they could maintain a sortie rate of 100 bombers per day over a far-distant theater of operations. If this were so, then perhaps heavy bombers should be assigned the quick-reaction strike role now played by carrier-based aviation and tactical air forces.

Unless new missions like these for heavy bombers are identified, then I suspect we already have in the inventory more nonstealthy heavy bombers than we can afford to keep, and this may force some difficult choices between the older, but combat-proven, B-

52's and the newer, but trouble-plagued, B-1's. In any event, I shall be looking forward with keen interest to the results of General Powell's roles and missions review.

A second major policy initiative in the bill pertains to the military uses of space. As all Members are well aware, the administration plans about a 25-percent cutback in defense budgets over the FYDP period. And, many of us expect that the cutbacks will turn out to be more substantial than that. However, when we reviewed the military space plans—the satellites, the launch vehicles, and the infrastructure that goes along with these—we found that the space community was expecting their budgets to increase over the Future Years Defense Program, or FYDP, period. Now, we all know that space is important, and that space systems made significant contributions to our winning Operation Desert Storm, but we cannot, for long, allow the budget for one area to grow while everybody else's budget is shrinking. Therefore, in section 154, we require the Secretary of Defense to develop a space strategy aimed at cutting the cost of access to and use of space by 25 percent by the end of the decade. This is a smaller rate of decline than the defense budget overall, so that space systems spending will continue to command a higher proportion of the defense budget, but it begins to impose on the military space community a sense of budget reality and budget discipline. We simply cannot afford limitless spending in any military arena.

Mr. President, let me briefly run over a number of decisions on strategic programs made by the committee, beginning with the strategic defense initiative. After extensive discussions, the committee authorized a total of $4.3 billion for the strategic defense initiative, including: $1.1 billion for theater missile defenses, $2.1 billion for programs associated with the initial treaty-compliant ABM site, and $350 million for spaced-based interceptors.

The committee also made several changes to the language of last year's Missile Defense Act:

Deleting the 1996 target date for deployment of first ABM site; instead, requiring DOD to develop initial ABM deployment according to sound acquisition procedures, with low to moderate concurrency and low to moderate technical risk, and with adequate integrated testing of all system components;

Recognizing a goal of 1996 for achieving initial contingency theater missile defense capabilities and a goal of 2002 for the initial Operational Capability [IOC] for deployment of the initial treaty-compliant ABM system;

Clarifying that the bill is not to be construed as authorizing SDIO at this time to field test missile prototypes, and a test radar to provide a contingency capability at the first ABM site, as such a decision is unnecessary until fiscal year 1995; and

Transferring responsibility for far-term ABM technologies, that is, those not likely to result in weapons for at least 10-15 years, from SDIO to DARPA or the military services.

In other actions, the committee authorized $208 million for procurement and R&D for B-52 and B-1 bombers, and mandated additional B-52 and B-1 testing against defenses to demonstrate conventional bombing capabilities. The committee also rolled forward $93.3 million in prior-year money for the B-1 bomber.

The committee also approved the requested $2.6 billion for 4 additional B-2 bombers, subject to a number of fences. I am also pleased to inform all Senators that one of the three approaches the Air Force was pursuing as a fix for the modest low observability problem, reported last summer, has been successfully tested; indeed the results were significantly below the low observability criteria.

The committee decided to terminate the national aerospace plane because the partnership with NASA just has not worked, and it is unaffordable for DOD alone to fund. The committees overseeing NASA's budget have once again reduced NASA's contributions to nearly zero.

The committee has also acted to reduce the rate of GPS satellite procurement and to apply these and other additional funds to accelerate procurement of GPS receivers for our aircraft, ships, and ground vehicles. Under current plans, DOD will not finish equipping the military with this critical navigation capability until after the year 2005, 13 years after we will have deployed enough satellites for full-time worldwide coverage. This mismatch between satellite and receiver procurement is absurd and must be corrected.

The committee made several changes in the Army's plan to destroy our stockpile of chemical weapons, including requiring a report from the Secretary of Defense on possible alternative technologies for eliminating those weapons by means other than incineration, and prohibiting any new starts for incinerator facilities in the United States until this report is received. The committee also slipped the deadline for completing the destruction of our stockpile from 1999 til 2004, to reflect the timeframe that is contained in the almost completed international treaty banning all chemical weapons the United States is expected to sign later this year.

Consistent with the other actions of the subcommittee, the funding authorization for the Department of Energy was also reduced. The amount authorized for national security programs of the Department of Energy, $11.9 billion, is $249 million below the amended budget request. The committee remains concerned that the weapons activities of the Department of Energy have continued to escalate despite the end of the cold war, and urges the Department to move aggressively to downsize the complex.

Cleaning up the nuclear weapons complex continues to account for a significant portion of the Department's defense-related budget. In the bill the committee approved the Department's budget request for environmental restoration and waste management and included additional funding for technology development, bringing the environmental account at the Department of Energy to $4.8 billion. The increased funding for technology development will allow the DOE to increase the environmental research necessary to reduce the cost of the cleanup.

In conclusion, Mr. President, I believe the committee bill contains major reductions from the requested sums, and represents a balanced package of needed capabilities. I urge the swift adoption of S. 3114.

AMENDMENT NO. 2916

(Purpose: To require prompt implementation of the defense conversion and transition assistance provisions and authorities)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of myself, Mr. WARNER, Mr. PRYOR, Mr. RUDMAN, Mr. BINGAMAN, Mr. COATS, and Mr. D'AMATO, on defense conversion, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. WARNER, Mr. PRYOR, Mr. RUDMAN, Mr. BINGAMAN, Mr. COATS, Mr. D'AMATO, Mr. GRAHAM, and Mr. WELLSTONE proposes an amendment numbered 2916.

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

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

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Defense Conversion and Transition Assistance

SEC. 1091. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national defense technology and industrial base.

(7) Prompt and vigorous implementation of a defense conversion and transition assistance program is essential to ensure that the defense build down is structured in a manner that enhances the long-term ability of the United States to maintain a strong and vibrant national defense technology and industrial base.

(b) POLICY.—(1) It is the policy of Congress that the United States attain its national defense objectives through the development and implementation of defense conversion and transition assistance programs that have the following objectives:

(A) Facilitating the transition of military personnel, civilian employees of the United States, and defense industry workers affected by the defense build down in a manner which recognizes the contributions of those individuals to the national defense and promotes continued national access to, and benefit from, their skills and capabilities.

(B) Assisting communities in adjusting to the impact of reduced defense spending in recognition of the contributions that such communities have made to the national defense of the United States.

(C) Strengthening the ability of the national defense technology and industrial base to meet the following national security objectives:

(i) Supplying and equipping the force structure necessary to meet near-term national security requirements.

(ii) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

(iii) Maintaining advanced research and development activities to provide the Armed Forces of the United States with systems capable of ensuring technological superiority over potential adversaries.

(iv) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the Armed Forces.

(D) Achieving the national defense technology and industrial base objectives described in subparagraph (C) by enhancing the opportunities for conversion of defense-dependent businesses to dual-use capabilities.

(2) It is the policy of Congress that not less than $1,200,000,000 of the funds authorized to be appropriated by this Act be available for defense conversion and transition assistance programs.

SEC. 1092. ACTIVE FORCES TRANSITION ENHANCEMENTS.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The program to encourage members and former members of the Armed Forces to enter critical public and community service jobs after discharge or release from active duty as established pursuant to section 1143a of title 10, United States Code (as added by section 531(a)).

(2) The program to facilitate alternative teaching certification for personnel separating or retiring from the Armed Forces who choose to enter teaching based upon military experience and training, as provided in section 532.

(3) The program to grant educational leave to qualify for and enter public and community service, as authorized by section 533.

(4) The temporary early retirement authorities provided in sections 534 and 535.

(5) The authority for persons being voluntarily separated from active duty in the Armed Forces to enroll in the Montgomery GI Bill program under section 536.

(6) The revision of the recoupment requirement related to certain reserve duty, as provided under section 537.

(7) The program referred to in section 538 for certain employment, job training, and other assistance for members of the Armed Forces who are being separated from active duty.

(8) The temporary continued health coverage for members of the Armed Forces upon separation from active duty, as provided under section 1078a of title 10, United States Code (as added by section 539).

SEC. 1073. GUARD AND RESERVE TRANSITION INITIATIVES.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The regulations required by sections 543 through 545 concerning inactivation of units of the Selected Reserve, involuntary discharge from a reserve component of the Armed Forces, and involuntary transfer from the Selected Reserve.

(2) The temporary authority for early retirements established under sections 546 and 547.

(3) The temporary authority for separation pay provided in section 548.

(4) The waiver of the continued service requirement for Montgomery GI Bill benefits under section 549.

(5) The transitional commissary and exchange privileges authorized by section 550.

(6) The temporary continuation of Servicemen's Group Life Insurance coverage provided under section 551.

SEC. 1094. DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL TRANSITION INITIATIVES.

(a) REQUIREMENT FOR REGULATIONS WITHIN 45 DAYS.—Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities, consistent with such guidance as may be issued by the Director of the Office of Personnel Management:

(1) The reemployment assistance requirements provided pursuant to sections 341 and 342.

(2) The reduction-in-force notification requirements provided pursuant to section 343.

(3) The commencement of eligibility for certain job training assistance to employees adversely affected by base closures and realignments, as established pursuant to section 344.

(4) The authority to continue health benefits established pursuant to section 346.

(5) The authority to pay benefits under the Thrift Savings Plan to employees separated by a reduction in force, as provided pursuant to section 347.

(6) The authority to establish skill training programs in the Department of Defense, as provided in section 348.

(b) REQUIREMENT FOR PROMPT IMPLEMENTATION.—The Secretary of Defense, subject to such regulations as may be prescribed by the Director of the Office of Personnel Management, shall ensure the prompt implementation of the authority established in section 345 to provide separation benefits and to restore certain leave.

SEC. 1095. COMMUNITY TRANSITION INITIATIVES.

(a) ECONOMIC ADJUSTMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that policies and procedures required pursuant to section 331 are issued not later than 90 days after the date of the enactment of this Act, and to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers.

(b) ECONOMIC, CONVERSION, AND STABILIZATION ASSISTANCE.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to ensure the prompt and effective delivery of assistance under the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note), as amended by sections 331 and 332, to communities, businesses, and workers substantially and seriously affected by reductions and defense expenditures.

(c) IMPACT AID.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the authority provided in section 333 to furnish assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

SEC. 1096. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE CONVERSION AND TRANSITION INITIATIVES.

(a) PUBLIC INFORMATION REQUIREMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that, not later than 90 days after the date of the enactment of this Act, policies and procedures are issued to provide for wide public dissemination of the opportunities to participate in programs authorized pursuant to sections 802, 804, and 805.

(b) PROGRAMS IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the following programs, requirements, and authorities:

(1) The defense dual-use technology research and development programs referred to in section 802.

(2) The defense dual-use manufacturing technology programs referred to in section 804.

(3) The national defense technology and industrial base dual-use assistance extension programs.

(4) The requirements and authorities provided under section 807 for the Small Business Innovation Research Program.

(c) COMMENCEMENT OF OPERATIONS BY THE OFFICE OF TECHNOLOGY TRANSITION.—Notwithstanding section 803(b) of this Act, the Office of Technology Transition established by section 803(a) shall commence operations not later than 120 days after the date of enactment of this Act.

Mr. NUNN. Mr. President, I hope that the opening remarks on this amendment will be made by the Senator from Arkansas, who has done a tremendous job in leading the Democratic side on the overall subject, the enormously important subject of defense transition and defense conversion.

Many, if not most, of his proposals that came out of the task force—and the task force with Senator RUDMAN, on the Republican side—are incorporated in this bill.

I thank him for his leadership.

Mr. PRYOR. Mr. President, I thank the Chair.

I thank the Senator from Georgia, my very good friend, who is chairman of the Armed Services Committee, for submitting this amendment to the Senate today.

I am very, very proud to be able to stand on the floor of the Senate and give my very strong commitment and support to the amendment which now lays before the Senate.

Mr. President, I am also very proud to be on the Senate floor today. I am proud today to be here because I think we are going to see the Senate defy those who always say we have come to expect only gridlock from the Congress.

Today, we are going to see some action, rather than gridlock. We are going to see some quick, intelligent action to attack one of the Nation's problems and answer the needs of our people. The problem we are facing today, the problem this bill addresses, is that great challenge, Mr. President, of transition from a defense to a private economy.

My colleagues have all heard the statistics by now: 1.4 million defense jobs eliminated by 1995 at a rate of 350,000 jobs a year. That is 1,000 jobs a day. And 150 U.S. communities are likely to be hard hit by defense cuts due to base closings, base realignments, and defense plant shutdowns. DOD outlays for goods and services project a decline of up to 48 percent by the year 2001.

Mr. President, this is a stark reality of reductions in defense spending. Families are being disrupted; communities are being shaken; and our economy is being battered.

Mr. President, there is no turning back from where we are. The cold war is over, thankfully, and many other needs are competing for the tax dollars that have been devoted to defense spending in the past.

We cannot cut off reductions in our defense spending. As the Senator from Tennessee has so aptly stated in his eloquent statement before the Senate, we can take the savings from lower defense spending, and we can ease the transition for those who will be adversely affected by these reductions.

Moreover, Mr. President, if we wisely redirect those resources, we can rejuvenate our economy; we can speed the transition; we can create high-paying jobs for our people in the future.

Mr. President, the 1993 Defense authorization bill before us today does just those things. The bill authorizes funding for defense transition initiatives to the tune of $1.2 billion.

At this point, I would like to thank and commend the chairman and the ranking minority member of the Armed Services Committee, Senator SAM NUNN and Senator JOHN WARNER, for the defense transition provisions that they have included in this bill now before the U.S. Senate.

The fact that the Senate is at this point—and how we got to this point is a story in itself—apart from the specific provisions that are the result of this process, at a time when inaction and gridlock are most often associated with the Congress. We have seen this body move expeditiously from identification of a problem, to the formulation of a strategy for change.

On March 3, the Senate majority leader, Senator MITCHELL, formed the Senate Democratic Task Force on Defense and Economic Transition. It was comprised of 21 Democratic Senators on this side of the aisle. It was chaired by myself, and I have enjoyed this chairmanship to a large extent.

Over the 3-month period, the task force held 13 briefings. We heard from some 60 experts on issues relevant to defense transition.

On May 21, 1992, the task force reported back to the majority leader with its recommendations.

Since that time, we have already seen action. We have, for example, seen the Commerce Appropriations Subcommittee, the Energy Appropriations Subcommittee, the VA-HUD Appropriations Subcommittee, and the Finance Committee incorporate many relevant defense transition recommendations into their respective bills.

And today we see the bulk of the recommendations incorporated in the 1993 Defense authorization bill.

Just last week, the distinguished Senator from South Carolina, the chairman of the Commerce Committee, very eloquently stated the reasons that he was including in the committee's appropriation bill several items that had been recommended by the Task Force on Transition.

Five months, Mr. President, from identification of a major national problem to authorization of a major national response, a response which features over $1.2 billion in national problem solving. I think the Senate should be confident today that we have accomplished a great deal up to this point. I hope we will have more to be proud of very soon when these provisions are approved by the full Senate, hopefully in the next hour or so and I am hopeful that the Defense Appropriations Subcommittee, under the able guidance of Senator INOUYE, will be able to fund the initiatives being authorized today.

What are these initiatives? I will summarize them briefly and describe some of the highlights. First, the bill makes hundreds of millions of dollars available for investment in the transition of individuals adversely affected by defense cutbacks. DOD civilians will have continued health coverage and early separation incentives. Armed services personnel will be eligible for 1-year educational leaves to pursue new careers, and they will receive early separation incentives including retirement credit for public sector work as teachers, police officers, and health care workers. These and other investments will result in actual savings of over $1.5 billion in personnel costs over 5 years. The bill also authorizes $50 million in additional funds for the Job Training Partnership Act to retrain displaced defense workers and help them find jobs. Once again, these provisions are effective investments in the men and women who fought the cold war and, I might add, who won it.

For communities, the bill authorizes $30 million to fund Office of Economic Adjustment planning grants and $150 million for Economic Development Administration adjustment grants in areas experiencing base closings or realignments, and defense industry shutdowns. An additional $58 million is authorized for school districts which will be hard hit by the defense disruptions in their communities. Helping communities rebound will mean more new businesses and more new jobs in these areas.

For defense industries, the bill provides over $200 million to fund manufacturing extension services and regional technology alliances. Another $200 million is available to fund a range of industrial services programs including small business loan guarantees, export promotion programs, research and extension programs, and a host of State and local programs. These programs are all designed to help companies adapt to civilian markets, acquire new technologies, and improve productivity.

Over $200 million is authorized to fund research on advanced technologies through industry-led partnerships and through grants to small, innovative businesses; $30 million is authorized to improve the quality of manufacturing education taught in colleges and universities. These later provisions represent long-term investments in our

economy that will lead to economic growth and high-paying jobs. These investments will help pave the way to America's economic future.

Once the Senate completes action on this bill and the appropriators and conferees have done their work, then it will be up to the President to show his support for defense transition, which is so critical to the future of our economic well-being. The President's own Republican colleagues in the Senate produced a very good set of defense transition recommendations under the guidance of Senator RUDMAN of New Hampshire. I challenge the President to show the same swift, decisive action in making these programs work that the Congress has shown in proposing them, authorizing them, and hopefully funding them.

Mr. President, I want to again thank Senator NUNN, the chairman of the Armed Service Committee, for the excellent work he has done in this bill and for his contributions to the Democratic Defense Transition Task Force.

I want to thank the distinguished Senator from Virginia, Senator JOHN WARNER, who along with his staff has been most cooperative in making this amendment possible this afternoon.

I also want to recognize Bob Baer, David Lyles, Andy Effron, and Fred Pang of the Armed Services Committee staff, who have been extremely cooperative and helpful.

Last, but certainly not least, Mr. President, I want to thank and commend Senator JEFF BINGAMAN of New Mexico, the chairman of the Subcommittee on Defense Industry and Technology, who toiled unselfishly on the defense transition initiatives and who was a guiding force particularly on the technology provisions. Ed McGraffigan and John Gerhart of Senator BINGAMAN's staff provided invaluable service to the task force, and my thanks go out to them as well.

Mr. President, let me thank Senator JOE LIEBERMAN of Connecticut, who has a tremendous knowledge of the issues that we are presenting today encompassing energy on this particular amendment before the Senate at this time.

Mr. President, today's action and the action of the committees I mentioned earlier represent a foundation for the future. Our goal from the start was to make investments this year that steer us toward a long-term strategy for successful transition. And that, Mr. President, is what I believe has occurred.

Planning. Strategy. Leadership. Action. These are not words commonly associated with Congress today, but that is what has happened this year, in this Congress, on this issue of defense conversion and defense transition.

Mr. President, before I yield the floor, I ask unanimous consent to have an outline of these initiatives just discussed; also a progress report, dated August 8, 1992, from the task force; and finally, a list of those very able Senators on our task force who comprised and made up its membership inserted into the RECORD.

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

FUNDING OF DEFENSE CONVERSION AND TRANSITION ASSISTANCE, AUGUST 7, 1992

The bill contains a broad range of programs to address the needs of individuals, communities, and businesses in adjusting to the defense drawdown. The bill authorizes $1.2 billion for these programs for fiscal year 1993. In addition, the bill authorizes $463 million for the up-front accrual costs of early retirement incentives for military members. Over the five-year transition period, these incentives will produce a net savings of $1.1 billion due to reductions in the number of senior military personnel.

PERSONNEL TRANSITION INITIATIVES

Educational leave of absence for up to one year for active duty personnel to obtain civilian skill training: incidental costs.

Active duty members with 15-19 years of active service could apply for early retirement. Retirement credit for up to 5 years could be earned by serving in critical civilian jobs such as education, law enforcement, and health care: $463 million in up front accrual costs, which will produce $1.1 billion in savings over the next five years.

Reserve separation incentives: estimated $97 million.

DoD civilian employee separation incentives: estimated $72 million.

$50 million for JTPA worker relocation and training programs.

COMMUNITY ADJUSTMENT ASSISTANCE

$29.9 million for the DOD Office of Economic Adjustment.

$150 million for Economic Development Administration assistance for communities adversely affected by base or defense plant closures.

$58 million for additional impact aid to school districts affected by the defense builddown.

NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE

$100 million for Critical Technology Partnerships.

$50 million for Commercial-Military Integration Partnerships.

$100 million for Regional Technology Alliances.

$25 million for Defense Advanced Manufacturing Technology Partnerships.

$100 million for Defense Manufacturing Extension Programs.

$30 million for manufacturing engineering education programs.

$200 million for Dual-Use Technology and Industrial Base Extension Programs.

Expands the Small Business Innovative Research Program: estimated $50 million in FY 93.

Grand Total: 1.112 (Excludes $463 million for active duty retirement incentives).

DEFENSE TRANSITION TASK FORCE PROGRESS REPORT, AUGUST 8, 1992

Passed Senate to date:

Guaranteed Gov't SBA Loan Supplemental

Commerce Appropriations Bill ($229 million—note below)

Energy and Water Appropriations Bill ($141 million—note below)

Finance Committee:

R&D tax credit (expected out of Committee July 28)

Employer Education tax credit (same as above) (Both are included in Urban Aid Bill)

Defense Authorization Bill:

27 recommendations are in some way incorporated in the Defense bill.

Commerce Appropriations Bill:

Sen. Byrd allocated over $200 million to Commerce Subcommittee for Task Force recommendations.

Sen. Hollings' Commerce Approps. Subcommittee addressed 5 Task Force recommendations (EDA = $80 million, SBA loans for defense firms = $40 milion, three NIST technology programs = $100 millions).

VA/HUD Appropriations Bill:

Senator Mikulski's subcommittee appropriated $55 million for NSF retraining of high skill former defense workers (Status: Pass by full Committee, ready for the floor).

Energy and Water Appropriations Bill:

Senator Johnston's subcommittee appropriated $141 million to fund cooperative R&D projects between DoE labs and private industry.

Other Committees:

The Labor and Human Resources Committee and the Defense Appropriations Subcommittee are working on Task Force recommendations.

MEMBERS OF DEMOCRATIC DEFENSE TRANSITION TASK FORCE (APPOINTED BY MAJORITY LEADER MITCHELL ON MARCH 3, 1992)

Senator Brock Adams—Washington.
Senator Jeff Bingaman—New Mexico.
Senator John B. Breaux—Louisiana.
Senator Alan Cranston—California.
Senator Christopher J. Dodd—Connecticut.
Senator Bob Graham—Florida.
Senator Ernest F. Hollings—South Carolina.
Senator Edward M. Kennedy—Massachusetts.
Senator Carl Levin—Michigan.
Senator Howard M. Metzenbaum—Ohio.
Senator Barbara A. Mikulski—Maryland.
Majority Leader George J. Mitchell—Maine.
Senator Sam Nunn—Georgia.
Senator Claiborne Pell—Rhode Island.
Senator David Pryor (Chair)—Arkansas.
Senator Donald W. Riegle, Jr.—Michigan.
Senator Charles S. Robb—Virginia.
Senator James Sasser—Tennessee.
Senator Paul S. Sarbanes—Maryland.
Senator Timothy E. Wirth—Colorado.
Senator Harris Wofford—Pennsylvania.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, I thank my colleague from Arkansas for his recognition of the leadership role performed by the Senator from New Hampshire [Mr. RUDMAN]. He was designated by the Republican leader to be task force chairman on this side.

As Senator PRYOR said, we saw progress when the two sides got together and worked to come out with a common platform, which is basically what the chairman and others have adopted in this bill. So the chairman and I owe a great deal of recognition to these two leaders for having done the initial work on this basic question.

Mr. NUNN addressed the Chair.

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

Mr. NUNN. Mr. President, I again thank the Senator from Arkansas [Mr. PRYOR] for his leadership and I thank his staff, who did a remarkable job.

These task force projects many times do not wind up being cohesive because you get a little bit of everything, sort of al la carte, in a task force proposal. But this one was an exception because it ended up not only being sound in terms of helping people in the military, people in civilian occupations with DOD, people in the industrial sector, but also communities. It also combined a number of initiatives that Senator BINGAMAN, the Senator from New Mexico, has been leading on for a number of years in the defense technology area and in the dual-use technology area. So put together, I think this is a sound package.

I particularly want to pay tribute to Desten Broach, Steve Ronnel, Kirk Robertson, and Denise Borham on Senator PRYOR's staff, for an extraordinary job. I am sure—I do not have the names—I am sure equal praise is due to the staff that worked for Senator RUDMAN under his leadership.

Mr. President, this package includes several key initiatives that I have advocated and sponsored for a number of months, including the provisions on active duty military and reserve military, which Senator GLENN and I sponsored. And I would just very briefly describe those.

What we have here in this transition package and conversion package is a provision that allows those in the military who do not have commercial skills—for instance front line infantry soldiers in many respects do not have transferable skills to the commercial society—we allow them 1 year on basic pay to take educational leave so that we are not turning people who have served the country out into a tough job market with no commercial skill. That is an important provision.

We also have a provision, which I advocated, which provides that military personnel in excess areas, those areas where we have too many personnel engaged, to have a 15-year retirement.

This will actually save money for the taxpayers because the Defense Department and the services are, understandably, very reluctant when someone has 15 years in but not 20 years, for that person to be forced out, or involuntarily retired, even though we may have a surplus number of people in that particular skill, whether enlisted or officer. So this 15-year retirement is a temporary measure. But what it will do, it will help those individuals immensely. It will also help save money for the taxpayer because they will not be on the active duty payroll, they will be on retirement. And that is a less expensive proposition for the taxpayer.

This is not a permanent authority. It is recognized as a temporary authority during a period of very significant drawdown.

In addition to that, another one of the things I have advocated and talked about a great deal is in this package, and that is for those who do retire after 15 years, who are in surplus areas, to be able to earn another 5 years of retirement—which would begin to be added to their retirement at age 60, and that 5-year additional retirement earning capacity would be for those who go into what we call critical areas. The areas that come to mind first and foremost would be teaching math and science in the schools of our country, because we have in our high schools of America something like 50 percent of the people who teach math and science have full qualifications, while in the military we have some 35 percent of the military officers today who have master's degrees or higher.

So this is one of the most important educational initiatives I think we will be discussing and passing this year. That is, to inject this tremendous human resource into our educational system.

It is also my hope we will have principals and school boards with enough farsightedness and vision to understand there is another group of people coming out of the military who can be a tremendous help in our educational challenges today. That is people who may not have college degrees, people who are enlisted but worked to the very top end of the enlisted scale, who have been dealing with young men and women from all walks of life in the military and have become experts in the whole question of shaping young lives and providing leadership skills and discipline—particularly discipline in the young people.

I do not know of anything that is brought up to me more by the school teachers that I talk to in my State—anything more important to them than having some help in the discipline area.

In many of our school systems today the productivity of our best teachers in greatly diminished because of the discipline problems in the school system. I cannot think of anything that would help more than to have some of these sergeants and chief petty officers who have been in the military, come in as assistant principals to help in this discipline area. I think it could be a tremendous help to our education community and greatly increase the productivity of our outstanding classroom teachers.

We have other initiatives which Senator GLENN and I sponsored, relating to the Reserves. The Reserves have the same kind of challenges drawing down as the active forces, so we are providing a special 15-year retirement here for Reserves in surplus areas and also providing they would begin drawing that at age 60.

We also provide certain separation pay for Reserves who are being required to retire.

We have similar provisions for civilians, including Joint Training Partnership Act eligibility for civilians who are going to be terminated early because of base closures. We provide for a $20,000 early retirement incentive. We also provide for some transitional benefits here relating to the provision of continued health care insurance for those who are losing their jobs through no fault of their own. So we do have a number of initiatives here in this most important dimension of defense, and that is in the human dimension.

We have other provisions relating to helping communities adjust with the Joint Training Partnership Act, the Economic Adjustment Act, and also helping school districts. As I have already mentioned we have a number of, I think, very innovative initiatives that have been sponsored by Senator BINGAMAN from New Mexico, as the chairman of our Military Defense Industry and Technology Subcommittee. So I think this is a worthy package and, Mr. President, I would serve notice we will be asking for a rollcall vote on this when comments are completed.

To reiterate, Mr. President, I am pleased to join with Senators WARNER, BINGAMAN, RUDMAN, and PRYOR in sponsoring an amendment to ensure the prompt and effective implementation of the defense conversion and transition assistance provisions in the National Defense Authorization Act for Fiscal Year 1993. In my opening statement, I summarized the key conversion and transition provisions in the bill reported by the Armed Services Committee. The amendment that I and others are proposing at this time contains planning and management requirements to ensure that these important provisions—which reflect the recommendations of the Pryor and Rudman task forces—are implemented in a timely and effective manner.

The amendment also places in one provision of the bill the authorization for $1.2 billion in defense conversion and transition assistance.

The amendment would establish a new subtitle in the bill, entitled "Defense Conversion and Transition Assistance," with five sections.

The first provision, section 1071, sets forth the findings and policies that provide the basis for our defense transition programs. The findings and policies focus on the need to recognize and address the impact of reduced defense expenditures on the people, companies, and communities that have been the foundation of our national defense policies—our men and women in uniform, active and civilian, and the DOD civilian employees and defense industry workers. As OTA has estimated, the defense build-down provided in the President's fiscal year 1992 budget could lead to a loss of 2.5 million jobs over the next decade.

Section 1071 also recognizes the potential contribution that defense conversion can make to the long-term vitality of the national defense technology and industrial base. The policies place particular emphasis on the importance of assisting defense-dependent industries in converting to dual-use capability.

Section 1071 also provides that not less than $1.2 billion of the funds authorized to be appropriated by this act shall be available for defense conversion and transition assistance programs.

Section 1072 and 1073 establish planning and management deadlines for the active and reserve transition enhancements in the bill. This provision requires the Secretary of Defense to establish program objectives and implementation timetables for the military personnel transition programs authorized under title V of the bill, including:

The authority for active duty personnel in nontransferable skills, such as combat arms, to apply for up to 1 year of educational leave of absence to obtain civilian skill training.

The authority for active duty personnel who have 15 but less than 20 years of service to apply for early retirement, and to accrue additional military retirement credit if they take jobs in critical areas such as education, law enforcement, and health care.

The authority for selected reservists who have 15 but less than 20 years of service to apply for Reserve retirement, with benefits commencing at age 60, and authorizes selected reservists who have at least 20 years of service to apply for an immediate, reduced retirement annuity.

The authority for separation pay and continued GI bill benefits for selected reservists who are involuntarily separated.

Section 1074 requires the Secretary of Defense to establish management goals and timetables for implementation of the civilian personnel transition initiatives authorized in title III of the bill, subject to guidance issued by the Director of the Office of Personnel Management. These initiatives include:

The authority for Job Training Partnership Act assistance for DOD civilian employees 12 months in advance of a base closure or realignment.

The authority to provide a resignation incentive of up to $20,000, and an early retirement incentive of up to $20,000, for DOD civilian employees in surplus skills and for employees at military installations facing closure or realignment.

The authority for DOD to pay for up to 18 months the Government's contribution for a Federal health insurance plan for a DOD civilian employee who is involuntarily separated due to a reduction in force.

Section 1075 requires the Secretary of Defense to ensure that communities, businesses, and workers affected by reductions in defense expenditures are promptly informed of the assistance to communities available under title III of the bill, including:

DOD support for the Department of Labor's worker relocation and training programs under the Job Training Partnership Act.

Programs administered by the DOD Office of Economic Adjustment.

DOD support for economic development grants administered by the Department of Commerce's Economic Development Administration for the capital investment needs of communities adversely affected by base or defense plant closures.

DOD assistance to local school districts affected by the defense buildown.

Section 1076 requires the Secretary of Defense to provide for broad public dissemination of the defense technology and industrial base conversion initiatives in the bill, including:

Dual-use critical technology partnerships to stimulate industry investment in vital defense technologies.

Commercial-military integration partnerships to foster the development of viable commercial technologies that can also meet future reconstitution requirements and other needs of DOD.

Regional technology alliances to promote the development of products that build upon regional strengths in particular industries and technologies.

Defense advanced manufacturing technology partnerships to encourage Government-industry cooperative efforts in manufacturing technologies, especially those which would significantly reduce the health, safety, and environmental hazards of existing manufacturing processes.

Defense manufacturing extension programs to support the manufacturing programs of regions, States, local governments, and private, nonprofit organizations.

Dual-use technology and industrial base extension programs to support programs sponsored by the Federal Government, regions, States, local governments, nonprofit organizations, and private entities that assist defense-dependent companies in acquiring dual-use capabilities.

Expansion of the Small Business Innovative Research Program, which uses a percentage of funds from each agency's research and development budget to fund research proposals from small business concerns.

Mr. President, building on the work of the Pryor and Rudman Task Forces, we have crafted a bill and an amendment which provide a broad array of tools to address the problems of defense conversion. In my judgment, these are prudent measures that will address the transition problems faced by workers, businesses, and communities, and strengthen the national defense technology and industrial base.

I urge the adoption of the amendment.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from New York.

Mr. D'AMATO. Mr. President, I am going to be very brief in my remarks. I, first of all, would like to commend the distinguished chairman and ranking member for this outstanding piece of legislation, particularly that dealing with defense conversion and the transition assistance that is desperately needed, I want to say. To my State, this is critical, particularly in the community in which I live, Long Island, which is so defense oriented.

The impact as it relates to the dislocation of workers and the impact as it relates to those who serve the military in an active capacity is one that this act begins to move in a very forceful way to address, and to deal with it in such a way that we can turn some situations that otherwise might be tragic into a plus in creating jobs, job opportunities, and increasing and enhancing our educational system. And I just want to commend all of those associated with it.

I have asked to be included as an original cosponsor. I make that request now, that my name be added as an original cosponsor.

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

AMENDMENT NO. 2917

(Purpose: To prohibit land known as the Calverton Pine Barrens, located on Department of Defense land in Long Island, NY, from being disposed of in any way that allows it to be commercially developed)

Mr. D'AMATO. Mr. President, I rise today, on behalf of myself and my friend and colleague Senator MOYNIHAN, to submit an amendment to the Department of Defense authorization bill for fiscal year 1993.

Our amendment, which is identical to the Calverton Pine Barrens Preservation Act of 1992, a bill I introduced earlier this week, would protect from commercial development over 3,200 acres of land around the Grumman aircraft testing facility at Calverton in Suffolk County.

This wooded area, surrounding 2,805 acres leased by the Grumman Aerospace Corp. from the U.S. Navy, is situated over a major section of the sole-source water supply for 2.3 million Long Islanders. It is also the home of nearly two dozen different threatened or endangered animal species, such as the banded sunfish, the eastern bluebird, the buck moth, and the tiger salamander. The Calverton Pine Barrens is also a place were 19 species of rare and endangered plants grow, many of which are found nowhere else in New York State.

The Calverton Pine Barrens, though owned by the Navy, is currently managed by the New York State Department of Environmental Conservation

[DEC] as a wildlife preserve and recreation area.

Mr. President, in the past the Federal Government floated the idea of selling off this buffer zone around the Grumman facility. It made no sense, however, to allow development in an area surrounding a Navy jet testing facility and the administration did not pursue the idea.

This is an amendment that makes great sense, and I believe both the majority and the minority have signed off on it.

It is an amendment which the ranking member, the distinguished senior Senator from Virginia, is intimately aware of the impact of, having been former Secretary of the Navy. He knows out in Calverton, Long Island, the unique situation in which that testing facility has, and the important role it has played in the defense of this Nation. He also understands the 3,000-plus acres that form a buffer to this training facility should never really be developed. The purpose of this amendment is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

However, the recent discussion on the possible construction of a commercial jetport facility gives this legislation a heightened sense of importance.

This amendment requires that if the Navy ever declares the Pine Barrens to be no longer needed, the Secretary of the Navy must designate the area a protected tract and therefore off-limits to commercial development. If a private owner attempts to develop the land, ownership of the tract would revert back to the United States.

Whatever the future holds for the Calverton facility, we must prevent development that would destroy an important environmental resource.

Mr. President, I would like to offer my thanks to Congressman GEORGE HOCHBRUECKNER who had introduced an identical bill, H.R. 1065, in 1991 and who has been a champion for this important cause.

I note that both State and local government officials, as well as those citizens who are concerned with preserving this ecosystem are in favor of this amendment.

Mr. President, the Calverton Pine Barrens provide clean water, a habitat for rare animals and plants, and an important outdoor recreational area for 15,000 New Yorkers who fish, hunt, and hike in this beautiful area. We must do all we can to preserve this heritage for our children and our children's children.

I urge my colleagues to support Senator MOYNIHAN and me in saving the Calverton Pine Barrens.

I thank the ranking member for his strong support and the majority for their consenting to take this amendment, because I believe it will really serve our national goals and interests.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The amendment is acceptable on this side. I wish to commend my colleagues, the senior Senator from New York, and Mr. MOYNIHAN, for their vision in seeing a piece of land which is still nothing—basically it is in the form when the Indians departed. Am I not correct?

Mr. D'AMATO. That is correct. These go back to Indian times.

As the statement would indicate, they have many rare species of plants and animal life, et cetera. Of course it is absolutely essential as it relates to protection of the ground water. We are totally dependent on the ground water supply and the aquifer which lies beneath.

Mr. WARNER. Senator, would I be somewhat presumptuous in saying this could become the Central Park of Long Island someday?

Mr. D'AMATO. In essence there is a magnificent utilization. It is probably well underutilized, but in days to come, it could be a great recreational area for many, many, and a great educational sanctuary as well—an opportunity to give our youngsters, in science and ecology, an opportunity to see it and observe; all of the benefits.

Mr. WARNER. I commend the Senators from New York. There are pieces of land that, frankly, are obscure. It takes a little research to determine what use can best be made with these pieces of land and, I commend the Senator for this particular amendment.

Mr. D'AMATO. If I might, I thank my colleague and friend from Virginia. Let me be very candid because this has been bipartisan. I think it is important to note not only does it have and has had the strong interest, not just today or a few days ago, and support of Senator MOYNIHAN, but in addition the Congressman in this area, Congressman HOCHBRUECKNER has introduced a companion bill in the House of Representatives. I think it be only fair to commend the Congressman for this interest and his persistence in this area. I think that is important to know.

Mr. WARNER. Mr. President, I think we should adopt the amendment, and send it to the desk.

The PRESIDING OFFICER. The amendment has to be sent to the desk.

Mr. WARNER. I did not realize, Mr. President, that it was not at the desk. I send the amendment to the desk on behalf of the two Senators from New York.

Mr. NUNN. Mr. President, I think we have to ask unanimous consent that the pending amendment be temporarily laid aside for this amendment to be considered at this point in time. I so propound that request to the Chair.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. MOYNIHAN, proposes an amendment numbered 2917.

Mr. WARNER. 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 bill insert the following title:

SECTION I. SHORT TITLE.

This Act may be cited as the "Calverton Pine Barrens Preservation Act".

SEC. II. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Pine Barrens, a forest of pine trees extending across Long Island, New York, protect and replenish the Island's sole-source aquifer and require well-planned protection strategies.

(2) The Department of Defense owns 3234 acres of the Pine Barrens which serve as a buffer zone surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York, and provide numerous benefits to the public and wildlife.

(3) The General Services Administration has suggested selling portions of the Pine Barrens described in paragraph (2) and under Federal law, such portions could be sold for commercial development.

(4) The New York State Government and local governments have an interest in preserving the Calverton Pine Barrens in its natural state.

(b) PURPOSE.—The purpose of this Act is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

SEC. III. CALVERTON PINE BARRENS PROHIBITED FROM BEING COMMERCIALLY DEVELOPED.

In the event that any part of the Calverton Pine Barrens is declared to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall designate that part a protected tract. The protected tract, or any part thereof, may not be disposed of in any way that would allow commercial development to take place on it. If the protected tract, or any part thereof, is ever conveyed to an entity which uses it for commercial development, ownership of the protected tract shall revert to the United States.

SEC. IV. DESCRIPTION OF THE CALVERTON PINE BARRENS.

The Calverton Pine Barrens is the land of not less than 3234 acres located on Department of Defense land surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York.

Mr. NUNN. Mr. President, we have read the amendment on the majority side and urge its approval.

Mr. WARNER. I urge its adoption.

Mr. MOYNIHAN. Mr. President, I am pleased to rise today to join my colleague Senator D'AMATO in support of this amendment.

Mr. President, this amendment has one simple purpose—to prevent the development of the last uninterrupted stretches of Long Island's once expansive pine barrens. The tract in question, the 3,000-acre Calverton Pine Barrens, is presently part of the Naval Weapons Industrial Reserve Plant in Calverton, NY.

Currently this land is managed by the New York State Department of Environmental Conservation as a recreation area and wildlife preserve. It is home to at least 23 threatened or endangered species, and plays host to hikers, fishermen, and women, and grade school field trips. It is a resource we should protect.

The Navy has had under consideration a plan to declare this land as "surplus property." In this event it would be turned over to the General Services Administration for sale to the highest bidder. The pending amendment would simply require that the land, whether owned by the Navy, another Federal agency, or a private individual, must remain undeveloped.

This is a worthy amendment and I urge its adoption.

Mr. President, I ask unanimous consent that an article from Long Island Newsday appear in the RECORD with my remarks. I ask unanimous consent that my remarks appear in the RECORD immediately previous to the disposition of the amendment.

SALE OF CALVERTON BUFFER LAND URGED

(By Tom Morris)

The U.S. General Services Administration has recommended that the Navy declare as surplus an 850-acre portion of the buffer zone surrounding the Grumman jet plant at the Calverton naval reservation, a move that could lead to development of a heavily wooded section of the Suffolk pine barrens.

Navy officials at Grumman have advised top brass in Washington that they are against the idea, mainly for safety reasons, because aircraft are tested at the Calverton field. And yesterday the Long Island Regional Planning Board and Suffolk Planning Commission opposed the suggestion on grounds that sale of the tract could spur private development in the pine barrens, which cover Long Island's largest reservoir of clean underground drinking water.

The regional board made public yesterday a July 29 letter from Navy representatives at Grumman to the chief of naval operations in Washington saying that the GSA, based on a 1985 field survey, recommended the Navy declare "excess to its needs" a total of 880 acres in two parcels.

Navy officials at Grumman said the land would be worth about $5.9 million if sold for development.

The larger piece is an 850-acre tract in the southeast corner of the buffer zone, south of the Long Island Expressway in Brookhaven Town and about two miles southeast of Grumman's northeast-southwest runway.

A 30-acre Navy tract on the west edge of the Calverton site, along Wading River-Manorville Road at Route 25, just outside the buffer zone, also would be declared excess under the GSA proposal.

David E. Segall, a spokesman for the Navy office at Grumman, said its commander "does not concur with the GSA recommendations." The office's letter to Washington said, "It is necessary for the Navy to retain ownership of all buffer zone land in order to guarantee the safest environment possible for the development and testing of Navy aircraft."

Segall said the Navy owns 2,921 acres inside the fence around the plant and 3,000 acres outside the fence, considered the buffer zone. Grumman has leased the land since 1954 as a jet-testing facility.

Chief Petty Officer Paul Waldrop, a press aide for the chief of naval operations, said the letter had not been received and apparently was routed first to the Navy Air Systems Command in Washington, which couldn't be reached.

A spokesman for the GSA in Washington, Robert Fisher, said the agency had no power to take the parcels and that the Navy could decide to retain them. Fisher said the recommendation came from a routine survey last year. He said the GSA continousuly tries to identify holdings that may be not be needed, in keeping with a Reagan administration order.

The Suffolk planning commission sent letters yesterday to Long Island congressmen, urging retention of the Calverton land and saying "it appears extremely shortsighted to open up the possibility of further residential development" in the area. The bicounty planning board instructed executive director Lee Koppelman to join the protest.

John L. Turner, president of the Long Island Pine Barrens Society, said the 850-acre parcel is in "the heart and soul of the pine barrens. It's as if the GSA was living in a vacuum instead of recognizing the need to keep this land open. It's a ridiculous suggestion."

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

The amendment (No. 2917) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 2916

Mr. ROBB. Mr. President, I would like to return to the pending amendment on defense conversion. It has been very carefully explained by both the chairman of the Armed Services Committee, as well as the chairman of the task force, Senator PRYOR. I commend them for the leadership that they have shown in pulling sometimes disparate views together and reconciling them in the particular amendment that is now pending before the committee.

I would like to follow their presentation by talking a little bit about the principles which underlie the defense conversion plan.

Those of us on the task force started with what looked like a clearly defined challenge. The cold war is history. The days of free spending on defense are history. The Senate's task, it seemed, was to keep our States' economies from becoming history, too.

But as we delved into what that challenge really entails, we found it really cannot be addressed in the singular. The nature of the problem depends very much on who and where you are. For businesses, the economic challenge of the post-cold-war world is not so much to identify the next big technology or the next emerging market. It is to be structured in such a way to take advantage of ideas in markets when they appear.

For defense personnel, both uniformed and civilian, and for their brethren who design and build America's defense hardware, the challenge is to find another productive use for their skills. For State and local governments, the challenge is to handle the effects of business and judgment—the dramatic diminution of property values from base closings and business consolidations, the new demands on services for laid-off workers to create infrastructure, to attract replacement businesses, and to somehow do it all while we are trying not to be trampled by whatever the Federal Government has decided to do this week.

For the Federal Government, the challenge is to bring defense spending down at the proper rate. Do it too slowly and other vital needs go unmet. Do it too quickly and the result could be a depression.

Mr. President, the Berlin Wall fell almost 3 years ago. The current base closure process began in 1988. Leaders at all levels of Government, academic experts and some in the military, have been preparing to handle the effects of downsizing its conversion for at least that long. Action has, frankly, lagged behind our intentions. The task force language in this bill finally provides a vehicle to help turn some of those ideas into real assistance. The overriding principle behind this plan is to keep new bureaucratic structures to a minimum and improve those already in place. I continue to look at new proposals through the eyes of a former State official: That means decentralizing power to the States and localities wherever possible and using existing successful programs wherever they can be found.

I am pleased to report that the task force followed that model. We recognize that the answer does not lie in just creating new programs. We do not believe that Government can bureaucratize its way out of trouble. We can see a corollary of that principle in the way business growth is treated. We emphasize existing programs and, when necessary, to modify them to better recognize and deliver what defense-oriented businesses need to stay globally competitive.

For example, we do not advocate replacing DARPA but opening it up so the technologies with civilian applications are more accessible to the contractors that develop them.

This plan does not put Government in the place of guaranteeing the survival of particular businesses. Instead, we help to make available the tools that businesses need to ensure their own survival while new manufacturing

techniques are designed to make American business as responsive and agile as some of our foreign competitors.

I believe that when American businesses have the same tools as our competitors, we can eat their lunch. The democratic proposals create incentives to develop those tools. As we all know, the effects of defense downsizing could be most chilling in the short-term for workers in defense industries and those in military service. Our plan moves aggressively to provide assistance to these folks who won the cold war but are now being asked to pay the price of victory.

Basic principle with regard to workers was to make Government proactive, to anticipate cutbacks in closures, not just to jump in too late after the jobs are lost and the people have been scattered.

On the civilian side, that means being ready to train these good people for jobs serving the private sector. It means making the Job Training Partnership Act work even better. It also means getting the Department of Labor to release funds for its retraining program. These funds have already been authorized but they have not been spent, and with 2 million more people about to have to look for work, we simply cannot sit on our hands.

That same proactivity will be used on behalf of military personnel and DOD civilian employees. We cannot just react after their jobs are gone. We have an obligation to them to provide retraining along with incentives for them to leave the military service probably earlier than they planned to leave, and our plan does just that.

But it also recognizes the value of their experience and urges these people to use their talents in service to the public. I have always liked the idea referred to a few moments ago by the chairman of the Armed Services Committee, the idea of bringing those who choose to retire into the classroom to fill the ranks of people to teach math and science so the next generation can have the benefit of their services and thereby ensuring that their experience and know-how are not lost to the years and filling a constant need particularly in those specialties in our teacher ranks.

We recognize the principle that Washington cannot always know what is best for individual States and communities.

The States and localities usually know where it will hurt, how it will hurt, and what programs have proven to be effective at that level.

So we do not tie a lot of strings to the support to be provided to localities through EDA.

I am looking forward to working with Senator PRYOR and other colleagues, particularly Senator BINGAMAN and Senator LIEBERMAN, who Senator PRYOR referred to earlier, to strengthen the State role in that adjustment.

This package is also consistent with our principle that the long-range solution for defense-dependent communities and States is to attract more investment from firms, the livelihood of which does not depend on war or the threat of war.

This may be a somewhat controversial belief, Mr. President, but encouraging diversification and growth is not an industrial policy. It is simply sound economic policy. And like many sound policies, it is bipartisan.

I am glad to note, as has already been noted, the contributions of a similar group from the other side of the aisle are also included and very much contributed to the success of this particular provision.

The post-cold-war world is simply too capricious, too dangerous, and too difficult for the squabbling between parties on such basic issues.

Mr. President, we are talking ultimately about the survival, not just to businesses and families, but of America's role as an economic power. It would be folly to let internecine differences threaten our Nation's success. In the end, our goal is to provide resources for proven programs that work.

There is not much support in here for the new or the experimental. We simply do not have the luxury of time which trial and error demands. And we probably will not be able to save each individual community from at least feeling the pinch or more. But I believe if we act quickly, we can give America the tools it needs to not only survive the dislocation of defense cutbacks but to leave our Nation stronger and better off in the long run.

Mr. President, I thank the Chair, and I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask unanimous consent that I may be considered as an original cosponsor of the pending amendment.

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

Mr. NUNN. If the Senator will yield for just a brief inquiry, I would like to get the yeas and nays on this amendment, if the Senator will yield for that purpose.

Mr. DODD. I will be glad to yield.

Mr. NUNN. Mr. President, I would like to ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I will just take a couple of minutes.

I want to join with the distinguished chairman of the Armed Services Committee and ranking minority member in commending the Senator from Arkansas [Mr. PRYOR], for his leadership on the Senate Task Force on Defense/Economic Conversion.

I was pleased to serve as a member of the task force, and the amendment presently before this body incorporates hours and hours of work by individual members of the task force and members of the staff and dozens of interviews with knowledgeable people in the area of defense conversion. In the task force we sought to determine what steps may be taken in order to assist in the orderly process as we try to assist individuals, communities, and industries that are going through the awkward and difficult transition of a defense-based economy to nondefense or more moderately defense-based economies.

I commend those Members who have worked on this and I want to briefly relate how important I think this is.

I think most Members appreciate the role that my home State, the State of Connecticut, has played throughout the 200-year history of this country as a provider of defense materials and articles for this Nation's national security needs. In fact, we are the most dependent State on a per capita basis of any of the 50 States on defense contract work.

We are proudly a State that has given this Nation its helicopters, its jet engines, propellers, radar systems, gun weaponry, and, of course, the submarine force, the nuclear submarine force, beginning with the *Nautilus* to the present *Trident* and *Seawolf* programs.

It is a small State geographically but a significant percentage of our work force has been dependent on defense work and has contributed significantly to this Nation's security. In many ways, Mr. President, these employees and these firms and these communities have been the veterans of the cold war.

Today, we are experiencing the painful process as we downsize our defense budgets of what happens to these communities, what happens to these industries, and what happens to these individuals, talented people—pipefitters, welders, painters, boiler makers, designers, engineers—who have all contributed to the great strength of the national security apparatus of this country.

Now many of them are losing their jobs. We have seen roughly 177,000 jobs lost in the State of Connecticut in the past 36 months. Just in the month of June, Mr. President, almost 10,000 people in the State of Connecticut lost their employment. Not all of them are due to downsizing the defense budget but a significant number of them are. In the coming weeks, months, and years, we understand that there will be even further layoffs and further job losses and further industries and manufacturers losing business as a result of the changed world environment in which we live.

Mr. President, what this legislation does is not terribly complicated. It deals with three areas, as I mentioned already: The employees, the industries, and the communities that are adversely affected by the downsizing of our defense budgets in very concrete terms.

It deals with individuals by providing job training, some $50 million of assistance in this legislation for workers who lose their jobs. This will greatly help, for example, as I have mentioned, the Electric Boat Division of General Dynamics where $1.5 million in job training funds approved earlier this year are in danger of running out. Other grants will help places like UNC in Montville, CT, which supplies components for the nuclear reactors; Pratt & Whitney, the jet engine facility in East Hartford, or many other sites throughout the State that are losing employment.

For communities, Mr. President, there is $150 million for economic development assistance. This program is essential for the infrastructure of the Nation. Out of the $50 million that was set aside for the program in 1990, three projects in Connecticut are in the final stages of approval: $2 million for the Norwich Department of Public Utilities to build water filtration plants, $2.7 million for the reconstruction of the pier in New London, CT, which we hope will expand the port facilities in that city—which is directly across the river, I might add, from the Electric Boat Division—and a $112,000 grant for the State of Connecticut to maintain its diversification service network.

There is also a more than $500 million program to support dual use technologies and other critical technologies. Support for these technologies is critical if we are going to help preserve the technology base in States like Connecticut. Specific examples, in my State, could include robotics, marine technologies, biotechnology, environmental technologies, and advanced fuel cell technology and development.

Finally, Mr. President there is a doubling of the Small Business Innovation Research Program for 3 years. This program has been extremely creative and extremely helpful in providing to small businesses within Connecticut and other regions of the country help to develop innovative technologies, cutting-edge technologies for the 21st century.

Mr. President, I ask at this juncture unanimous consent that a summary of the other dollar amounts that will go into job training assistance and technology manufacturing and small business assistance be printed in the RECORD.

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

SUMMARY OF THE DEFENSE CONVERSION PORTION OF THE DEFENSE AUTHORIZATION MARKUP

I. JOB TRAINING ASSISTANCE

$50 million for assistance to displaced defense workers under Title III of the Job Training Partnership Act.

Early retirement incentives for members of the armed services.

Separation pay for Reservists who are involuntarily separated.

II. COMMUNITY ASSISTANCE

$20 million for planning grants for impacted communities through the Office of Economic Adjustment.

$150 million for public works projects in impacted communities through the Economic Development Administration.

III. TECHNOLOGY, MANUFACTURING AND SMALL BUSINESS ASSISTANCE

$100 million for industry partnerships in critical dual use technologies.

$50 million for industry partnerships designed to enhance commercial-military integration.

$100 million for industry partnerships designed to strengthen regional technology alliances.

$25 million to enhance defense advanced manufacturing technologies.

$100 million for state and local manufacturing extension programs.

$30 million for manufacturing engineering education programs.

$200 million to support federal, state and local programs designed to enhance dual use technology and strengthen small businesses.

Set-aside for Small Business Innovation Research Program is doubled over a period of three years (no authorization of funds necessary).

Mr. DODD. Lastly, Mr. President, I want to point out that it was in 1979 that former Congressman from Connecticut Stewart McKinney and I introduced conversion legislation. In those days there was little or no interest in this because people felt we were escalating the defense budget and a need for offering alternative economies was not something that enjoyed broad-based support.

Regretfully, we did not do more in those earlier days to lay out the base that would have made it possible for these communities and industries to move into other important technologies that they are capable of developing. But be that as it may, this particular proposal being offered today is, I think, a sound idea, one that I would hope would enjoy broad-based support.

I offered an amendment a few weeks ago when we considered the $12 billion authorization program to assist the newly independent states of the former Soviet Union. Part of that money is to go to assist former defense workers in those Republics make the transition to commercial technologies. I offered an amendment that said that whatever we did for defense workers in the former Soviet Union ought to be done for defense workers in this country. That amendment was unanimously adopted by this body.

This particular amendment conforms to that amendment in the sense that what we are doing here is committing defense dollars to assist the veterans of the cold war, to assist the communities of those veterans, and the industries that have given so very, very much to this Nation in defense technologies.

But as my colleague from Virginia, who is on the floor, and my colleague from Wyoming will testify, many of the technologies developed over the years in defense-related areas have also proved to be invaluable in commercial technology development.

So there has been a benefit beyond the strictly defense areas. But this amendment will go a long way to assisting those workers, those communities, and those independent industries make this very painful and difficult transition.

It is not the end all. It is not the final answer, obviously, but it is a major step forward in a recognition that these people, communities, industries, deserve as much help as we could possibly give them not only for their sake but for our sake as a nation as we prepare for the new challenges of a global economy.

I yield the floor.

Mr. WARNER. Mr. President, I wish to commend my distinguished colleague from Connecticut. He has for many years been an expert in the area of industrial base as it relates to defense. He has in his State a shipyard which has contributed materially to the security of this Nation for decades, and it is now continuing to manufacture components which are essential to our security and, given the uncertain future that we have before us, it is clear that a capability to construct nuclear powerplants for seagoing vessels is essential to the long-term security of this Nation.

I thank the Senator for his contribution.

Mr. President, I would like now to propound a unanimous-consent request that would simply be in the nature of allocating the next 30 or 35 minutes to Senators who wish to address certain issues. I know the Senator from Wyoming is anxious to discuss the pending bill. He is a member of our committee. The Senator from Arizona has matters relating to the problems in Bosnia today, as does the Senator from Connecticut; and the Senator from Virginia who would like to address that subject.

So I ask unanimous consent that a period of 40 minutes now be allocated, 20 minutes to the Senator from Arizona [Mr. DECONCINI]; 10 minutes to the Senator from Wyoming; 10 minutes to the Senator from Virginia; that no amendments will be sent up during that period of time; that the existing unanimous consent is in no way amended; and that at the expiration of the period of 40 minutes either the chairman of the Armed Services Committee, Mr. NUNN, or myself will be recognized.

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

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

BOSNIA-HERCEGOVINA

Mr. DECONCINI. Mr. President, I want to thank the Senator from Virginia for his accommodation. I understand, I think, what the game plan is here; priority amendments; and I did agree that I would, as the unanimous consent so said, not offer an amendment at this particular time.

Mr. President, I want to talk about the importance of an amendment that has been put together by the Senator from Connecticut and myself as a cosponsor, at least day before yesterday, by Senator DODD, Senator MITCHELL, Senator PELL, Senator LEVIN, Senator PRESSLER—and perhaps I missed one or two others—Senator D'AMATO, Senator MIKULSKI, Senator RIEGLE, and Senator LEAHY, Senator SPECTER, Senator KOHL, and Senator SIMON.

I would like to think that the basis point or the starting point was what we introduced there on Wednesday. We had a press conference that was a little bit of movement towards doing something about the atrocities that are occurring in Bosnia-Hercegovina.

Mr. President, I feel very strongly that this body ought to address this, discuss it, have some debate, answer questions, and hopefully vote a resolution that would urge as strong as we can on a nonbinding, nonmandated resolution, our government, the administration, to move in the Security Council under article 42 authorizing the use of force, taking what steps are necessary to see that several things occur.

One is that the prisoner of war camps are inspected and have access by the Red Cross and other relief organizations; two, that the Security Council of the United Nations take steps necessary under article 42 which includes authorizing the use of force to open the airport for humanitarian purposes in Sarajevo; and three, to convene a tribunal to investigate war crimes.

Mr. President, what is happening in Bosnia-Hercegovina is an outrage. We have seen it on television. Now we are reading it on the front pages of the paper. Anybody who took some time this morning to read the diary as reconstructed from the memory of the person who wrote the diary about the killings that are going on today is enough to make us look back and say "Where we are?" Why were not we here 2 weeks ago, 2 months ago, or 6 weeks ago before the fighting broke out? We had that opportunity. The President of Bosnia-Hercegovina, and the Foreign Minister of that same country, were here and they testified—the Foreign Minister did—before the Helsinki Commission. They told us what was happening and just beginning to happen. They implored us as members of the Helsinki Commission to do anything we can do to get the United States involved in some international efforts.

Congressman HOYER, the chairman of the Commission, and other members that were there, wrote letters. We made statements, and here we are today with tens of thousands being killed, torture being committed in a ravaging way. More than 2 million refugees from Bosnia-Hercegovina and Croatia have need, and have been required to find some space someplace, not their home, under the worst of circumstances. And the Serbian forces and paramilitary forces are indeed the aggressors.

I am not saying that there are not atrocities or could be atrocities or outrages on the Croatian side or even on the Bosnian side. But we are seeing firsthand—our intelligence reports, which we cannot go into here, but eyewitnesses that have come back, newspaper clippings, other interests that are there, on the nongovernmental operations, are confirming day after day an absolute genocide.

I say that understanding what that word means—the senseless killing of people with no reason or rhyme except the brutalness toward human beings and a disguise that this is in some national interest of the Serbian population.

Backers of Serbian forces in Belgrade are primarily responsible, including providing financial and military means for this continued propaganda that is going on to cleanse Bosnia-Hercegovina of the ethnics that are there, that are non-Serbians. This is the kind of talk we heard before the Second World War. This is where the world community failed to respond then. And to me, if we do not act soon, we will be guilty once again of failing to come forward and do something in a meaningful way to get the United Nations and international bodies to address this problem.

The Senator from Connecticut and I have an amendment. It is a resolution to do several things. We make several findings that the Republic of Bosnia-Hercegovina is internationally recognized as an independent state.

I am pleased our President said that yesterday, that they would recognize Bosnia-Hercegovina as an independent nation and a sovereign country, something that the Helsinki Commission of this joint Congress has been attempting to promote and get the attention of the administration.

The resolution also calls for attempts to bring about a permanent cessation of hostilities by the Serbian and Serbian-backed forces in the Republic of Bosnia-Hercegovina; and it says that though these negotiations have failed, there should be continued effort to do it.

Third, the horrible atrocities which are being committed against the civilian population, including the so-called ethnic cleansing of regions inhabited by non-Serbs.

It says there is a finding that the United States and other contributing parties to the International Convention of the Prevention and Punishment of Crimes of Genocide may, under article VIII, "call upon the competent organizations of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention or suppression of acts of genocide."

Or, any other "acts constituting genocide" as enumerated in article III. Finding that the officials of the International Committee of the Red Cross have been denied access to prison camps and internment camps throughout Bosnia, even though such officials are entitled to access.

Six, the United Nations and Red Cross relief convoys carrying such needs, supplies of food and medicines, being blocked at the present time by the Serbian-backed forces; that the Security Council vote unanimously to dispatch additional forces to reopen Sarajevo Airport and secure it, and deliver supplies of humanitarian assistance; that the Security Council endorse the cease-fire plan negotiated by the European Community, and that the President of the democratically-elected Government of Bosnia-Hercegovina has issued urgent appeals for immediate assistance in the international community.

These are facts that have occurred. It is the sense of the Senate that the President should immediately call for an emergency session of the United Nations Security Council in order to authorize, under article 42 of the U.N. Charter, all necessary means and efforts to enforce the Security Council decision with regard to Bosnia-Hercegovina, including the use of multilateral military force under the Security Council mandates, to facilitate the provisions of humanitarian relief, and to gain access for the United Nations and International Red Cross to internment camps and prisoner-of-war camps and; two, during that meeting, the U.N. Security Council review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia, pursuant to U.N. Security Council Resolution 13, and determine whether the termination or suspension of the application of that resolution to Bosnia would result in increased security for the civilian population.

Lastly, the U.N. Security Council should convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territories of the former Soviet Federated Republics of Yugoslavia and to accumulate evidence, charges, and prepare the basis for trying individuals believed to have committed such crimes.

Mr. President, it is not a difficult resolution. It is one that is clear, concise, and everybody can add a sentence or subtract a sentence from it to make it a little better.

The Foreign Relations Committee reported out something relatively similar to this, with some alterations. The members of the Armed Services Committee have a deep interest in that.

If, in fact, the Security Council did what this resolution calls for, it is very likely that the U.S. Armed Forces would be involved. This does not call for a land-based invasion. It does not call for the United States to participate on one side of a civil war or the other side of a civil war. It calls the United States to come forward as a world leader, to insist on the rule of law, to say outspokenly at the United Nations, and publicly, that we are prepared not only to come forward when there are economic interests, as well as human rights violations, as there was in the gulf; we are prepared to do it here, now, today, because there are human rights violations that are occurring, and we cannot sit by and permit this to continue.

Mr. WARNER. Mr. President, I would like to ask a question, the time being charged equally between the two Senators.

I certainly join, as I am sure all do in this Chamber, to try to do what we can, through the United Nations, to help bring about a cessation of this tragic sequence of events.

I commend the Senator and all those who are taking a lead on this. This Senator—and I would like to express my concern—wants to make certain that the American people fully understand the consequences of such a resolution by the United Nations.

If our President is called upon in this resolution to seek the goals that the Senator has enumerated—and the Senator has said it would involve the use of military force—I think we should know, as best the experts can provide the information, what is the extent of the military requirements to achieve the goals as laid down in this resolution.

If the President were successful in the United Nations, and then there is an allocation of the responsibility among the several countries and, indeed, if our President takes the lead—and he has been taking a lead right along—then the other nations would turn and say: Well, what is it that the United States would contribute in terms of military forces to reach these goals as laid down in the resolution?

At some point, the United Nations, this body, and others, have to receive expert testimony. And the chairman of the Armed Services Committee and I are now structuring a hearing for Tuesday, at which time we will have coming before our committee a very credible array of expert witnesses to try and answer the precise question that I am posing to the Senator.

Mr. DECONCINI. Mr. President, is the Senator going to ask me a question? I am going to ask him one.

Mr. WARNER. The question I wish to ask the Senator, Mr. President, is: How can the Senate, in an informed manner, act on this resolution without having some idea of the quantum of military forces that would be required? And, second, what allocation would be made to the United States if, in fact, our President seeks and obtains a resolution along these lines?

It would seem to me that we could not simply say: Let us have this resolution to achieve a United Nations-sponsored effort to provide humanitarian relief to civilians in Bosnia.

To me, that is a whole country, and it is a very substantial country. Eventually, if we go on, I am going to bring up a map and show the size of this country, the extent of the road networks, the complexity of the terrain, and the difficulty in reaching and providing humanitarian relief to civilians throughout that country.

Is it just part of the country? Is it all of the country? These are very important questions that I think our colleagues will want to have information on before they begin to focus on this amendment.

Mr. DECONCINI. Mr. President, I will attempt to answer the question from my perspective. I am not a military expert, and the Senator from Virginia certainly is.

Let me say this to him, with the greatest respect: We can talk about this; we can pursue it through the Armed Services Committee. We can have the military experts, and we can spend another 2 weeks or 2 months. And my best answer is really a question to the Senator. I do not know if he read former Prime Minister Thatcher's op-ed piece in the New York Times:

> It is argued by some that nothing can be done by the West unless we are prepared to risk permanent involvement in a Vietnam- or Lebanon-style conflict. * * *
>
> That is partly alarmism and partly an excuse for inertia. There is a vast difference between full-scale land invasion like Desert Storm and a range of military interventions. * * *

Mr. President, we are only calling here for a nonbinding resolution to urge our Government to put this type of a resolution before the Security Council. That means we could even disagree with it, if our Government followed this, per se.

Obviously, I think, our Government, if they got anything out of this, would say: The Congress wants us to get moving on this, wants us to move now.

I only want to say to the Senator that I respect his cautiousness in the use of military force; I really do.

This does not say that you have to have the land invasion of all of it. It says, in a nonbinding—should be nonthreatening—manner, take it to the Security Council. We think it is important that we act now. We cannot afford to wait—I urge my friend from Virginia—to wait for more hearings. The problem is here today. If this body does not speak up, I sincerely believe the day will come when we will look at ourselves in the mirror and say, "Where were we, as people died every day by the hundreds?"

Mr. WARNER. Mr. President, if I may reply.

Mr. PRESSLER. Parliamentary inquiry. What are the terms of the unanimous-consent agreement? I would like to speak on this subject.

I shall have to offer an amendment after this to make a speech if that is necessary, but I would like to speak during this time.

Mr. WARNER. I presume the Chair is going to make a response to the parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Virginia has roughly 6 minutes, the Senator from Wyoming has 10 minutes under the unanimous consent agreement, and the Senator from Arizona has approximately 7 minutes remaining in accordance with the original UC.

Mr. PRESSLER. I ask unanimous consent that I be allowed to speak for 10 minutes after that.

Mr. WARNER. Mr. President, regrettably I will have to object because, on the bill that is on the floor under the comanagement of the distinguished Senator from Georgia and myself, there is an amendment pending. We were simply trying to fill in, in a constructive manner, a period of 30 to 40 minutes.

I would have to consult with the majority leader, the Republican leader, and the chairman of the committee before I could accept any amendment or further time allocation.

I simply say to my friend from South Dakota that at some point today I think the Senate has to address this under a constructive format of time allocations, because the Senator from Virginia has many more questions and ideas. I do not wish to be dilatory about this important issue, but I want it addressed carefully.

So I think, for the moment, we will have to remain under the present time constraints, and, at some point, I am sure the leadership will advise the body as to how it wishes to deal with this important question.

Mr. PRESSLER. Will my friend from Virginia yield for a question?

Mr. WARNER. I want to finish my colloquy with my friend from Arizona. I will yield for a question from the Senator on my time in just a minute.

If I could get the attention of the Senator from Arizona, the Senator from Virginia is not trying to be dilatory. I would like to get to this issue. I am hopeful that my questions can be answered.

But, Mr. President, I remember very well—being one of the floor managers on the resolution on the gulf, the extensive debate following the extensive hearings—that this body had before it a complete, factual record of the entire gulf situation before we acted.

This, although a nonbinding sense-of-the-Senate resolution, has implications as important as that gulf resolution, and it cannot be handled in a matter of minutes. It cannot, in my judgment, be adequately handled without a record.

Because I remember so well during the course of that debate, time and time again the question was propounded, What will be the casualty rate? That was a legitimate question and one of the most difficult to answer. Senator after Senator in this Chamber raised the question, What are the projected casualties? What is the projected time of the commitment of the U.S. forces?

So I think we should take this issue with some measure of caution, make sure that the record is the best we can put together, and then address the important issues raised by the Senator from Arizona, the Senator from Connecticut, and the Senator from South Dakota.

Mr. PRESSLER. Will my friend yield for a question?

Mr. WARNER. I will on my time, but perhaps the Senator from Arizona wishes to reply.

Mr. DECONCINI. Mr. President, my recollection is—and I do not have the record before me, and maybe the Senator from Virginia has a better memory—that we were debating a great deal the War Powers Act in that effort.

We were told about the casualties, as the Senator will recall, being perhaps 50,000—I remember that figure—or more. And we know it turned out to be several hundred, which is a loss, but certainly nothing like that.

I see a distinction, in all sincerity, with the Senator from Virginia. This is a nonbinding resolution urging action in the Security Council. It does not bind the Security Council. It does not even bind our country to use this exact term. What it is, is a statement.

Now, the Senator might logically say, well, "Make your statement, Senator from Arizona. Go to it. Make all the statements you want."

Well, the best statement I know is when you can get a vote here, and the stronger the vote the better.

But it does not bind anybody. And I think that is a grave distinction, at least in my mind.

Mr. WARNER. Mr. President, I will briefly reply to that, and then I will take a question from my friend from South Dakota.

If this Senate acts today, in the heat, and the passion, and the stress of this situation, that message will rattle across the ocean and it will be interpreted that the Senate of United States calls on the United Nations to do thus and so. The fact that it is nonbinding will be lost. It will be a strong message coming from this Chamber this afternoon if, in fact, it does flow. And I want to make certain, the best we can, that we understand all the implications before each Senator is called upon to vote on this.

In the end, I am hopeful that I can be supportive, but at the moment I cannot because I cannot get those facts which I find essential for me to make that important decision, because I do not know whether or not, by virtue of this resolution, as drafted, the United Nations will interpret it that this country must contribute not only air and sea, as the President has thus far indicated would be available, but ground troops. And, if ground troops are to be sent in from this country, I want every Senator to know the full implications and the risks associated with that and for this country to understand it.

Now Mr. President, I yield, for a question, to the Senator from South Dakota.

Mr. PRESSLER. I thank my colleague very much.

I ask my colleague: is it not true that the Foreign Relations Committee has, in fact, held a hearing, a long hearing, on this subject? As I have previously stated, I believe this is one of the defining issues in foreign policy today. How we handle this issue will provide a good indication of the direction we are going in the next 6 or 8 years. It has become rather ironic here on the Senate floor; it seems that the hawks have become doves and the doves have become hawks.

When Lawrence Eagleburger was confirmed in the Foreign Relations Committee, I asked him a line of questions concerning the future of what was then still a United Yugoslavia. At that time I predicted the situation we find ourselves in today could occur. I think he has handled the Yugoslavia matter poorly. I think it would be good to have a new Under Secretary of State in charge of this situation and the general issue of the former Yugoslavia.

In any event, I would ask my friend from Virginia another question. Is it not true that perhaps there could be a force of volunteers to carry out this type of work? Perhaps a mixture of special forces, air and sea forces, and other types of technological forces, plus small groups of troops who are highly trained—volunteers who can carry out the job of bringing in supplies? My friend is sort of painting a picture of a major ground invasion, which many of us do not envision.

However, I do feel that those of us who advocate this resolution must take the responsibility to say that it will take some ground troops and we could lose some people. It is too easy to say there will just be air strikes or strikes from ships. I am not taking that easy route. I will take the hits. I will take the responsibility. This is a defining issue in American foreign policy. We must act and we must act quickly.

We have the information. We have had hearings and hearings and hearings.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. WARNER. With the propounding of a question.

I ask the Senator from Wyoming to give me 1 minute of his time in which to answer the question.

Mr. WALLOP. I yield 1 minute to the Senator.

Mr. WARNER. Mr. President, I hold in my hand the best evidence I can find in the last 48 hours of the military implications of this problem over there. It is a transcript of the MacNeil-Lehrer program of August 5 in which they brought together an assemblage of military experts to address this question.

All through last night, I was working with the Department of Defense. I am receiving every hour material from that Department to supplement this.

But for the moment, we do not have a good record on which to determine the extent of the military forces required to fulfill the basic request here, which is, in very simple language, the Nation's effort to provide humanitarian relief to civilians in Bosnia.

That is a big country, and these civilians are scattered widely throughout that country, several hundred miles from ports, up narrow roads. This is a very serious problem.

I draw to your attention the history of this area of the world where Hitler invaded with some 37 divisions and was able to conquer the political structure, but he never conquered the people. He took very few casualties in the first few days, but then for 3½ years thereafter took tens upon tens upon tens of thousands of casualties.

The PRESIDING OFFICER. The Senator's 1 minute from the Senator from Wyoming has elapsed.

The Senator from Wyoming is recognized for 9 minutes.

PRIVILEGE OF THE FLOOR—S. 3114

Mr. WALLOP. Mr. President, I ask unanimous consent that Capt. Steve Madey, a congressional fellow working with me on defense matters, be permitted the privilege of the floor throughout the debate on the defense authorization.

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

Mr. WALLOP. Mr. President, it is my intention to talk on the bill, but let me just make two observations.

One, the problems in Bosnia-Hercegovina are not new to this past few weeks or these past few months. I refer my friends to the 1930's, to the fact that over a million people were

killed—a million Serbs were killed by Croats during World War II. This is not a new issue and it will not be resolved by this debate.

I will also say to my friends who are so concerned with the tragedies of white people in that region—and they are unbelievable tragedies, I admit that—that I wish they had some concerns to respond to the request of the Secretary General of the United Nations, Boutros Boutros-Ghali, who says that the problems in Somalia with black people, where perhaps 2 million people may die in the next 6 months of starvation caused by civil war, would be at least of as much concern.

Mr. DECONCINI. Will the Senator yield?

Mr. WALLOP. I will not yield because I have such a limited period of time.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Arizona has 6 minutes under control.

Mr. DECONCINI. I yield to the Senator from Connecticut—I yield 1 minute to the Senator from New Jersey.

Mr. LAUTENBERG. Just 1 minute. I thank the Senator from Arizona.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. LAUTENBERG. Mr. President, I want to express my admiration and respect for what it is he is trying to do. He is sounding the alarm; he is sounding a warning; he is saying for crying out loud, let us get off our seats and stop the killing. And it does not need to go through review after review for the United States Senate, on behalf of the American people, to speak up and say we want it stopped now.

Shall we wait a few days more and see how many more children they kill there? How many more senseless attacks take place on innocent civilians? This is not taking sides. This is sticking up for humanity. And we ought to have the decency in this House to stop this silly arguing about what is right and what is going to be bogged down, how we attack and how we do this. Let us declare that we are behind stopping the killing and that we, as the greatest moral force in this country, will stand up to stop it.

I thank my friend from Arizona, and hope that we can get by this gibberish and get on to saying that we in the U.S. Senate want to stop the violence immediately.

Mr. DECONCINI. Mr. President, I yield whatever time the Senator from Connecticut so desires.

The PRESIDING OFFICER. Four minutes and 33 seconds remain.

Mr. LIEBERMAN. I thank the Chair and thank my colleague from Arizona.

Mr. President, it is literally time for us to stop fiddling while Bosnia is aburning. That is what is happening. Look back over the past year at the steady course of aggression, now in Bosnia-Hercegovina and Croatia. If we do not stop them in Macedonia, there will be a prospect of a wider war which inevitably will draw us into something more costly and painful than we are confronting today.

Second, we have seen the outrages, we have heard the testimony, but now we have seen them on our own television sets and in our newspapers. We cannot say we do not know what is happening there. Brutality that is sickening and infuriating is occurring in Bosnia. It is time for us to act.

Mr. President, those who raise questions about this resolution are raising questions that go beyond what is in this resolution. In fact, I would say to my friend from Virginia and my friend from Wyoming, this resolution does little more than endorse and support what the President of the United States has said he would do, which is to ask the United Nations for the authority to use force, to carry out the resolutions of the United Nations, particularly to deliver humanitarian relief.

The specter is raised here that this resolution may draw us into a ground conflict over which we will have no ability to say no or control. This is a sense-of-the-Senate resolution. It is not a declaration of war. It is a sense of moral outrage. It is a warning to the leader, Slobodan Milosevic, in Serbia that we have had enough. It is time to stop.

Mr. President, the Commander in Chief of the United States remains the Commander in Chief. This is a call to him. He will determine what to do with it. The United States retains the veto in the U.N. Security Council. That will clearly affect what the United Nations does and under the War Powers Act, if the Commander in Chief determines that he wants to commit or thinks it is in our national interest to commit ground troops to the Bosnian conflict, I am sure he will return to this Congress, as he requested we do in the case of Operation Desert Storm, to ask for specific authorization.

This resolution simply says, Mr. President, we support your desire to go to the United Nations, to ask for the use of force, both to deliver humanitarian relief and to gain access to these death camps, these concentration camps, to determine exactly what is going on there and to stop it.

Mr. President, I want to respond to what was said by my colleague from Wyoming about the distinction between the conflict in Bosnia and that in Somalia and to suggest somehow there is a racial determinant to our desire to seek action here. These are two very different conflicts. In Somalia, we are dealing with warring factions. In Bosnia, we are dealing with an aggressor, a Serbian aggressor who has systematically moved to create a greater Serbia.

All of us are obviously concerned about what is happening in Somalia. I commend our colleague from Kansas, Senator KASSEBAUM, who has been there, who has introduced a resolution calling for humanitarian relief. I am proud to be a cosponsor of that resolution, but those who for some reason are timid at this hour of need, I call on them to address the reality of the horror in Bosnia and the reality of the very measured terms of this resolution and not deal with irrelevancies or overstatements.

Mr. President, I am proud that this resolution is a bipartisan resolution. The distinguished Republican leader is one of the original cosponsors of it and he remains so. The majority leader is a cosponsor of it and he remains so.

The world is watching what is happening in Bosnia, and watching us for a signal of our concern and our intention to take it seriously. This, as our friend from South Dakota said, is another defining moment in world history. In the interest of our moral stature, in the interest of our strategic future, I ask that we consider this resolution today and adopt it with a strong bipartisan vote.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. All time having expired for discussion on this issue, under the previous order, the Senator from Georgia [Mr. NUNN] is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued with the consideration of the bill.

Mr. NUNN. Mr. President, the Senator from New Mexico I know would like to be heard on defense conversion. It would be my view we will go to a rollcall on that. We already have obtained the yeas and nays.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

AMENDMENT NO. 2916

Mr. BINGAMAN. Mr. President, I rise to support the bill and the pending amendment, which essentially endorses the Armed Services Committee's actions on defense conversion and transition programs.

I am proud of what the committee has been able to do in this area. We built on a record in previous years and we have taken actions that, in my view, are fully consistent with the recommendations made by the task force chaired by Senator PRYOR and also the task force chaired by Senator RUDMAN.

The overall focus is on working with industry and State governments to keep the United States at the forefront of development and application technologies important both to our national security and to our economic prosperity. The main mechanism that

we use in this legislation to carry out almost all of our new programs is the cost-sharing partnership, competitively selected on a merit basis.

We believe that we are responding responsibly to the challenges the Department of Defense faces in the post-cold war world. The Department of Defense integrate its research programs to the maximum possible extent with those of the private sector and with civilian agencies. Commercial and military integration must be at the core of the Department of Defense's technology base, industrial base, and acquisition strategies in the future. The Department of Defense's role in our economy, especially in the manufacturing sector, has declined and will decline further in coming years. The Department of Defense will not be able to afford defense-unique solutions that we have depended upon for requirements that they share with the private sector.

We also believe that the programs we have designed and that are included in this legislation will help defense-dependent firms, particularly small- and medium-sized firms, make the transition to a focus on commercial markets for dual-use products and processes. This is not an easy transition, and we do believe that it is an appropriate function for Government to provide infrastructural services to aid these firms. This is not a role just for the Department of Defense. The Department of Commerce, the Department of Energy, and the Small Business Administration together with State and local governments all have important roles to play, and we are supportive of a coherent overall Federal effort in this area.

Mr. President, I will not go into the details of all the programs which the committee has funded in the area of technology and industry policy. But I do request unanimous consent that a summary of those provisions and a funding table be printed in the RECORD at the end of my remarks.

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

Mr. BINGAMAN. Mr. President, overall, the committee has added $1.6 billion to the administration's request within six categories of programs: $625 million within the conversion/transition initiative for dual-use technology partnerships, small business innovative research program enhancement, and various manufacturing and technology extension and education programs; $246 million for ongoing industry driven dual-use technology partnerships in DARPA, such as SEMATECH, high performance computing, electronic modules, and advanced materials; $295 million for manufacturing technology R&D; $330 million for environmental R&D in DOD and DOE's defense programs; $43 million for other programs aimed at the DOD and DOE laboratories; and $55 million for other education programs.

There seems to me to be a remarkable consensus building on the thrust of these six programs. Both the Pryor and Rudman task forces endorsed efforts aimed at making the Department of Defense acquisition system more compatible with the goal of fostering civil-military integration.

Both task forces called for more emphasis on dual use technologies within the Department of Defense and Department of Energy research programs. Both task forces called for increased emphasis on manufacturing technology and endorsed the manufacturing-engineering education program that we launched in the Armed Services Committee last year. And both task forces called for the doubling of the small business innovative research program within the Department of Defense. Both task forces also called for increased emphasis on environmental research and development. Both task forces called for enhanced efforts aimed at building partnerships between the private sector and the DOD and DOE laboratories in dual-use technologies.

The Armed Services Committee has responded to this emerging consensus in Congress in a responsible and a coherent way. I appreciate the tremendous support Senator NUNN has given to the subcommittee's efforts both this year and in the past. The Senator from Georgia has been my close collaborator in every one of the programs we have included in the subcommittee package. I appreciate the support of Senator WARNER and Senator COATS, both of whom have made significant contributions to the package before the Senate.

I hope that our efforts and those of the two task forces I have referred to will win broad, bipartisan support on the floor as they did in the committee.

I urge all my colleagues to support this important amendment.

Finally, I want to recognize the tireless efforts of the Arms Services Committee staff, both majority and minority, in designing the details of the programs before us. I particularly want to cite the work of Andy Effron, John Douglas, Jon Etherton, Les Brownlee, Geary Burton, Rick Finn, David Lyles, Camden Flick, and Barb Braucht. Ed McGaffigan, John Gerhart, and Patrick von Bargen on my personal staff, and Dorothy Robyn on the Joint Economic Committee staff also made significant contributions to the technology and industry policy provisions of the bill. It is through the efforts of staff that an emerging consensus can be recognized and placed in statute and report language in a fashion of which we all can be proud.

Again, Mr. President, I appreciate the good work of the chairman and ranking member of the committee, and I appreciate their offering this amendment at this time.

I yield the floor.

EXHIBIT 1

SUMMARY OF COMMITTEE ACTIONS—TECHNOLOGY AND INDUSTRY POLICY

DEFENSE TRANSITION INITIATIVES

The committee established post-Cold War era policy objectives for the national defense technology and industrial base, with particular emphasis on dual-use capabilities.

The committee authorized $100 million for Dual-Use Critical Technology Partnerships. These are cost-shared government-industry partnerships administered by DARPA. This increases funding for an ongoing program, which has funded thirteen projects the past two years in areas such as communications, data storage, and optoelectronics.

The committee authorized $50 million for Commercial-Military Integration Partnerships to foster the development of viable commercial technologies that can also meet future reconstitution requirements and other needs of DOD. This new program would have tight cost-sharing requirements.

The committee authorized $100 million for Regional Technology Alliances to promote the development and application of technologies in which there are regional clusters of strength. The maximum federal contribution would be 30 percent of total costs.

The committee authorized $25 million for Defense Advanced Manufacturing Technology Partnerships to encourage cost-shared government-industry cooperative efforts in manufacturing technologies, especially those which would significantly reduce the health, safety, and environmental hazards of existing manufacturing processes.

The committee authorized $100 million for Defense Manufacturing Extension Programs to support on a cost-shared basis existing manufacturing extension programs of state and regional governments.

The committee authorized $30 million for manufacturing engineering education programs. This is an ongoing program, which DOD coordinates with the National Science Foundation. It requires cost-sharing from the universities.

The committee authorized $200 million for Dual-Use Technology and Industrial Base Extension Programs. This would enable the Secretary of Defense, working with the Secretaries of Energy and Commerce to support programs sponsored by the federal government, regions, states, local governments, nonprofit organizations, and private entities that assist defense-dependent companies in acquiring dual-use capabilities.

The committee expanded the Small Business Innovative Research Program, which uses a percentage of funds from each agency's R&D budget to fund proposals from small business concerns. DOD and other agencies would increase their SBIR funding from the current level of 1.25% of their R&D budgets to 1.5% in fiscal year 1993, 2.0% in fiscal year 1994, and 2.5% in fiscal year 1995 and thereafter.

The committee provided a statutory charter for the Defense Advanced Research Projects Agency which would emphasize its role in the development of dual-use technologies. The provision would also rename DARPA the Advanced Research Projects Agency, the name it had from 1958 to 1972. Finally the provision would raise the Director of Defense Research and Engineering to Level III and the Director of ARPA to Level IV in the executive pay schedule.

The committee established a DOD Office of Technology Transition which would be responsible for monitoring DOD research and development activities, identifying activities that have potential commercial applications,

serving as a clearinghouse to facilitate transition of technologies to the private sector, and assisting firms with regulatory problems associated with technology transfer.

ON-GOING INDUSTRY DRIVEN TECHNOLOGY BASE PARTNERSHIPS (DARPA)

The committee authorized $100 million for SEMATECH, the government-industry partnership aimed at fostering the health of subtier semiconductor manufacturing equipment firms.

The committee fully funded the DARPA High Performance Computing and Communications Program at $275 million and commended the administration for its initiative in this area, which was taken in response to Senator Gore's High Performance Computing Act of 1991.

The committee authorized $75 million for DARPA's advanced lithography program and urged that DARPA and industry be allowed to sort out the relative merits of various advanced lithography techniques.

The committee authorized $100 million for high definition display systems development, $75 million for electronic module development, and $30 million for advanced materials synthesis and processing. All are technologies in which the committee believes there are enormous opportunities for cost-shared partnerships with industry. DARPA has been funding a small fraction of the proposals it has been receiving from industry in each of these areas.

MANUFACTURING TECHNOLOGY INITIATIVE

The committee authorized a total of $434 million, $295 million above the request for the manufacturing technology programs of the Services and the Office of the Secretary of Defense.

The committee noted the growing emphasis on manufacturing technology in the statements of senior DOD officials and provided the resources needed to carry out a substantial program, consistent not only with DOD policy, but with the Administration's advanced manufacturing technology initiative.

The committee notes the compelling logic in consolidating the Office of the Secretary of Defense oversight over the DOD manufacturing technology program under the DDR&E, but stops short of mandating that change.

Within the manufacturing technology initiative, the committee recommends $20 million for the National Center for Manufacturing Sciences, the machine tool industry's research cooperative, and $30 million for flexible, agile manufacturing technologies as recommended by the DOD-funded, industry-led study, *the 21st Century Manufacturing Enterprise Strategy*.

ENVIRONMENTAL TECHNOLOGY INITIATIVE

The committee added a total of $329.5 million to the President's request for environmental R&D programs within the military services, the Department of Energy's laboratories, and the Strategic Environmental Research and Development program, in which DOD, DOE, and EPA coordinate their efforts at improved environmental clean-up technologies.

The committee believes that these are all areas in which the private sector will have a strong interest in working with the federal agencies and opportunities will abound for cost-shared partnerships between federal labs and the private sector.

DOD AND DOE LABORATORIES

The committee has fully funded the administration's amended request of $141 million for dual-use technology partnerships between the DOE weapons laboratories and the private sector. These partnerships, in areas such as advanced computers, software, semiconductor manufacturing, and advanced materials, offer a tremendous opportunity to the private sector and to the laboratories themselves.

The committee has also included provisions aimed at improving access to small businesses to the DOE weapons laboratories and at encouraging the laboratories to involve the private sector in their lab-directed R&D projects.

The committee also added $43 million for supercomputer modernization in the DOD laboratories. The administration had not requested funding for this purpose, but did submit a five year plan this spring that called for a $215 million investment in this area. The DOD Science and Technology Strategy has identified information technologies as the central element of their strategy. This supercomputer modernization program will make the DOD labs more attractive partners for industry to work with on information technologies.

EDUCATION PROGRAMS

The committee continued funding for the Nunn-Hatfield Graduate Fellowship Program and the US-Japan Management Training Program each at the level of $10 million.

The committee authorized $20 million for a program aimed at improving math and science education in the Department of Defense Dependent Schools (DODDS) system to help meet the year 2000 education goal set by the President and the Governors.

The committee authorized $15 million for a program to improve computer-assisted education and training. The focus will be on applications in the National Guard and Reserves and in the DODDS schools.

NATIONAL DEFENSE STOCKPILE

The committee authorized the disposal of 51 materials from the stockpile, which represents almost all the disposals requested by DOD. The committee proposes a series of provisions to streamline stockpile operations, as requested by the administration. The committee included a provision that would repeal the statutory requirement that stockpile requirements be based on a three-year global conventional war, and that would require instead that guidance for stockpile requirements be consistent with other DOD planning guidance.

The committee also included a provision to establish a Market Impact Committee in the executive branch composed of representatives of all departments with expertise or interest in the stockpile and cochaired by the Departments of State and Commerce. The Market Impact Committee will advise DOD on the market impact of proposed disposals from the stockpile and insure such disposals do not disrupt markets, as required under existing law.

Finally, the committee authorized $25 million for materials research and development programs to be funded from the stockpile transaction fund, as requested by the administration.

FISCAL YEAR 1993 INITIATIVES IN THE AREA OF INDUSTRY AND TECHNOLOGY POLICY SENATE ARMED SERVICES COMMITTEE

[In millions of dollars]

	Fiscal year—		
	1992 (actual)	1993 Request	1993 SASC
DEFENSE TRANSITION INITIATIVES			
DARPA Dual-Use Critical Technology Partnerships	60	0	100
Commercial-Military Integration Partnerships	0	0	50
Regional Technology Alliances	0	0	100
Defense Manufacturing Extension Program	0	0	100
Manufacturing Engineering Education Program	25	0	30
Dual-Use Technology & Industrial Base Extension Programs	0	0	200
Small Business Innovative Research Program	[1] 225	[1] 225	[1] 270
Subtotal	310	225	850
ONGOING INDUSTRY-DRIVEN TECHNOLOGY BASE PARTNERSHIPS (DARPA)			
Sematech	100	80	100
High-Performance Computing	232	275	275
Advanced Lithography	60	0	75
High Resolution Displays	75	10	100
Multi-Chip Modules	5	44	75
Advanced Materials Synthesis & Processing Partnerships	15	0	30
Subtotal	487	409	655
MANUFACTURING TECHNOLOGY INITIATIVE			
Army	28	20	61
Navy	74	45	108
Air Force	61	73	146
OSD	37	0	118
Subtotal	200	139	434
ENVIRONMENTAL R&D INITIATIVE			
DOE Environmental R&D Programs	269	281	331
Strategic Environmental R&D Program	10	0	200
Army Environmental Technology	24	18	58
Navy Environmental Protection	26	29	49
Air Force Environment R&D (no single line item)	[1] 20	[1] 25	[1] 45
Subtotal	349	353	683
DOE AND DOD LABS			
DOE Lab-Industry Partnerships	50	141	141
DOD Lab Supercomputer Modernization	42	0	43
Subtotal	92	141	184
EDUCATION PROGRAMS			
U.S.-Japan Management Training Program	10	0	10
Nunn-Hatfield Graduate Fellowship Program	10	0	10
DODDS Schools Science & Math Education Initiatives	0	0	20
Computer Assisted Education & Training	0	0	15
Subtotal	20	0	55
Total	1,458	1,267	2,861

[1] Estimated.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have sought recognition on the Department of Defense authorization bill to make a very brief comment on the situation in Bosnia. I think this is relevant as we consider the Department of Defense authorization bill and make a determination as to our own military strength which may have to be used due to the atrocities being committed against the Bosnian and Croatian people by Serbian forces.

The reports which have been received, including graphic pictures from detention camps of corpses bound together by wire, and reports of eyewitnesses who claim to have seen unspeakable cruelties, all require action by the United Nations. Thus, I feel the call by President Bush for a U.N. military force, backed by the United

States, with an effort at least to get humanitarian relief into the area, is an absolute necessity.

I join my colleagues who have spoken on this subject, with the recommendation that this body take up a resolution this afternoon so that the Senate may speak in unmistakable terms in condemning the kind of atrocities which are present there, and if necessary, recommend very forceful action, including military action, to stop those atrocities.

We have heard of 57 concentration camps, according to reports from the Bosnian Government, with ghastly occurrences—emaciated men who are reported not to have eaten for weeks being compelled to jog around yards, systematic malnutrition with human beings in skin and bones, and a record of atrocities which is unparalleled perhaps since World War II.

Tomorrow, Mr. President, we will celebrate the 50th anniversary of a report received by the United States Government about plans by Germany to commit atrocities against the Jews which we know, in fact, happened. The world, including the United States and the leaders of the United States, turned their backs on those atrocities which were committed in Nazi Germany some 50 years ago, and that should not happen again, Mr. President.

It is a matter for collective security. It is a matter, in the first instance, for action by the United Nations, and it is a matter for the United States to be very active in moving to promote and provide the kind of military force necessary for humanitarian aid and to see that these atrocities are stopped.

I thank the Chair and yield the floor.

MILITARY ECONOMIC CONVERSION: REMEMBER THE SUBCONTRACTORS

Mr. KOHL. Mr. President, much has been said about the end of the cold war and America's need to turn the swords of a bygone era into the plowshares of economic development. The defense transition task force, under Senator PRYOR's leadership, compiled an impressive list of recommendations to do just that. S. 3114 as amended, the Department of Defense Authorization Act of 1992, includes 27 task force recommendations. I commend Chairman NUNN for his attention to the challenge of military economic conversion.

I am particularly glad to see that this defense authorization bill is sensitive to the needs of subcontractors. In contrast to past reauthorizations, this bill is not oriented toward prime contractors. For example, on page 272, line 21, the bill specifies that annual analyses shall include subcontractors.

It is important to recognize the importance of defense subcontractors whenever we discuss military economic conversion. Even if a prime contract is awarded to a firm in the West or South, that firm's subcontractors could be found in the Midwest or Northeast. If we are to construct a truly nationwide strategy to reinvest our resources, we must actively engage the subcontractors in such an effort.

My State of Wisconsin wins a relatively small number of prime military contracts. However, our world class machine tool industry receives many subcontracts from around the country. These firms are often small- or mid-sized and do not possess the marketing or research and development capacity of a large corporation. They will need help making a transition to a peacetime economy.

I am confident that the economic conversion provisions in this bill, along with other measures we have recently passed, will help subcontractors adapt to a new world. Our economic future depends on it.

Mr. CHAFEE. Mr. President, I would like to compliment the chairman and ranking Republican member of the Armed Services Committee on the comprehensive and detailed proposals they have included in this bill and their managers' amendment regarding defense conversion assistance. Their efforts will be welcomed by the workers and communities that will be struggling to adjust to reductions in defense spending in the years ahead.

There are over 17,000 Rhode Islanders directly involved in defense-related work—and I emphasize that this figure does not include the vendors and services, such as local restaurants and other small businesses, that also derive most of their income from those participating in defense-related work. It is inevitable that a large number of those dedicated and highly skilled people will have to face a change in career over the next 5 years. It is equally likely that the communities of which they are a vital part may lose critical tax revenues and pillars of economic stability as firms close and workers relocate. Thus, adjustment to reductions in defense spending is one of several obstacles to economic recovery and growth that Rhode Island and many similar communities around the Nation will be experiencing.

Over the past 2 months, I have held a series of roundtable discussions in my home State of Rhode Island on the topic of economic recovery. Adjusting to a reduced defense presence has been an important part of these discussions. Partly in response to a proposal of my own, and in accordance with studies of the State's economy that have been completed over the past year, several recommendations have emerged as especially promising. In addition, President Bush as well as two groups of Senators representing both sides of the aisle have drafted a series of proposals to address the conversion issue. I am pleased to see that the best ideas from all of these discussions and working groups are included in this bill and the managers' amendment. I would like to briefly describe some of these insights and extend my strong support for their adoption.

One part of the managers' amendment sets forth specific timetables for the delivery of defense transition assistance. In the experience of those involved in Rhode Island's efforts to study and gather resources for this transition, delivery of Federal services has been delayed and administrative hurdles had to be overcome before any substantive work could be done. It is good to see that the programs for transition implementation must be established in short order, and I look forward to working with the Department to refine all requests for assistance to speed the delivery of needed services.

It is also encouraging to see the attention devoted to dual-use technologies in the managers' amendment. Support for dual-use technologies is one way to get the most bang for our buck in research and development. Another transition element, that of using defense resources that may no longer be utilized for civilian use, is a resourceful way to make the best of what we already have. This is especially important in the area of skills and knowledge. One element of this bill makes it possible for experienced Armed Forces personnel to receive alternative teacher certification, and thus pass along their valuable backgrounds in areas such as mathematics and science to those future engineers and scientists who will keep this country competitive for years to come.

Once again, Mr. President, I would like to compliment the chairman and ranking member of the committee, and all those Senators who were so active in these efforts. I thank the Chair.

DEFENSE ADJUSTMENT: AN IDEA WHOSE TIME HAS COME

Mr. PELL. Mr. President, it is indeed a significant sign of the times that nearly 100 pages of the pending bill is devoted to the subject of defense conversion and that $1.2 billion of the funds we will authorize will be devoted to converting our defense establishment to nondefense purposes.

I welcome the trend and I applaud the provisions of the bill that promote it.

This is indeed a remarkable shift in public policy reflecting historic changes in the world around us. Only a few short years ago, the very use of the word "conversion" was regarded as heretical and almost unpatriotic. It was assumed that those who favored such a concept wanted to put defense contractors out of business.

Nothing could be further from our intent today. The conversion provisions of this bill are firmly grounded in a basic policy whose goal is to preserve a national defense industrial and technology base, and to sustain that base through rational steps to diversification and dual use production.

Many of these provisions emanated from the task force on defense/economic conversion chaired so ably by the distinguished Senator from Arkansas [Mr. PRYOR]. I was pleased to participate in that effort, as I did on a previous similar task force headed by the distinguished Senator from Michigan [Mr. RIEGLE].

I am particularly pleased that in the pending bill we are building on the base provided in the fiscal year 1991 Defense authorization bill by the Riegle-Pell amendment which provided $200 million for retraining and community adjustment. The additional funding provided by this bill, combined with technical refinements which I believe are forthcoming from the Labor Committee, should go far to provide adjustment assistance where it is most needed.

This bill goes much further, as it should. It includes creative provisions for transferring military talents and techniques to civil purposes and it contains a rich menu of innovative provisions to advance dual use technology, technology transfer to the commercial sector, manufacturing education, and small business innovative research.

But as far as the bill does go, it could go further. I was struck by the observation by the distinguished Senator from Ohio [Mr. METZENBAUM], who noted that the defense conversion portions of the bill account for less than half of 1 percent of the total. We could and should do more.

I do believe that more should be done, for example, to require contractor responsibility to plan systematically for alternative production of commercial goods and services. It is in the national interest for them to do so, both in terms of preserving the defense industrial base and in terms of preserving jobs and curbing unemployment.

Another area which we clearly should address is the problem of continuity of medical insurance coverage for defense industry workers who are terminated as a direct result of cutbacks in defense spending. This bill extends coverage for civilian employees of the Defense Department as well as members of the uniformed services who face termination, and it seems to me the justification for their coverage applies equally to defense industrial workers whose careers are being interrupted for the same reasons.

But on balance, Mr. President, I am pleased with the bill as far as it goes. It marks a dramatic shift in priorities and lays the ground for further strides in the future.

Mr. DOLE. Mr. President, I wanted to take this time to comment on the Senate Republican task force on defense conversion and their accomplishments in producing a guide to our Nation for its changing national security posture.

In 1990, the world looked quite different than it does today. The incredible changes that have taken place and the speed of those changes is unprecedented in history. Between that time and today, America's Armed Forces were called upon to fight in the deserts of Iraq. And with the careful and well-planned defense policy of Republican administration's, Americans had the tools and training to win one of the most complete military victories in history. But careful and well planned policies have not always been the case.

I remember that just prior to the war in the gulf the liberals in Congress were demanding that we cut the military to the bone—saying that we no longer needed to maintain a strong defense. In reviewing past debates on this issue, I was struck by the similarity of the arguments that were being made prior to 1950. Of course the Nation soon found out how wrong those arguments were when North Korea invaded the south and our military forces were thrown into the Korean war unprepared and without the equipment they needed to end it quickly. However, those that see nothing wrong with America being a second-rate power did not learn the lesson of the Korean war. For with the end of the Vietnam war, our defense structure was again neglected and ignored. And the result of the hollow force this neglect created was vividly ingrained in the national conscience through the pictures of the burning wreckage of Desert-One in Iran.

But as the saying goes—those that do not read history are bound to repeat it—and the debates of 1990 again turned to how the military posture of the United States could be gutted. In July of 1990, I asked the Congressional Budget Office to report the effects of the drastic cuts to the military force that were being demanded by the liberals. That indepth report was ready in February 1992. With its publication, there was, for the first time, a real focus on how to address the complex problem of changing the defense structure of our Nation while we retrain the millions of Americans linked to that structure.

Mr. President, with that goal as a mandate, Senator RUDMAN, the chairman of the defense conversion task force, and my Republican colleagues produced a comprehensive report that gave an overview of the problems and solid recommendations on what can be done about them. Senator RUDMAN, with the expertise and experience of Senators WARNER, STEVENS, LUGAR, DOMENICI, COHEN, KASSEBAUM, DANFORTH, HATCH, BROWN, MCCAIN, LOTT, and SEYMOUR, all contributed to this effort.

The Senate Republican task force on defense conversion had a vast and complex job. One that demanded an integration of human and industrial resources that span the Nation. It was a job that demanded addressing the pressing needs of millions of families and thousands of communities simultaneously—while ensuring that a clear and feasible course be set for the future of the Nation and its industrial base well into the 21st century. In my view, the Republican task force accomplished this difficult job magnificently.

Their report gave recommendations to help communities readjust to the new realities of lower defense spending and military base closures.

Their report gave proposals that ensured the men and women in our Nation's armed services and defense industries could change with the times and redirect their expertise to new areas.

Their report offered solid recommendations on how our Nation could maintain the ability to respond to crisis so that we would never again field a hollow force.

Their report gave feasible recommendations on how the advanced technologies and scientific research centers of the Department of Defense could be transferred to private sector applications.

Through the efforts of my distinguished Republicans of the defense conversion task force, we now have a comprehensive guide with fiscally feasible recommendations to move the Nation toward the future. It is now time for the Senate to act upon those recommendations.

Mr. LUGAR. Mr. President, I want to register my strong support for the amendment on domestic defense conversion offered by the chairman of the Armed Services Committee to the DOD authorization bill.

As a member of the Republican Task Force on Adjusting the Defense Base, it is clear that employment assistance, job training, local economic development, and defense industry diversification can help communities adapt to military base closures and other results of major defense spending cuts. For that reason, I have not only supported the need for new legislation in this field but have encouraged the continuation of existing Government-sponsored training and education programs, the reform of the defense procurement process, and the extension of tax credits for research and educational assistance.

To be sure, fiscally prudent economics must underlie any defense conversion recommendations for them to be effective. Even the best defense conversion package will be a poor substitute for efforts to bring the Federal deficit under control, for tax policies that spur investment and technological development, and for controlling Government spending.

It is critical for the Government to have a coherent, sound strategy for dealing with the human impact of major defense-spending cuts. We must create thoughtful policies that help individuals enter the nondefense econ-

omy and help communities make the transition from a predominantly defense economic base to a civilian-based economy. Economic vitality in many areas of the country will depend on thoughtful, effective programs for defense conversion.

In my work on the task force on adjusting the defense base, several areas for priority action surfaced:

New legislation to provide for a transitional safety net of benefits to those forced out of the Reserves by personnel cuts;

Enhanced supplemental funding for the Department of Labor job training program and the Department of Commerce economic development programs—funds that are targeted at workers and communities impacted by defense conversion;

Increased funding for the Defense Department Office of Economic Adjustment which assists with community redevelopment planning;

New legislation to provide for low- and no-cost transfer of base property to states or local communities;

New legislation to give the Department of Defense the authority to parcel bases and transfer uncontaminated tracts of land to the private sector or local governments;

Enhanced funding of the Department of Education's Impact Aid Program which provides transitional assistance to local school systems affected by a major decline in student population due to a base closing;

Examination of the feasibility of transferring medical facilities at bases being closed to the Veterans' Administration for use in serving local veterans and military retirees;

The permanent extension of the research and experimentation tax credit and the employer-provided educational assistance tax deduction.

Mr. President, defense conversion cannot be accomplished overnight but such programs can ease the transition. Moreover, such programs recognize that the Federal Government does have an important role to play in the economic adjustment of its citizenry.

I support the pending amendment of the Senator from Georgia because it strikes an appropriate balance between programmatic needs for defense conversion and appropriate defense programs to meet the country's national security needs.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BINGAMAN. Mr. President, I see no other Senators wishing to debate the pending amendment. I suggest we go ahead and vote on it unless there is additional debate in order.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2916.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

I also announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The result was announced—yeas 91, nays 2, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—91

Adams	Exon	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Garn	Murkowski
Biden	Glenn	Nickles
Bingaman	Gorton	Nunn
Bond	Graham	Packwood
Boren	Gramm	Pell
Bradley	Grassley	Pressler
Breaux	Harkin	Pryor
Brown	Hatfield	Reid
Bryan	Heflin	Riegle
Bumpers	Hollings	Robb
Burns	Inouye	Rockefeller
Byrd	Jeffords	Roth
Chafee	Johnston	Rudman
Coats	Kassebaum	Sanford
Cochran	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Seymour
Craig	Kerry	Shelby
Cranston	Kohl	Simon
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Smith
Daschle	Levin	Specter
DeConcini	Lieberman	Stevens
Dixon	Lott	Thurmond
Dodd	Mack	Warner
Dole	McCain	Wofford
Domenici	McConnell	
Durenberger	Metzenbaum	

NAYS—2

Symms	Wallop

NOT VOTING—7

Burdick	Helms	Wirth
Gore	Lugar	
Hatch	Wellstone	

So the amendment (No. 2916) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, parliamentary inquiry. Has the motion to table been agreed to?

The PRESIDING OFFICER. It has been agreed to.

Mr. WALLOP. Mr. President, I rise today to express serious concerns about this year's Defense authorization bill. I voted against the bill in committee. I remain troubled by its direction. It underfunds many high priority items while directing excessive sums to unrequested programs that contribute little to the national defense. Too many provisions contained in this bill are based on questionable assumptions or concepts, which are then applied inconsistently. While this bill contains many sound provisions, in my view the positive aspects do not sufficiently compensate for its shortcomings.

Essentially, we seem to want to defend hometown economies through various spurious projects, maintain a huge militia, cut active forces, and slash their ability to procure necessary weapons. We have lost our way on defense spending while showing an eerie willingness to urge the use of force in the tragic situation in Bosnia with as much direction and aim as were evident in the Beruit operation nearly 10 years ago.

The President has reduced defense spending over the last several years and has set us on a course to bring American defense spending to its lowest level since before World War II. Under the President's plan, by fiscal year 1997 defense outlays will fall to 3.4 percent of GNP and 16 percent of Federal outlays, a cumulative decline in defense outlays of 26 percent since fiscal year 1985.

I am already uncomfortable with this steep reduction in defense spending and strongly oppose attempts by Congress to cut defense any further. I simply cannot support such large reductions while critical defense programs go unfunded or underfunded.

The conversion package contained in this bill spends $1.2 billion on programs that contribute almost nothing to the national defense. We should be more concerned about maintaining our defense industrial base by funding serious defense requirements. Market forces will manage defense conversion to the extent that it is required. Congressional intervention will only serve to reduce resources needed to support the defense industrial base. These programs simply take away funds that would otherwise be available for defense programs. We should fully fund our real defense requirements rather than syphoning off scarce resources to nonproductive programs.

During last year's consideration of the Defense authorization bill, and after considerable debate and compromise, a significant majority of the members of the Senate Armed Services Committee joined together in approving the Missile Defense Act of 1991. The committee presented this landmark piece of legislation to Congress as a new consensus on missile defense. The MDA set us on a unified course to defend the American people as soon as technologically possible.

The consensus consisted of three basic agreements: First, to develop and

rapidly deploy highly effective theater missile defense; second, to develop and rapidly deploy a multiple-site, ground-based limited defense system to protect the United States, beginning with an initial ABM Treaty-compliant site; and third to maintain robust funding for Brilliant Pebbles to preserve the options of augmenting theater and strategic defense in the future with space-based interceptors.

This consensus is in danger of dissolving. Only in the area of theater missile defense does it remain fully intact. I believe that Congress should remain committed to providing protection against missile threats as soon as possible. We should bear in mind that the risk associated with the national missile defense acquisition strategy is programmatic not technical. Whatever risk remains in this program can be safely managed, but only if Congress holds up its end of the deal. I strongly oppose the reductions in the SDI budget proposed by the Armed Services Committee. The cuts in the SDI budget was a principal reason for my opposition to the bill in committee. If we do not provide adequate funding, the inadequate funding itself will become the main source of the risk which so concerns some.

With regard to roles and missions, there is a rational reason for self-examination. It is a healthy practice in any large organization. But we should wait for this examination to be completed before taking any medicine based on presumed findings. The approach contained in the bill basically prejudges the work of the Joint Chiefs of Staff and the Secretary of Defense by selectively halting some programs and slowing others. It is the congressional habit to order a study and act before we learn its conclusion.

In its present form, the process seems to be little more than a convenient rationale for further cuts in programs at the same time, the roles and missions concept has been used to resist needed changes in other areas. For example, only cosmetic cuts were made in guard and reserve forces pending a study of roles and missions for the total force. If we are going to select programs to be stopped or slowed because of perceived changes in the threat or roles and mission studies, then all programs should be treated consistently. Roles and missions seems to have become little more than a mantra to distract attention from asymmetric cuts, cuts that have less to do with balanced capability than with hometown politics.

Let us remember that winning takes overwhelming force, not the estimated minimum requirement, since that is the sure path to increased bloodshed and unpleasant surprises. Unsupported by analysis or thoughtful reflection, we are seeing our forces reduced to minimums that may only endanger them in actual conflict.

The manpower and personnel authorizations in this bill represent a serious departure from the administration request, and, indeed, from common sense. While advocating transition benefits for displaced guard and reserve personnel, there is no requirement for substantial reductions. Only 25 percent of the administration's request for reductions was approved. Conversely, active forces—those that can be brought to Bosnia-Hercegovina or other places in the world—declined by 100,400, that is, 100 percent of the administration request.

The Secretary of Defense must have the ability to train and manage forces and to establish a proper balance between active and reserve components. The committee's provision to prohibit any reductions in guard and reserve force structure is particularly worrisome and particularly irresponsible. We must avoid the hollow, untrained forces of the 1970's and accept the need for balanced reductions of our Active and Reserve Forces.

The civil-military cooperation program outlined in this bill seems a laudable undertaking at first, however, I believe it is built on the premise that "peace has broken out and therefore our focus on combat training can be altered. * * *" There will be plenty of time later to train. This is questionable thinking, at best, irresponsible at worst.

The program is hardly a program at all, but rather a statement of hope that the effectiveness embodied in military training and operations can somehow be translated to encouraging civic virtues among our citizens through Government programs.

The intent seems to be to capture excess or free time and resources of our Armed Forces and use these free resources to encourage responsible citizenship. Nothing could be further from the truth; the Armed Forces will suffer the loss of training time and resources, while citizens will rightly wonder what is the proper role for our Armed Forces.

In summary, I am not interested in wasting our country's resources; I am not interested in furthering one service in favor of others, nor am I interested in any one defense contractor's enrichment. I am interested in ensuring our country has a robust, capable defense for the uncertain times we face, including those that are about to be debated on a resolution to use Armed Forces in Yugoslavia.

I urge my colleagues to refrain from further burdening this bill with additional amendments designed to divert scarce resources from an already confused bill. Applying convenient mantras from roles and missions to peace dividend to our security needs end up as nothing more than feints to distract from illogical cuts in programs or individual military services. These feints remove our attention from the matter at hand, our defense, and provide convenient feel good rationalizations to dispense defense resources for any number of misbegotten programs that have nothing to do with defense while cutting our national security.

I yield the floor.

Mr. WARNER. Mr. President, I will momentarily yield to the chairman here. We are under a unanimous-consent requirement for the sequencing of amendments. I understand that the Senator from Illinois would like to be recognized.

Mr. President, I yield to the Senator from Illinois for the purpose of a unanimous-consent request and ask that I regain my recognition.

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

The Senator from Illinois [Mr. DIXON] is recognized.

PRIVILEGE OF THE FLOOR

Mr. DIXON. Mr. President, I ask unanimous consent that privileges of the floor be granted to a member of my staff, Mr. Jim Rohacik, during the pendency of S. 3114, the National Defense Authorization Act for fiscal year 1993.

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

Pursuant to the previous agreement, the Senator from Virginia [Mr. WARNER] reclaims the floor.

Mr. WARNER. Mr. President, I understand that the UC request now provides that an amendment by the Senator from Arkansas, the Senator from Tennessee, and the Senator from Michigan is to be the pending business. Am I not correct? Parliamentary inquiry.

The PRESIDING OFFICER. There are as many as three amendments that may be in order, one of them being an amendment offered by the Senator from Arkansas with the Senator from Tennessee.

Mr. WARNER. Mr. President, I first ask that we have order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Mr. WARNER. And I respectfully request, in the form of a parliamentary inquiry, that the Chair recite the present UC order so that all Senators are aware of this order.

The PRESIDING OFFICER. There are three first-degree amendments that are authorized to be offered before any other first-degree amendments may be considered. They are the amendments to be offered by Senator BUMPERS or Senator SASSER, an amendment offered by Senator PRYOR, and the last is an amendment to be offered by Senator LEAHY. So there are three amendments which are in order prior to consideration of any other first-degree amendments.

Mr. WARNER. Mr. President, further parliamentary inquiry. Do I under-

stand the UC to provide that these amendments will be taken up in the order that the Chair has announced?

The PRESIDING OFFICER. That is not the Chair's understanding. Any one of these three amendments is in order. There is no sequence for their consideration.

Mr. WARNER. I bring the Chair's attention to the written UC request which I was under the impression was propounded to the Chair. And I will read it.

"I ask unanimous consent that the following amendments be the first three first-degree amendments"—I later amended that to four—"the first four first-degree amendments in order to the DOD bill to be offered in the following order."

The PRESIDING OFFICER. The Chair has had an opportunity to consult with the Parliamentarian. The Chair stands corrected. The Senator from Virginia is correct.

BOSNIA

Mr. WARNER. Mr. President, the Senator from Virginia will take a few minutes to address the Bosnia question, not more than 3 or 4 minutes, and then we will proceed to the amendment.

In my earlier remarks—I was not able to complete them because I wanted to respond to questions from the Senator from Arizona and questions from the Senator from South Dakota—I expressed my deep concern about the Senate going forward at this time on this very important sense-of-the-Senate resolution without a complete record or such record as would adequately inform Senators on the consequences of such military action as called for in the proposed resolution and the extent to which this country, our President, should take a leadership role, the extent to which this country would be expected to contribute military forces.

The resolution, so far as I can determine, and I have seen several drafts, provided that the President should immediately call for an emergency meeting of the United Nations to do the following: (a) a United Nations-sponsored effort to provide humanitarian relief to civilians in Bosnia-Hercegovina.

Mr. President, that country is the size of three of our States.

Let me give you just a few statistics here. I calculate 51,000 square miles, or slightly larger than New Hampshire, Vermont, and Rhode Island combined. Here it is in the blue. The distances from the nearest port, which is Split, to Sarejevo is 100 miles; to the town of Tuzla, 140 miles; to the town of Goradze, 130 miles; to a city, or town as the case may be, of Bihac, over here, 100 miles.

Now, in the briefings that I have receive thus far, there is fighting, there is suffering, and alleged persecution in all of these distant places. And this resolution is quite broad, a United Nations-sponsored effort to provide humanitarian relief to civilians in this entire country.

Now, these roads, I have also determined, by any standards in the Western world are very modest in their construction, surrounded by high hills and valleys, can be intercepted by very small bands of military forces.

Now I am not claiming to be an expert, but I certainly have read the testimony that is, the statements of military experts, about a battle that could ensue if we were trying to get relief up through these narrow roads and valleys.

I wanted to know what is the magnitude of that military office. What are the casualties that can be anticipated?

I went back to examine, Mr. President, the record of the gulf debate:

Senator MITCHELL: The risk there is foremost in human life. How many people will die? How many young Americans will die? That is a risk, a terrible risk. Just this morning I heard it said there may be only a few thousand American casualties. The word "only" will have no meaning.

Senator SIMON: But it is too easy here or in the Oval Office. We are going to make a decision that will cost hundreds of thousands of lives.

Senator WELLSTONE: I could not accept the loss of life of any of our children. Can you tell me how long the war will last? What will be casualties? What will be the loss of life?

Senator HATFIELD: At what cost in human lives? How many lost lives can we accept? 100? 1,000? 10,000? We must be able to look at our young men and our women now in the front lines and tell them their lives are a legitimate price to pay.

I have many other quotations here from many of my colleagues, and I could go on, but I simply say to my colleagues, we are asking to provide humanitarian relief, which is desperately needed. I agree with that.

But I think before we ask our President to go to the United Nations and speak as a leader, that we should understand the consequences.

Is the United States only to contribute air and sea? Are other nations to take on the burden of escorting this humanitarian relief these rather expansive distances through uncertain terrain?

This is an area of the world in which there has been fighting for thousands of years, some of the most vicious fighting. The descendants are there today fighting one another.

Are we so certain that this is Serb versus Croats, Serbs versus Moslems? Some say Croats are desirous of taking part of the land in Bosnia.

So I express some of my concerns in the hope that whenever the eventual debate occurs on the Senate floor, the proponents of the resolution can help satisfy the concerns of this Senate. And I go against the background—and then I will yield the floor—I go against the background of the gulf debate which ensured after a number of consultations between the President and the Congress, a number of hearings in the U.S. Senate.

And we asked the pertinent questions to help inform the American people and prepare them for that decision. I do not dismiss lightly the fact that this is just a sense-of-the-Senate resolution. Once it leaves this Chamber it will have a very powerful message. Let us make certain we understand fully the consequences of that message in asking our President to seek the relief requested here, relief which, in my judgment, would require substantial ground troops.

It is a threshold question, then: Will the United States participate with ground troops? If so, how many would be involved? What are the other nations willing to provide to attain this goal?

I thank the Chair and I thank my colleagues for allowing me this opportunity.

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, it is my hope we can move to the SDI amendment, which is the next pending amendment. Would the Chair inform us, what is the pending business?

The PRESIDING OFFICER. At this point there is no amendment pending.

Mr. NUNN. I hope the Chair would recognize those who are ready to propound the SDI amendment, which is the next amendment under the unanimous consent.

If I can just say to our colleagues, we have a reasonable opportunity of getting an SDI amendment done in at least a reasonable amount of time from what I understand, though we have no time agreement.

Then we have another SDI amendment by Senator PRYOR that will not take as long.

Then we have a B-2 amendment, to strike the B-2.

If we can get that business done today, in the next 3, 4, or 5 hours, then we can then have a debate on other subjects. But these are the amendments that have been agreed, by unanimous consent, to be brought up. I hope we get on those. There is no time limit but I hope everyone will cooperate because we are going to have to have cooperation if we are going to make progress toward finishing the bill.

Mr. BIDEN. Will the Senator yield for a minute?

Mr. NUNN. I yield.

Mr. BIDEN. I agree with the Senator from Georgia. The order in which he seeks to proceed makes sense. I just

want to say for the record, Senators DECONCINI and LIEBERMAN have been the leaders in this effort to get some action and leadership on the question of Bosnia. The Foreign Relations Committee took up a resolution which was essentially their resolution yesterday. I am not sure it came out precisely how they wanted it. We are in the business of negotiating that now.

I would just say to the Senate I, for one, and I am sure Senator DECONCINI and others, are prepared to answer all the questions our good friend from Virginia raised today. But I also would lend my voice to the suggested order of procedure, suggested by the chairman of the full committee.

But at some time I am certain—I cannot speak for anyone else—but I am certain there will be a desire to speak to this issue with some specificity.

Mr. NUNN. Mr. President, I think it is perfectly appropriate for those people to want to bring this amendment up, and I understand the urgency of what they would like to do. It is my hope that those who would like to see a vote on this Bosnia resolution, including those on the Foreign Relations Committee, could have some communication, because we are going to be on SDI and B-2 for the next 4 or 5 hours.

As I hear the debate, it seems to me a lot of progress has been made toward working out a resolution that most people could support. I would hope the discussions could take place so when we get this resolution up before the Senate, whether it is tonight or tomorrow or Monday morning, we will already have answered a number of the questions.

Mr. DECONCINI. Would the Senator yield for a question? Maybe I should address the Chair, but I think the Senator understands the procedures here.

Mr. NUNN. I am glad to yield.

Mr. DECONCINI. Am I correct, there is unanimous consent the next amendment will be the SDI amendment offered by the Senator from Tennessee? And after that, with no time agreement, after that——

Mr. NUNN. The Senator is correct.

Mr. DECONCINI. It will be the B-2 or SDI?

Mr. NUNN. There is an SDI by Senator BUMPERS, followed by an SDI by Senator PRYOR, followed by the B-2 amendment.

Mr. DECONCINI. My question to the ranking member—we talked before the last vote. Would the Senator be willing to enter into a UC that after the disposal of those amendments, that the amendment by the Senator from Connecticut, Senator DECONCINI, and others will be the next pending amendment for debate with no time schedule, so at least we know—whether it is tonight, Sunday or Monday—at least we know we are going to have some debate on this after the Senator gets through with these very important amendments he wants to get out of the way, so to speak, today?

Mr. NUNN. I will work with the Senator to try to facilitate that. I cannot speak for people saying I could propound that. It depends on other voices. I need to talk to the majority leader. As this debate progresses I will certainly try to cooperate.

Mr. WARNER. I have had an opportunity to speak with the Republican leader and he likewise, is very anxious that somehow, at least this matter be addressed today. Whether there be a vote on such resolution, and a time agreement, that is a separate matter.

But I assure my colleague, our leader, and Members on this side of the aisle fully recognize the importance of the substance of the amendment that the Senators from Arizona and Connecticut——

Mr. DECONCINI. If the Senator will yield? I apologize, I will try to be brief. My question is this. Would the Senator, during this period of time, the few minutes here, consider the request of the Senator from Arizona? I would just like a yes or no. If the answer is no, I will have to wait and fight my way around here or get up and talk for a while on Bosnia-Hercegovina, because I feel very strongly about it. But if we can be next, the Senator from Connecticut and I, and I cannot speak for other Senators who have a burning desire to get this up, I am prepared to wait. There are important votes that the chairman and ranking member, I know, are anxious to take up first.

Mr. NUNN. If I can say to the Senator, that would be my recommendation. I will work toward that.

The Senator from Tennessee.

AMENDMENT NO. 2918

(Purpose: To reduce the amount provided for the Strategic Defense Initiative)

Mr. SASSER. Mr. President, I send an amendment to the desk on behalf of myself, the distinguished Senator from Arkansas [Mr. BUMPERS], and the distinguished Senator from Vermont [Mr. JEFFORDS], and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for himself, Mr. BUMPERS, Mr. JEFFORDS, Mr. DECONCINI, and Mr. DASCHLE, proposes an amendment numbered 2918.

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:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,300,000,000 may be obligated for the Strategic Defense Initiative.

Mr. SASSER. Mr. President, I yield to my distinguished cosponsor at this juncture, Senator BUMPERS.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I was visiting with the majority leader—let me ask the Senator from Tennessee, was Senator JEFFORDS included as a cosponsor?

Mr. SASSER. Senator JEFFORDS was included as a cosponsor.

Mr. BUMPERS. I thank the Senator.

Mr. President, here we are on Friday afternoon, which is a very unusual occurrence in the U.S. Senate.

Mr. President, could we have this conversation taken to the Cloakroom?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order. Senators please retire to the cloakroom.

The Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. I thank you, Mr. President. This is a very, very important amendment on the DOD authorization bill. I hope Senators would participate in this debate on either side. Obviously I would like for them to be on Senator SASSER's and my side—but it is an issue that we have visited and revisited and revisited and will continue to, not to kill SDI, but to bring some sanity to it, which, as Adm. William Crowe has said, does not now exist.

The word sanity is his term, not mine.

Let me go back to the beginning, Mr. President, and say I remember reading, I believe it was a book entitled "Political Philosophy," by Walter Lippmann, who was one of the outstanding political theorists this country ever produced. He said, one time, the key to political survival is in not being right before it is popular.

That is wasted advice for the most part on the U.S. Senate because everybody here understands that if you get out on the cutting edge of an issue, you may get the limb sawed off behind you, no matter how righteous your cause may be.

I remember during the early 1980's, of Ronald Reagan's administration, when we began this unbelievable buildup of defense spending, all of which was based on a fallacious assumption that became doctrine in this body and across the country, that our defenses were so weak that we could expect the Soviet Union to come up the Potomac River any day and grab us and take us.

We now know to an absolute certainty that that was not the case, and yet we began what is today $3 trillion in defense expenditures.

It is really tragic, Mr. President, that anybody in this body would ever be accused of being weak on defense, but I can remember in the early 1980's any Senator who voted against one

dime of defense spending knew to a certainty that his opponent would run those 30-second spots in the next election accusing him of being weak on defense. So any Senator who challenged the B-1 bomber, or the B-2 bomber, or SDI, or anything else in the defense budget did so at his own political peril.

I did it a few times, Mr. President. I voted against my share of it and took the risk and survived.

One of the things that I never thought should be funded at the levels it was being funded at initially was SDI. I favor a limited SDI. I always have. But if you remember in the 1980's, we did not have an opportunity to vote for a limited SDI. We had to vote for billions for the grand scheme in the sky where we were going to put sensors in space that would not only identify a Soviet launch immediately but be able to kill it within a matter of seconds after the launch occurred.

I oppose it, No. 1, because I had grave doubts about our ability to do it; No. 2, whoever was going to fire SDI at those Soviet rockets had to make a decision within 28 seconds, and if the President happened to be on the tennis court, that was going to be very tough to accomplish.

Incidentally, I offered an amendment that was accepted by this body at one time that nobody could activate an SDI system by computer. It had to be by human hands.

But there is another reason why I had serious reservations about SDI, as did the chairman of the Senate Armed Services Committee who sits in the manager's chair today, and who made two or three daily presentations here which were positively brilliant about why SDI violated the only treaty we had with the Soviet Union, namely, the Antiballistic Missile Treaty. That is a separate debate and not at issue today.

So, Mr. President, my argument then and now is, was and will continue to be, that the deficit of the United States—this year $400 billion, a national debt of $4 trillion—is a much greater threat to the viability and future of this Nation than the Soviet Union ever was.

Our amendment says instead of putting $4.3 billion in SDI in 1993, make it $3.3 billion and save a billion. If it were left up to me, Mr. President, there are a group of us who have been talking about this, if I had gotten my way, we would have cut it to $2 billion. But I will have to say perhaps wiser heads prevailed and we agreed to try to save $1 billion. So our amendment says instead of $4.3 billion for next year, let us make it $3.3 billion and save $1 billion.

Mr. President, during the consideration of this bill, we will continue the debate on defense as though Brezhnev and Stalin still reigned in the Soviet Union, just as though the Soviet Union has not cut their defense spending in the past year by 80 percent. The same tired old arguments will be made this year for spending $270 billion on defense, even though we have hardly an enemy in sight. And, Mr. President, my colleagues will be interested to know this little statistic: $270 billion in 1993 is twice the combined defense budgets of the 10 most likely enemies the United States has or is likely to have, including China.

But you will hear the argument that Yeltsin may not survive and, indeed, he may not. You will hear the argument that we still have Saddam on our hands. I remember the argument when we debated Desert Storm, one of the great debates in this body. It was not so much a debate as it was a series of speeches, but they were good. And we were told by the CIA that the Republican Guard of Saddam was the finest fighting unit in the world. We have about run out of enemies so we have to conjure some up if we are going to keep this thing on track.

But I do not understand, Mr. President, as dramatic as the changes have been in this world in the past year, the past 5 years, ever since Gorbachev came to power in the Soviet Union, why the Members of this body, indeed the Members of Congress, continue to act as though we are still living in the same old world, continue to defy the American people's concern about the deficit. The debate on defense ought to be what is the threat, who is the threat from, and what will it take to meet that threat? It ought to be done in a sensible, aboveboard, rational way.

Boris Yeltsin said if you build SDI and we attempt to build SDI, which he says they will not, we will all become complete paupers. Those are his words. We all know the Soviet Union is already a pauper and despite the riches and greatness of this Nation, it is not inconceivable that we are going to wind up paupers if we do not get the debt under control.

Do you know, Mr. President, what $1 billion in savings today means in the next 28 years? Four billion dollars. I say that just so my colleagues will get some feel for how great and ominous the debt is. It is not just the billion dollars that you are putting in SDI that is not necessary, it is that you have to borrow every red cent of it, and if you pay 5 percent interest on it in uninflated dollars over the next 28 years, you have not just borrowed a billion. You have told your children and your grandchildren they have to come up with another $3 billion to pay the interest on that over the next 28 years.

When you consider this country going in the red this year by $400 billion, what you need to bear in mind is that that $400 billion under that formula—and it is absolutely conservative—will cost these young pages who sit in front of me and their families $1.6 trillion.

No, indeed, it is not just the billion you are spending today you do not have.

Mr. President, the Soviet Union is a nation of paupers because of two things: First, a bankrupt economic theory called communism, bankrupt from the day Karl Marx thought it up. It was communism that contained the seeds of its own destruction, not capitalism.

And, second, because the Soviet Union was trying to spend 50 percent of their budget on weapons.

In one sense, I suppose we can take some pleasure in the fact they did spend 50 percent of their budget on weapons because it hastened their demise. It would have taken several years more if they had been spending much more conservatively.

We have watched our trade competitors, Japan and Germany especially, eat our lunch for years. Year after year, you hear the lament in this body about how the Japanese and Germans somehow or other technologically are overtaking us.

Mr. President, do you know what the trade deficit with Japan was last year? Fifty-two billion. We bought $52 billion more in goods and services from Japan alone last year than they bought from us. And do you want to know why? It is a very simple explanation. A third grader can understand it. Because they spend 2 percent of their budget on defense and we spend about 6 to 7. It is because only 2 percent of their scientists are engaged in weapons and 25 percent of our scientists are so engaged.

It is because about 4 to 5 percent of their research and development budget is in defense and about 25 percent of our research and development in basic sciences is in defense.

Why, of course, they are eating our lunch and, of course, they are going to continue. And yet the debate about enemies, real and imaginary, continues.

Mr. President, the House has the same figure we have, $4.3 billion. Every year that we have debated SDI in this body, the Senator from Georgia has usually said the House is below us, but we have to go to conference with the House and we will have to compromise. So last year we were at 4.6 or some such figure and the House was 3.9 and we came up with $4.15 billion. Split it. That is the compromise.

So this year there will not be anything to compromise because we are both at the same figure unless we cut it $1 billion. And I have to confess to you, because this is just the fact of life, if we cut $1 billion, we go to the House, we split it, and we really will only have $500 million because we almost certainly will compromise with them.

Is $3.3 billion enough?

Let me tell you about some people for whom I have an immense respect. One is Adm. William Crowe. For those who have short memories, Admiral

Crowe was the first Ph.D. ever to serve as Chairman of the Joint Chiefs of Staff, which he did for years under Ronald Reagan—top military man in America, Bill Crowe. I consider him a close, personal friend. I admire him. I respect his opinions. I will say this: I wish Admiral Crowe had said some of these things while he was Chairman of the Joint Chiefs of Staff and not waited until after he retired.

I have a great speech I love to make about how people tell us things in their exit interview that are very credible and believable.

I know a Senator who voted for the constitutional amendment for prayer in school every single year until he announced he was not going to run again. Then he called it shameful.

I remember Dwight Eisenhower's magnificent military-industrial complex speech, not delivered in his inauguration, delivered in his exit interview after 8 years as being President: Beware of military-industrial complex.

David Jones, who was Chairman of the Joint Chiefs of Staff when I came to the Senate, retired shortly after I came to the Senate, held his exit interview and said, "How do you expect me to form a coherent defense policy when all I do is referee fights between the services? If you give the Navy $2 billion, you have to give the Air Force $2 billion. If you give the Air Force $2 billion, you have to give the Army $2 billion." He says, "All I do is parcel out money to keep the fight down."

How great it would have been if David Jones had said that during his confirmation hearing or shortly after he was confirmed as Chairman of the Joint Chiefs of Staff.

But, Mr. President, we are not talking about somebody down on the street corner. We are talking about the top military man in this country for 8 years, Bill Crowe.

Here is what he said:

At some point near the end of the first decade of the next century—

Next century—

we might be vulnerable to attack by Israel, Brazil, and India. Although attack from those quarters seems highly unlikely, in essence, I believe the threat case has been stretched to the limit by some rather fanciful scenarios. It is time to return to sanity.

A man who for years was the top military officer of this Nation: "It is time to return to sanity."

Who here believes even in the year 2010 that Israel, India, and Brazil are going to be our blood enemies and going to attack us with what they hope will be an ICBM?

Mr. SASSER. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield.

Mr. SASSER. The distinguished Senator from Arkansas jogs my memory when he speaks of Adm. Bill Crowe, who I think is one of the finest Chairman of the Joint Chiefs of Staff we have ever had in this Nation and one of the most thoughtful and perceptive men ever to wear the uniform of this Nation.

I well remember shortly after Admiral Crowe became Chairman of the Joint Chiefs of Staff I happened to be having breakfast at the Pentagon at one of Secretary Weinberger's breakfasts. The Senator from Arkansas may have attended, when he would invite Senators from the Appropriations Committee, Budget Committee, out there. It was my first encounter with Admiral Crowe.

As we were sitting there eating our bacon and eggs the Secretary of Defense was talking about the dire threat the Soviet Union posed, how we needed to expand defense spending to deal with that. I leaned over and in sort of an involuntary aside, I said to Admiral Crowe, new Chairman of the Joint Chiefs of Staff, "I think we overestimated the Soviets. We talk as if they were 10 feet tall." He did not say anything for a moment, and then he leaned over and very quietly whispered "I agree. We do overestimate them."

It was just a few years after that statement, 2 or 3 years later, that the collapse of the Soviet Union began.

So I want to agree with my friend from Arkansas that Bill Crowe I think was one of the most thoughtful and perceptive men to ever wear the uniform of this Nation.

Mr. BUMPERS. I thank the Senator very much. I am honored to call him my friend. I could not agree more with the Senator from Tennessee. I consider him to be by far the most brilliant Chairman we have ever had in the Joint Chiefs, and he is demonstrating it once again in this speech that he made, I guess it was back in June of this year.

He went on to say:

The critical point is that the defense budget is close to a zero sum game and money which funds SDI will come from programs which buy good defense against more plausible and likely threats. Given the Nation's pressing domestic agenda the whole subject should be reviewed.

Then—I am not reading the speech in toto, but in the next to the last paragraph of the speech he said:

In any event, I would argue for a throttled-back effort which seems to accord more with both economic and military reality, perhaps in the neighborhood of $2 billion annually to keep the program moving and our knowledge ahead of competitors. I know this is a very provocative subject.

Incidentally, he also said, "At present the United States is vulnerable to nuclear strikes from Russia, China, France, and the U.K. I do not believe we take any precautions of any kind against launches by British or French forces," he said half in jest.

Mr. President, I want to make another point; that is, that we have to recognize that if you have a sworn enemy, a limited theater antiballistic missile defense in North Dakota with 100 ground-based interceptors will not protect the west coast or the east coast; at least in present planning it would not. But, more importantly, if you have a sworn enemy, that enemy can bring missiles into this country, they can put them underneath the Trade Center in New York City, the Washington Monument in Washington. Even Albert Einstein, in a letter to President Roosevelt in 1939:

DEAR MR. PRESIDENT: We don't have much uranium but we have come up with an idea that uranium can be made into a big source of power. We even believe that we might be able to make a very big powerful bomb out of uranium.

Albert Einstein to President Roosevelt in 1939. And he said at the time that if one of those bombs, as he envisioned it, were placed on a boat and the boat sailed into port, that bomb would probably destroy the port and everything that adjoins it.

Mr. President, that was 53 years ago. We now know that a sworn enemy with a nuclear explosive device can put one on a boat and sail into any harbor they want to. They can get it brought into this country just as tons and tons of marijuana are brought into this country undetected. Put one on a private airplane for that matter, charter a Beech Baron, put it on board, kick it out over New York City or Washington, DC, and you have a nuclear holocaust, and $80 billion we have spent in North Dakota was for naught.

Assume further that another nation develops a cruise missile. That is one weapons system that I have always stoutly defended and voted for. It was just in the early stages of deployment when I came to the Senate. But it performed apparently pretty great service in Desert Storm.

You set off the coast of New York City in your little boat and you launch a cruise missile and it comes in, not from outer space, but as the Senator from New York said, under the Brooklyn Bridge and destroys New York City and you had this $80 billion system out in North Dakota sitting there.

Oh, Mr. President, we used every device we knew to protect our marine barracks in Beirut. We had barbed wire, we had trenches, we had every defense we could think of to protect our marines in the barracks at Beirut. So what happened? They just drove a truck through the gate and a few minutes later we had 243 dead marines.

So while I favor what is called GPALS, the limited system against an accidental launch or even a madman's launch, we have to be realistic and assume that it gives us very limited protection at a staggering cost.

We put about $30 billion into the thing since 1983, or whenever the President—do you remember President Reagan's great speech about star wars? He did not call it that. That is what everybody else called it, star wars.

Mr. President, we have spent $30 billion of hard-earned money of the American taxpayers, and do you know what we have gotten for it? Virtually nothing. Six of the eight technologies that were promising at one time, and which the Armed Services Committee and the Defense Appropriations Committee was told this is the ultimate technology; gone, scrapped, abandoned.

Brilliant Pebbles. The Vice President assured us over and over again that Brilliant Pebbles was the wave of the future, a space-based interceptor.

And I want to thank the Armed Services Committee for cutting that from about $300 million to $100 million. If for no other reason, I just do not think we ought to be cluttering space with 55,000 pieces of trash floating around space right now.

It is dangerous in the extreme, and an absolute violation of the Antiballistic Missile Treaty. Space is about the only frontier left that has not been polluted, and we are going at it just as hot and heavy as we can right now.

And then, you remember last year, we raised the objection—those of us who said we are putting too much money into SDI—we said: You are trying to push technology. The bill said that the North Dakota system must be deployed by 1996.

Mr. President, there should be no deadline. Now we are talking about 2002 and 2003. There should be no deadline. We ought to fund it. But we ought not to fund it at some level that absolutely assumes that technology is there when it may not be there.

But last year, you remember, we were pushing, and we were going to do it in 1996. And then what happened? I will tell you what happened. I will tell you what the New York Times said happened. Here is an article dated this June, back a little over a month ago, which appeared in the New York Times:

> The Pentagon's top program analyst says a $35 billion plan to protect the Nation from nuclear attack with land-based interceptors calls for a hasty deployment that threatens costly and crippling problems.

This man, Dr. David S.C. Chu, Assistant Secretary of Defense for Program Analysis and Evaluation, says in an internal Pentagon document that I have on my desk—and I will be happy to share it with the Members—one of the top military planners of the Nation said that to suggest that we can deploy this thing by 1996 could be an unmitigated disaster.

In his analysis, so the story goes on:

> Dr. Chu said the plan should be overhauled to delay the system's debut by as much as 6 years, from 1997 to the year 2003, so that prototype arms and other antimissile apparatus can be thoroughly tested, and modified, if necessary.
>
> John Pike, Director of Space Policy at the Federation of American Scientists, a private group in Washington, said Dr. Chu's analysis suggested that no credible defense against nuclear attack could be built in less than a decade. It could not be built in less than 10 years.

He goes on to say what Dr. Chu is saying: * * * any system deployed in this century isn't going to work that the current plan is a procurement disaster in the making."

Mr. President, I ask unanimous consent that the New York Times article dealing with the entire memorandum by Dr. Chu be printed in the RECORD at this point.

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

PENTAGON ANALYST QUESTIONS PLAN FOR EARLY "STAR WARS" DEPLOYMENT

(By William J. Broad)

The Pentagon's top program analyst says a $35 billion plan to protect the nation from nuclear attack with land-based interceptors calls for a hasty deployment that threatens costly and crippling problems.

The criticism of the "Star Wars" plan, the sharpest to date by a senior Defense Department official, might fray or break a coalition on Capitol Hill that last year endorsed the building of limited missile defenses after the anti-missile battles of the Persian Gulf war.

The official, Dr. David S.C. Chu, Assistant Secretary of Defense for program analysis and evaluation, says in an internal Pentagon document that the plan risks failure by rushing the development of rocket-powered interceptors and skipping important performance tests. That, he wrote, could hide defects that would cripple the system or lead to costly repairs.

SIX-YEAR DELAY POSSIBLE

In his analysis Dr. Chu said the plan should be overhauled to delay the system's debut by as much as six years, from 1997 to the year 2003, so that prototype arms and other antimissile apparatus could be thoroughly tested, and modified if necessary, before, being put into mass production.

Rejecting such criticism, the plan's architects say they remain confident that an initial system can be fielded by 1997. But they concede that the goal of speedy deployment with abbreviated testing carries many risks.

"The issue in whether you can manage that risk in a responsible way," Dr. Henry F. Cooper, director of the anti-missile effort, said in an interview on Friday. "I think that's achievable," with the result that a missile defense system could be put in place without significant cost overruns, schedule slips or technical flaws.

A 'DISASTER IN THE MAKING'

But John E. Pike director of space policy at the Federation of American Scientists, a private group in Washington, said Dr. Chu's analysis suggested that no credible defense against nuclear attack could be built in less than a decade.

"It's saying that any system deployed in this century isn't going to work, that the current plan is a procurement disaster in the making," Mr. Pike said. Leaders of the antimissile effort he added, "basically want to decide what to build before they test it, and hope they guessed right."

Dr. Chu's analysis was made available to a reporter by an analyst who views the antimissile plan as flawed and wanted to call attention to high-level Pentagon doubts about it.

The disputed plan is the main legacy of the "Star Wars" program, also known as the Strategic Defense Initiative, begun nearly a decade ago by President Ronald Reagan to build a space- and land-based defense against a missile attack. With the end of the cold war, the general goal of the "Star Wars" program has shifted, from one that would have created an impenetrable shield against thousands of Soviet warheads to forging a defense against accidental launchings and attacks by rogue commanders and renegade nations.

The program's cost this year is $4.15 billion, a record high. annual costs are expected to double as research gives way to production of batteries of interceptors. The plan for land-based interceptors is the only part of the initiative to be endorsed by Congress, which is bitterly divided over the merits of arms based in space.

The current deployment plan was proposed last year by Senator Sam Nunn, a Georgia Democrat who heads the Senate Armed Services Committee. Inspired by the Patriot interceptor in the Persian Gulf war, he successfully pushed Congress to approve the building of similar but larger land-based interceptors to defend the nation, if possible by 1996.

The Missile Defense Act was signed into law by President Bush last December. Dr. Cooper of the Strategic Defense Initiative Organization, which runs the antimissile research program, recently testified before congress about how the agency would meet the act's requirements.

Its plan would delay the launching of space arms but would have one land-based battery of interceptors ready in 1997. The battery site would have 100 interceptors housed in underground silos, ready to blast into space.

More complete protection of the United States from a variety of threats would require seven sites across the country with some 700 interceptors in all, agency officials say. They put the cost at $35 billion.

The rocket-powered interceptors would have non-nuclear warheads that use advanced sensors to pinpoint a target, which would then be destroyed on impact with the warhead.

The challenge in developing such a system was illustrated on March 13 when an experimental interceptor called Eris blasted off from Kwajalein atoll in the Western Pacific but, because of technical errors, failed to hit a mock warhead in space. Eris is the general prototype for the proposed system of land-based interceptors.

The deployment plan recently came under the scrutiny of Dr. Chu, who in essence is the Pentagon's technical conscience, studying arms programs to make them more efficient as they move from research to production. He reports directly to the Secretary of Defense, and draws on a force of about 100 analysts.

Dr. Chu, a Yale-educated economist, has directed program analysis and evaluation since 1981 and has a reputation for rigor. In the early 1980's he insisted that the Army subject its division air defense gun, or Divad, to strenuous field tests that it ultimately failed; in 1985 the $1.8 billion program was canceled.

PLAN CALLED TOO RISKY

Writing on May 15 to Donald J. Yockey, Under Secretary of Defense for acquisition, Dr. Chu warned that the $35 billion plan for interceptor deployment was too risky and "is almost certain to suffer early, significant cost growth and schedule slippage" because little of the initial apparatus would be tested thoroughly before manufacturing. The emerging system, he wrote, thus might have to undergo extensive repairs and revisions.

Worse, Dr. Chu wrote, the plan could produce interceptors and other antimissile hardware that were "technologically inferior" and unable to adequately defend the nation.

In addition, he wrote, speeding the program to achieve the 1997 deployment date would require exemption from more than a dozen laws and directives that govern the purchase of military equipment.

Dr. Chu recommended an alternative plan in which prototype hardware would be subjected to "a rigorous test program" and its experimental data used to forge final designs, pushing back the date of initial antimissile deployments to the years 2002 or 2003.

While private experts and some membcrs of Congress have recently expressed alarm over possible technical risks and cost overruns in the proposed land-based antimissle system, this is believed to be the first time such criticisms have been leveled by a senior Pentagon official.

Five days after Dr. Chu's analysis was sent to Under Secretary Yockey, Dr. Cooper, the head of the antimissile program, summarized the plan before Congress in testimony that was alternately cautious and confident.

"Meeting the 1977 date represents a major challenge," Dr. Cooper said May 20 in a statement to a subcommittee of the Senate Armed Services Committee. But he added, "I believe the risk, although high, is acceptable given the urgency related to our uncertainty in predicting when we might actually be threatened with ballistic missile attack."

He said he would press for "an acceleration of the normal acquisition processes and procedures in light of the very high priority assigned by the Congress to meeting the goals" of the Missile Defense Act.

In the interview on Friday, Dr. Cooper said past arms programs have succeeded even though their testing and production had been accelerated, pointing to the Pershing II missile as an example.

But Mr. Pike of the Federation of American Scientists said a successful quickening of the antimissle program was highly unlikely, given its past difficulties. "Most tests," he said, "have been behind schedule and failed or had major shortcomings."

Mr. BUMPERS. Mr. President, James Clapper, Director of Defense Intelligence Agency, says that Brazil and Israel are the only two nations that will have ICBM's by the year 2010 that do not have them today. Brazil, Israel, and India. And everybody who thinks Brazil, Israel, and India will be our enemies by that time, stand up.

Robert Gates, now Director of the Central Intelligence Agency, says we have no enemies that can possibly threaten us before 10 years from now.

Mr. President, we have a two-pronged problem. We do not need $4.3 billion in this program when they are already behind on spending. You will hear Senator PRYOR with an amendment, immediately following Senator SASSER's and my amendment, saying that they are spending money wildly, trying to get rid of it. He held a hearing which shows that they ride first-class all over the world, trying to spend as much money as possible. Nobody is riding herd.

But I want to make the final point: Every dime we spend is borrowed. All of you know that. I guess it was last Friday, or maybe on Monday, the super collider debate. Last Monday, I tried to kill that program; $20 billion for nothing. Not one single person on the floor of the Senate could tell you one single spinoff that we were going to get from the super collider, except a few jobs in Texas and a few jobs in Louisiana.

Do you know what the argument was, especially from the other side of the aisle? I do not mean this to be partisan, but it is the truth. You know, "it is entitlements that cause the deficit." It is as though the $11 billion to build the collider and the $20 billion to run it for 25 years, that is funny money; that does not count. It is those entitlements—Medicaid, food stamps, SSI. They say that is what is causing the deficit; not the $20 billion we are going to spend on the super collider. That money does not count.

Is it not interesting that some people around here, if you increase WIC spending so poor, pregnant women get prenatal and neonatal care, so their children have a half-decent chance in this world, they will tell you that is an outrage to increase that budget by such a sum.

But when you get down to the super collider, next year, $500 million; over the next 6 years, $11 billion to $15 billion; over the next 25 years, $20 billion. They say the amount we are putting in that program next year is thirty-three thousandths of 1 percent; just a token. They sound as if it is money you put in as bus fare, when you put your little tokens in the coin box.

So it just depends on what you are spending the money for.

Mr. President, that is the mentality here. We have a $4 trillion debt and a $400 billion deficit this year, because it is always that that is just a fraction—a million here and there. How can you talk about depriving this guy of $1 million? That is nothing. You cannot compute what a small portion of the debt that is. And so on we go.

Some people are saying, well, if we cannot get it in entitlements, we cannot do anything. Others say if you cannot get it from defense, and things like the space station and the super collider, you cannot do anything.

Mr. President, I do not care where it is. I just do not want to leave the Senate and the Congress with this terrible burden on my children. It is not self-serving to say I love my children. I certainly do not love my children any more than anybody else in this body does. My children are so priceless to me, I could not describe it in 1,000 years.

Do you want me to tell you a little story? One morning, I was watching an interview on the Today show of a person who was running for the Senate against a sitting Senator. He was a challenger to an incumbent.

Jane Pauley was asking that person about all the tremendous successes he had had. He had been a success at everything—First in his class, all those kinds of things. He made money.

Finally, she said: Mr. So and So, "what do you fear most?"

And he studied a moment, and he looked very ponderous and thoughtful, and he said: "I fear defeat. I fear failure more than anything else."

I turned to Betty Bumpers—we were sitting at breakfast—and I said "That guy ain't going to be elected." She said, "Why not?" I said, "Because that is a terrible answer." She said, "Why is that a terrible answer?" I said, "Well, it just is. People who fear failure are not likely to take chances."

I never made a speech to a high school graduating class that I did not tell them to take risks.

Abraham Lincoln got beat for about everything he ran for, just about, except for one term in the House and President. What if he said he feared failure? He would still be a practicing lawyer in Springfield, IL.

But to get back to the point, do you know what I fear more than anything else? That my children will die before I do. I do not want to outlive any of my children. I do not think I could bear it.

But you know something else I fear? Not having gotten this country back on track.

I am not going to get into partisan politics here, as much as I am tempted, because all of you know my Governor is our candidate this year. But I would like to believe that at some point the collective intelligence of the U.S. Congress is going to take hold and they are going to say a billion dollars is important.

And I want to say to my colleagues, we did not change the mining laws—I do not want to revisit that. I have considered that to be the clearest cut issue I have ever seen on the Senate floor, the absolute scam of allowing the mining companies of this country to take $100 billion of minerals, gold and silver principally, off Federal land and not pay a nickel for it and leave an unmitigated environmental disaster for us to pick up the tab for. There is not a single U.S. Senator that does not know that is wrong. I got 42 votes.

And I did not sleep that night, Mr. President. I will tell you a secret, I did not sleep that night. I am a poor loser, among other things. I hate to lose. But I especially hate to lose on issues that are so clear cut.

If we collected royalties from the mining companies like they pay to private people or like they pay to States, we would make a dent in the deficit. And then I would get a good night's sleep, knowing I made a contribution. You cut a billion dollars out of SDI and I will get a good night's sleep, because I will know I have kept faith with my children and yours.

So I say to my colleagues, do not be impressed with the fact that these SDI contracts are in 40 States or 50 States

or whatever it is. I found out even the people who run the superconducting super collider projects have let contracts in 43 States.

You see, the Pentagon started this 50 years ago. Now NASA does it, the super collider does it, SDI does it. And your people back home say, "Please don't cut this budget. We have 100 jobs down here depending on this little contract SDI gave us." So we spend $4.3 billion.

So I say to my colleagues, why do you not make up your mind that today is the first day of the rest of this session that you are honestly going to think and act responsibly about trying to do something about the deficit and, Mr. President, without jeopardizing this project one scintilla.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER] is recognized.

Mr. SASSER. Mr. President, I ask unanimous consent that Senator LEVIN, of Michigan, and Senator JOHNSTON, of Louisiana, be added as cosponsors of this amendment.

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

Mr. SASSER. Mr. President, I also ask unanimous consent that no second-degree amendments be in order, but that I preserve my rights to modify the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Mr. President, do you want to withhold? I see our distinguished colleague from Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. I object.

Mr. SASSER. Mr. President, in that instance, I will withdraw my request until we have an opportunity to discuss it with my friend from Virginia.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Tennessee suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. 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. SASSER. Mr. President, I ask unanimous consent that Senator ROBB, of Virginia, be added as a cosponsor.

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

Mr. SASSER. Mr. President, I listened very carefully to the very eloquent and persuasive arguments made by my friend from Arkansas, Senator BUMPERS. And while listening to him, it occurred to me that there have been few weapons systems in this Nation's history, perhaps really in world history, that have been so mythologized as SDI.

Indeed, a myth has grown up around SDI, and, to some extent, the only parallel that I know of in my lifetime is the so-called secret weapons that were supposed to save the Third Reich as they approached the end of the Second World War. Of course, we all know that those weapons never materialized and the Third Reich went down to the fate that it so richly deserved.

But there is a mythology of SDI. There was an evil empire threatening us, President Ronald Reagan told us some years ago, and, in response to that evil empire, the United States is going to build a great wall, an impenetrable barrier around itself to keep out ballistic invaders.

Now, you take the threat of an evil empire, America responding by building a great wall, an impenetrable barrier, a transparent ceiling, if you will, over the Nation to keep out ballistic invaders, you throw in a term, "star wars"——

Mr. BUMPERS. Will the Senator yield?

Mr. SASSER. I am pleased to yield.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 2919 TO AMENDMENT NO. 2918

(Purpose: To reduce the amount provided for the strategic defense initiative)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself, Mr. SASSER, Mr. LEVIN, and Mr. JEFFORDS, proposes an amendment numbered 2919 to amendment No. 2918.

Mr. BUMPERS. 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 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,301,000,000 may be obligated for the Strategic Defense Initiative.

The PRESIDING OFFICER (Mr. KOHL). Who seeks recognition? The Senator from Tennessee is recognized.

Mr. SASSER. You throw in the term star wars, and you have that with 1,001 hopes and expectations. That is exactly what you did have—hope at the time star wars and SDI were proposed, and you have a system that repeatedly defies rational analysis.

Every year when it comes time to authorize funding for SDI, the Senate does a dance. We wrestle with it and we discuss it. But in the end nothing changes, SDI is funded and the mythology goes on.

I do not want to revisit past debates on that because, let me say to the proponents of SDI, you have won. You have won.

So I am not here today to try to kill SDI. We have tried that in the past and we failed. So this amendment is not the death knell for the strategic defense initiative. Really, this amendment is a departure from the SDI amendments in the past, in that we are simply proposing an adjustment, an adjustment to the SDI Program that makes sense on many levels; on a strategic level, on an operational level, and certainly—perhaps most important to me of all—on a budgetary level.

It is a rational approach. It recognizes that SDI, rightly or wrongly, has taken a place in our Nation's defense.

But this amendment that is being offered by myself and Senator BUMPERS, tailors SDI more closely to the fiscal realities of the time in which we live, and the strategic realities of the country at this time in our history.

This amendment would make SDI more viable in this time of very tight budgets. It would give the program more time to meet all of its technological expectations. And make no mistake about it, this is a scientific undertaking of monumental proportion. It is an undertaking that is very iffy. It is problematical as to whether SDI can ever be made to work.

So it is important that, given this time in our history and the fact that there is no necessity now, no imperative to move forward recklessly—this amendment gives SDI more time to meet all of the technological problems that can be expected.

It would be hypocritical of me if I came before my colleagues today and posed as a friend of the strategic defense initiative. I will have to say, and reaffirm, that I have always believed the program is fundamentally flawed. The SDI concept is not unlike the traveling salesman who comes to a little house and tries to sell insurance for meteors striking the roof of the house to a young couple that is struggling to pay bills and to feed a new child.

Really, it is an even larger scam than that because the young couple has the good sense to refuse the meteor insurance and send the salesman packing.

But what we have is a nation struggling to pay its bills, to meet the needs of its people, and we bought that insurance policy called SDI to keep the meteors from crashing through the roof, in a moment of cold war panic. And now we cannot cancel that policy. We are stuck paying the premium even though the meteor threat, in the form of intercontinental ballistic missiles has essentially vanished.

But putting aside my personal views, Mr. President, I think the amendment being offered today acknowledges the reality. There is support for the SDI Program in the U.S. Senate. We have tried to terminate it. We have been unsuccessful. We are going to continue to fund SDI.

This amendment simply says let us do it in a way that conforms more closely to fiscal and strategic reality, and let us get some budget savings out of it while we do it. Let us not increase the deficit any more than we absolutely have to, to build this strategic defense initiative.

With that in mind, this amendment is designed to achieve the following: It would bring the SDI budget in line with the program objectives established by the Armed Services Committee itself in the report which accompanies the bill, the report which is on the desk of every Member here today.

It would fully fund the administration's request for theater missile defenses. And those, of course, as we all know, are the missiles that will be used to shoot down incoming tactical missiles on a battlefield. That is fully funded.

In doing so, this amendment upholds DOD's top missile defense priority. We are fully funding the Department of Defense top missile defense priority, which is to develop theater missile defenses that will shoot down tactical missiles coming in on the field of battle.

It would also protect the option to deploy initial defenses in compliance with the ABM Treaty, should future threats arise.

It would allow full testing of all components to be employed at the initial site for the strategic defense initiative.

And most important, it would save the taxpayers $1 billion.

It would be a major step in conforming the defense budget to the larger Federal budget realities.

The bill currently funds SDI at $4.3 billion in fiscal year 1993. According to a very extensive and thorough and, I think competent review by the Congressional Budget Office, at least $1 billion of this $4.3 billion to fund SDI is unnecessary. The nonpartisan, unbiased Congressional Budget Office concludes that at the very most, $3.3 billion is needed this year to meet the goal of deploying an antiballistic missile defense system starting in the year 2002.

When we were drafting this proposal, my colleague Senator BUMPERS and I considered a number of things and we finally came down on three broad categories: The budgetary, the operational, and the strategic implications of SDI reduction.

First, let us talk about the budgetary aspects of it. First, by adjusting SDI funding we are making good budgetary sense. We all remember the 1990 budget agreement, and we conform to it here in this body to the point now we do not even acknowledge it.

The 1990 budget agreement is almost like a second skin for most of us. We know we cannot exceed the domestic discretionary caps. We know if we are going to fund something we have to find an offset somewhere else. So that budget summit agreement worked to that extent.

But I do not need to remind anyone in this Chamber that next year, with the fiscal year 1994 budget, the separate caps and the walls between defense spending, international spending, and domestic spending will all come down, and we are going to have one single cap and one single category for all discretionary spending.

That is when the free-for-all is going to take place. We should all understand that the budget agreement did not make the tough decisions for us in the outyears; that the discretionary cap on spending becomes very, very tight, indeed, in fiscal years 1994 and 1995; and that we are by no means on automatic pilot with regard to meeting that cap in years 1994 and 1995.

In fact, we are about to stare down the barrel of a very large savings gap. A gap between where the budget agreement says we must be and where our current spending path is leading us.

Let me quantify this gap for my colleagues. If the U.S. Senate today adopts Chairman NUNN's defense budget proposal, and if we hold all nondefense discretionary spending at 1993 levels plus inflation, then we will be staring at a $9.7 billion savings gap in 1994 and $15.2 billion in 1995, totaling almost $25 billion in the next 2 years.

I think that is demonstrated and illustrated by this chart. The chart indicates what happens if we follow the defense spending outline, the defense path as outlined in this bill before us today, and we allow all domestic discretionary spending just to grow with the rate of inflation.

The top line represents what spending levels would be necessary to follow the defense spending path of this bill and to allow domestic discretionary spending just to keep pace with inflation.

The bottom line will indicate the caps that will be in place. So there will be a discrepancy of almost $25 billion. That is going to mean in 1994 and 1995, if we allow this defense bill to follow the path that is being laid out here, that we are going to have to make $25 billion in cuts, in domestic discretionary spending below the rate of inflation in 1994 and 1995.

Mr. SARBANES. Will the Senator yield?

Mr. SASSER. I will be pleased to yield to my friend.

Mr. SARBANES. Mr. President, when the Senator talks about domestic discretionary spending, that is just a phrase. Could we just go behind it for a minute to talk about the kind of programs it encompasses? Those are investment programs, are they not? Are they not the kind of programs that involve, for instance, investment in transportation infrastructure, upgrading of the air traffic control system?

Mr. SASSER. The Senator is quite correct.

Mr. SARBANES. Education of our children, training of our workers, and so forth and so on—all the programs that we have talked about as being in need of strengthening, not weakening. What programs does the Senator encompass within the term domestic? What are a few examples of the most important programs?

Mr. SASSER. I think the Senator is quite correct. It would mean, for example, we would have to find $25 billion in savings over 2 years. It would have to come out of things like highway programs, spending on airports for runways, spending on the Federal Aviation Administration that has responsibility for maintaining safety of the airways, spending in the form of crime prevention and justice. It would mean cuts in the Justice Department, the FBI, a whole host of programs to control——

Mr. SARBANES. The drug program?

Mr. SASSER. It would mean cuts in the drug control programs.

Then moving on from there, it would mean cuts in education at a time when our Nation is falling behind and the States—like California, for example—are having to issue warrants, and reducing education, and saying that children cannot get into the Head Start Program, and that sort of thing. It would mean additional cuts in education. The Head Start Program would be one that would probably have to be cut.

The list goes on and on. It is infinite. Almost all of the spending for the programs that deal with uplifting the quality of life in the country come under this domestic discretionary spending program.

Mr. SARBANES. If the Senator will yield further, I think it is very important to make this point because the tradeoffs need to be recognized. As I understand what the Senator is saying, this year we are constrained by a 1990 budget agreement, under which spending is divided into separate categories. So there is a defense category with a cap, and there is a domestic category with a cap. While some of us have tried to remove those walls between the categories to reorder our priorities, we are still operating with a set of priorities that was made in the fall of 1990, before the dissolution of the Soviet Union. Those are essentially the priorities that are determining our budget patterns. But the whole world has been transformed since then, as is demonstrated by the fact that only yesterday the House of Representatives voted to provide assistance to the former Republics of the Soviet Union, a measure that passed through this body a few weeks earlier.

The 1990 budget agreement was made at a time when the notion of doing something like that would have been complete anathema. No one would have

conceived of doing that. So the world has been literally transformed, and yet we are still operating in the old framework.

As I understand the Senator, he is projecting out into the next year when all of these programs are brought together. As I understand what the Senator is saying, if you follow the trend line of the Defense budget that is talked about here, this is the path you would be following—sharply increasing. That is why it is so important to try to get the Defense budget on a different trend line now. Otherwise we are going to be caught up in this trend, and it will become more and more difficult to reverse.

The cap is here and you have to somewhere find $25 billion.

Mr. SASSER. That is correct.

Mr. SARBANES. If you cannot get some of it out of the Defense budget, it is all going to have to come out of the domestic programs the Senator was enumerating; is that correct?

Mr. SASSER. The Senator is quite correct. That is it precisely; we will have no alternative except to cut these programs for our own people.

Mr. SARBANES. Mr. President, I listened to the very able Senator from Tennessee earlier in the day when he made a general statement on this issue, before it was specifically addressed to the amendment that is now before us involving the strategic defense initiative. I want to commend the Senator for what I thought was a very eloquent statement concerning this sense of priorities.

What has happened is that the winds of change are blowing all across the globe, but somehow they cannot make it into the Chamber of the U.S. Senate when the Senate is considering the Defense authorization or the Defense appropriations bills.

We have all of these transforming developments taking place internationally. We have, in effect, the implosion of the Soviet Union, now the former Soviet Union. We do not even talk about the Soviet Union anymore. It has to be, at a minimum, the former Soviet Union. Of course, that has markedly changed the international security environment.

Mr. WALLOP. Parliamentary inquiry. Is the Senator engaged in propounding a question or making a speech?

Mr. SARBANES. I am going to come to a question at the end. It is a long question, I understand, but it is important to lay out some of these premises, if one is to feel those winds of change actually making their way into the Chamber. It is very difficult when you get these very rigid mind sets and ways of thinking that result in being able to shut out a sensitivity to these changes which are taking place.

And I say to my friend from Tennessee, I want to give credit to the committee because I think the committee has made some adjustments.

Mr. SASSER. Indeed, they have.

Mr. SARBANES. I do not want to overstate the issue. I think the Armed Services Committee chairman has made some very perceptive speeches on the floor of the Senate about the necessity to rethink our defense strategy, to adjust to the changed circumstances that have taken place internationally. I commend the committee for some of the adjustments that have been made.

I say to my friend from Tennessee, I take it that it is his view—it is certainly my view—that we ought to seek further adjustments. We are trying to alter these trend lines as we look ahead, in order to begin to change these priorities and to begin to focus on the very thing that is going to be critical in the future both at home and abroad, and that is to enhance our domestic strength. Unless we do that, we will not have the kind of strength we need to sustain our international obligations and commitments.

Is that the direction in which the Senator is seeking to turn our policy?

Mr. SASSER. The Senator from Maryland is quite correct. That is precisely what I am trying to do today. With this amendment, we believe that making a very modest reduction in the SDI program and a reduction that will allow the committee to carry out their entire program within the timeframe within which they intend to carry it out is a good place to start.

Mr. SARBANES. If the Senator will yield, I want to ask him whether I am correct in the understanding that this amendment would not eliminate the SDI program. It would not even cut it drastically. It would permit the program to go forward in a way that conforms with what had been a previously projected path for the program, but which can be achieved at a savings of $1 billion; is that correct?

Mr. SASSER. That is precisely correct.

Let me, if I may, just elaborate on that for a moment for my friend from Maryland.

Last year, the Senate passed in the Defense authorization bill some legislation called the Missile Defense Act. Now, very few Senators knew that the Missile Defense Act, I daresay, was contained within the Senate Defense authorization bill last year, but it was. And what the Missile Defense Act said is that it directed, or indicated that we should proceed with an ABM compatible antimissile defense system that would be deployed by 1996, as I understand it.

Now, following the adoption of that bill, the Department of Defense through no less a personage than Dr. Chu, the Assistant Secretary of Defense for Scientific Programs, indicated that it would be almost impossible to deploy this system by 1996, and that it should be stretched out to the year 2002, so that the proper testing could be done and to make sure that the system would be technically feasible, have a chance of working, et cetera.

Mr. WALLOP. Will the Senator yield for a question on that point?

Mr. SASSER. Let me finish responding to my friend from Maryland.

But what occurred was then the Armed Services Committee this year agreed with the DOD that the system could not be fully deployed by 1996, and agreed to the stretchout. But what they did not do was reduce the funding.

So although the verbiage is there that they agree with the Department of Defense that it needs to be stretched out, as I understand it, to the year 2002, it still retains 90 percent of the funding that remained under the accelerated production program.

So the Congressional Budget Office has done a study which has indicated that the SDI Program with the ABM compatible antimissile system can proceed on schedule, be deployed on schedule, but this year at a funding level of $3.3 billion rather than the $4.4 billion contained in the Defense authorization bill.

So we are simply saying in view of the fact that the program can be carried through to completion with $3.3 billion this year, let us save $1 billion so that we can either apply it to the deficit or apply it to this cap gap that we are going to encounter in 1994–95.

That, I say to my friend from Maryland, is in a nutshell the thrust of this amendment.

Mr. SARBANES. If the Senator will yield, I would simply say to the Senator it sounds like common sense to me, and I am strongly supportive of this amendment. In fact, I ask my colleague to place me on the amendment as a cosponsor.

Mr. SASSER. I thank my friend from Maryland.

Mr. President, I would ask unanimous consent that the distinguished Senator from Maryland be added as a cosponsor of this amendment.

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

Mr. BUMPERS. Mr. President, I wonder if the Senator from Tennessee would yield the floor so I could get the floor in my own right for about 10 seconds.

Mr. SASSER. I will be pleased to yield to my friend.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

AMENDMENT NO. 2919, AS MODIFIED

Mr. BUMPERS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WALLOP. Mr. President, could the modification be stated for the edifi-

cation of Senators? It is custom, I believe, to state the modification.

The PRESIDING OFFICER. The Senator from Arkansas will explain the modification.

Mr. BUMPERS. I had an amendment pending at the desk that was not properly crafted to a second-degree amendment. This modification just makes it in order.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The clerk will report the modification for the information of the Senate.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2919, as modified, to amendment No. 2918.

Mr. BUMPERS. 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:

Strike all after the word "total", and insert the following:

"AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,301,000,000 may be obligated for the Strategic Defense Initiative."

AMENDMENT NO. 2918

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I rise in support of this exceptionally important measure, and I would ask I might be included as a cosponsor.

Mr. SASSER. Mr. President, I would be pleased to have the distinguished Senator from New York has a cosponsor. I ask unanimous consent that his name be added as a cosponsor.

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

Mr. MOYNIHAN. I believe I have something important, Mr. President, to say to the Senate with respect to this matter. The testimony of one of the greatest physicists of our age, and the greatest living scientist to have participated in the development of the atomic bomb during World War II. That, of course, is Hans Bethe.

Hans Bethe was the head of the theoretical physics division at Los Alamos. He was standing next to Dr. Oppenheimer when the first nuclear test took place. He received the Nobel Prize for physics in 1967. There is scarcely an award this country could provide, except the Presidential Medal of Freedom, he has not received. He is a man of transparent goodness, energy. An immigrant from Germany, and a teacher. He still meets in seminars at Cornell University.

In 1977, I, having been elected to the Senate, thought that surely one thing a New York Senator ought to do is to be in touch with Hans Bethe, and ask for his counsel.

The Bethes very graciously came to lunch in upstate New York. I asked if he would walk me through the various issues. He did. Then he said something. The Senator from Tennessee would want to know this. He described having met with a Soviet physicist at a conference in Rome or some such place where they exchanged information to the effect that on both sides there was nuclear stalemate with the ICBM's now finally in place. The Soviets had only developed an ICBM that could reach our silos in the north central United States in 1970. We were both in a launch on warning mode, which we have been in some time now.

The Soviet said there are physicists in your country—and Bethe assumed it was equally to the other—who are thinking that we could deploy in space a great array of nuclear devices which on the approach of an ICBM would detonate and release a laser beam that would destroy the incoming or upcoming missile. He said that. This is in 1977. We have not seen star wars. The President has not made a speech.

He said both he and his Soviet counterparts agreed that it was madness. Madness, that you could deploy these matters and, in the event of a nuclear exchange that they would be churning with nuclear explosions, these devices that work with micro efficiency and accuracy. Said he, "Don't let anybody talk you into that."

Mr. President, may we have order? I am trying to tell the Senate something it does not want to hear. I understand that.

Hans Bethe, the director of theoretical physics at Los Alamos, said "Don't let them talk the Senate and the Congress into that."

Well, 4 years later, we did. A decade later, the physics has failed. We declined to a fallback position, from the star wars concept to Brilliant Pebbles. Remember, the failure of the physics was foretold explicitly by a man who had not failed at Alamogordo. They knew that weapon would work. They said so, and it did. And the Second World War ended.

It happens, Mr. President, that in February, Dr. Bethe and Ambassador Nitze were before the committee on Foreign Relations. I took the occasion to ask Dr. Bethe to relate this exchange in 1977 and ask what he thought about the new fallback position of Brilliant Pebbles. Here is Hans Bethe's response. He said, "I think we should not deploy any of this. I think even if they are effective, everybody has agreed that they are no good against a strong enemy like the Soviet Union used to be. I think it would be a mistake to deploy such devices against accidental launch of Third World countries." He mentioned the possibility that an asteroid might become involved and trigger the whole device. He said, "Don't do it."

Paul Nitze was there, and Paul Nitze said, "I think the terms involved are very confusing, and are not precisely defined." He stated that with respect to the interception of shorter range ballistic missiles, for instance, such as the Patriot missile, there is something we might do, but, again, he, Paul Nitze, said, "Don't do this."

This is a problem of cognition. When men of the greatest stature in physics who have proven their capacity in war, who developed the bomb, who changed the era greatly, when they say "No, you cannot do this; don't do it; it will not work," and we do not hear. Billions and billions and billions go in; it does not work; and we still do not hear.

I put this down—and I do not understand it any better than I am sure the distinguished Presiding Officer does—I put it down to a kind of deformation that takes place over many years of protracted conflict.

I think, Mr. President, I am one of a probably dwindling number of Members of this body who served—however inconsequentially—in the Armed Services of the Second World War and remember World War II, World War II lasted 2½ years, from deep peace—well, the mild free armament, but not much freely on review. Three and a half years to V–J Day, from Pearl Harbor, 3 years, 7 months. The economy had not adapted itself to defense production. As the civilian economy had turned to defense production, it could just as easily turn back to civilian production. There was no difficulty of any kind. We were making bombers where we would be making automobiles, and we could return to automobiles without any difficulty.

The cold war, by contrast has lasted for 40 years. From the signing of NATO, to the coming down of the Berlin Wall, 40 years. It is institutionally the only arrangement we can think of.

If Mr. Ross Perot said one thing during his aborted campaign for the Presidency, it was in June, in a press conference. He said to a group of reporters, "Do you know your Government is still totally organized to fight the cold war?" And he is right. We are. All of our institutional arrangements, this budget, this bill—the defense bill—this is cold war institution, from cold war money.

We have run out of money. The Senator from Tennessee showed what is coming.

It happens that in this morning's press, on the op-ed page of the Washington Post, Mr. John P. White, an adviser to Mr. Perot, has an article about our economic situation. It begins with the familiar and accurate statement that the Japanese invest more than three times as much as we do; the Germans twice as much; and lists their productivity gains, and so forth.

He makes his point, and I can attest that the numbers are essentially accurate. He said, in the period from 1947 to 1973, American living standards doubled every one and a half generations. That is the work of Professor Levy at Johns Hopkins. Given our economic performance from 1973 to 1990, it will take 12 generations to achieve the doubling.

That is the price we pay for the cold war. It has not sunk in. This institution cannot change it. There is such a vast network of economic interests in everything that happens, that we think we are getting returns for our States out of this outlay. We are not. We have simply taken the United States to the point where our growth rates now take 12 generations to double.

Today, I make the point, sir, that average weekly earnings in the United States today are lower than they were when President Eisenhower left office. But we have to go ahead with a missile defense against an unknown enemy, following a failure in physics which was predicted, a prediction that made no impact upon this body whatever.

We are still totally organized to fight the cold war, and looking about for other wars that might serve instead.

Mr. President, I yield the floor.

Mr. WALLOP. Mr. President, I wish I could say it has been an interesting afternoon. But these debates are debates we have heard from time to time.

It is no surprise to me that the Senator from Tennessee was unwilling to yield for a question, given the confusion of the facts that were being offered.

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

The PRESIDING OFFICER. Which amendment?

Mr. WALLOP. The amendment pending, as modified.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, we spoke of a CBO that—I believe I quote accurately—he said was "nonpartisan, nonbiased, and thoroughly professional." There are not many folks left, certainly on our side of the aisle, who would judge CBO to be nonpartisan, certainly not nonbiased. And in the instance of the program, of the conclusion that they reach for Senator LEVIN, signed by Mr. Reischauer, they are thoroughly unprofessional. I will quickly go through that lack of professionalism.

First of all, lacking a definition of concurrency, they would commonly concoct one to suit their conclusion, which they clearly had reached before they began their study.

I say this not ill-advisedly, Mr. President, because I think I can demonstrate it here. It is a definition used by no one else—not by the Department of Defense; not by the Budget Committee; not by the authorizing committees. It is completely artificial.

It says, for example, that a program is concurrent if you buy any hardware before the testing is finished. By this definition, Mr. President, virtually every program is 100 percent concurrent. That is a foxy definition—unprofessional, biased, and unworthy of the Congressional Budget Office.

By this definition, Harpoon had 100 percent concurrency. On page 7 of their report, they admit there is no accepted definition of how much concurrency is high.

They admit that there is no strong relationship, discoverable, between concurrency, using their definition or anybody else's, between success and failure. That is on page 4 of the report. They admit that there is no strong relationship between concurrency and the growth of costs. They admit that there is no strong relationship between concurrency and scheduled delay. And then they analyze the wrong program.

This is the thoroughly professional Congressional Budget Office. They are a joke, Mr. President. They are a biased, partisan joke.

The program they analyzed was that in last year's Missile Defense Act was an IOC of 1997. But this bill, the one produced by the committee, calls for an IOC of the year 2002, another point that was apparently lost on the chairman of the Budget Committee, who then went on to say that there was very little reduction.

There was nearly a——

Mr. SASSER. Will the Senator yield?

Mr. WALLOP. The Senator did not yield to me, and I shall not yield to him.

Mr. SASSER. A point of inquiry. The Senator mentioned me, Mr. President. I would inquire about——

Mr. WALLOP. Mr. President, I do not yield for a question.

The PRESIDING OFFICER. The Senator does not yield. The Senator has the floor.

Mr. WALLOP. Mr. President, I would normally yield, but the Senator refused to yield to the Senator from Wyoming for a question during the moments when these were brought up. They were inaccurate, Mr. President.

We are down now to $2.1 billion from the administration's request, and $1 billion from what the authorization was. That is not an insignificant cut, as I say to my friend. Almost anybody would think that $2.1 billion out of $5 billion is more than a 30-percent cut. It is not an insignificant cut. It is absurd to say so.

SDIO analyzed risk and concurrency of later deployments, not the ones that were chosen by the Congressional Budget Office and the Senator from Tennessee.

For an IOC in 1999, concurrency between testing and initial site activation is essentially eliminated.

That is not a troublesome statement to CBO, who concocts their own definitions. So let us not place reliance on an organization that once had a proud reputation, but is now utterly useless in terms of presenting rational information about programs and policies of this Government.

The concurrency in the SDIO Program has been extensively examined by DOD, Mr. Atwood, Mr. Chu, and others. Their conclusion is that for deployments after 1999, there is essentially no concurrency. Mr. Chu was cited as being a skeptic. He was one who signed the interim report, based on the program as it now exists. So it is a fallacy, Mr. President, to say that Mr. Chu is in disagreement with the program as defined by the committee's bill, and the SDIO.

There was an interesting statement that was made earlier, and it is this kind of bizarre little mindset that Congress has now gotten into that would say: Gosh, because somebody can find a way to provide a nuclear device, to bring a nuclear device into the country that is not a missile, then there should be no defense against missiles.

Mr. President, I know the American people are brighter than that.

To say that a bomb can be loosed off in the Empire State Building, a conventional bomb, a conventional explosive bomb can be loosed off in the Empire State Building and, therefore, we need not just try to prevent bombers coming to America because, what the heck, they can kill us anyway. America alive would say that is a good or sensible tradeoff. It is completely apples and oranges.

Yes, of course, there are other dangers to Americans than missiles, but to say that because there are other dangers, we ought not to be protected against them is absurd on its face and Americans will know that without much trouble.

It was also said that a year ago very few Senators knew they were voting on the Missile Defense Act, this by those who conducted the debate against it. I mean, are we to believe that those who conducted the debate against the Missile Defense Act on this floor and in the report, and others did not know that is what they were debating and that, otherwise, they might have either debated harder or embraced it?

Why, that is absurd, Mr. President. Senators knew. It was called the Missile Defense Act in debate here on this floor time and time again. It was debated on the basis of every detail that was in it time and time again. And to say that we did not know what was in it is just sort of unbecoming to the Senate. I guess it is a fair characterization to say that Senators do not know every word of things that are in front of us. But we knew we were debating a Missile Defense Act, make no mistake about that.

Now, this is a defining moment for the Senate. If a majority of my colleagues endorse the amendment that is offered, they will be saying to the American people in absolutely clear and unequivocal terms that they need not be defended against the possibility of ballistic missile attack, accidental or intentional.

In fact, I recall to the Senate's mind that one of the quirkish things that I thought about the Missile Defense Act was its use of the terms "accidental or unauthorized missile attacks," that, if we could determine that one was authorized, we were to submit to it; that Americans could be killed if somebody was doing it on purpose, but if it was accidental or unauthorized we could be protected. But that was in our bill, Mr. President.

Now, most Americans, having witnessed the gulf war, believe that even the modest protection the Saudis and Israelis received from Scud missiles by the cobbled together Patriot system was far superior than to have been undefended at all. Most Americans would believe that had we not been able to do that, there would have been no way that the Israelis could have justified to their citizenry remaining out of the war. Most honest appraisers of that war will remember that the Patriot made a big difference, and it was not really a missile defense system but was a cobbled together system.

But one of the things that it did was to take the "gee whiz" out of it, to say that you can, in fact, hit a bullet with a bullet, that you can, in fact, make a limited defense and that some defense is substantially greater than no defense at all. And most Americans would embrace that idea.

I want to say as well the quotes from Dr. Hans Bethe, that he has not found a defense system since the late 1950's of which he approves. Since that time, we have had the Poseidon, we have had the Minuteman, we have had innumerable advances in weapons systems, each of which, every time one was mentioned, Dr. Hans Bethe found reason to doubt. Had we listened to him every inch of the way, the cold war now might be over but in a very different way, Mr. President.

Now, this amendment will effectively deny Americans even their limited defense. But it is not the technology that limits us, it is will. It will deny them even this basic progress that has been made.

We have not been limited by technology, Mr. President. Senators will get up here and talk about all manner of things that have taken place and all manner of changes that have come in the SDIO Program, and most every one of those was dictated by either a shortage of funding or a change in funding or ordered set of new priorities, not on the basis of things that were there.

The Carter administration, Mr. President, made a report to this very Senate that we could have had a chemical laser, a space-based system that would provide essentially complete defenses against a boost-phased attack within the timeframe of the late 1980's for a then cost in 1979 dollars of $24 billion.

This Senate, this Congress, changed those programs and dismantled that capability, sent the laser program in one direction, the optics mirror and the pointing tracking program in another direction, and some of those tests that were ready to be deployed and used in the early 1980's are just now in the program for about 4 years out.

There is, Mr. President, no justification for cutting additional funding from the SDI budget. In our markup, as I stated, the Senate Armed Services Committee already slashed $1.1 billion. The program is now as we have it, in my judgment, in an extremely tenuous position. The cut already will delay the initial deployment of the system. Additional cuts would cause it further delay and place the entire program in jeopardy.

And I say, Mr. President, that a cut to the magnitude proposed by the Senators from Arkansas and Tennessee will not make it possible to keep subcontractor groups together.

Mr. President, let me just tell you that scientists are not lights on a rheostat. You cannot turn them up and down waiting for this benighted organization called the Congress to make up its mind. You cannot run them out and get them and put them to work and then put them back in a closet for a couple years and then run out and get them and put them to work. These minds are too good and too great to be wasted on something they know will never come to pass, and they will not be there, Mr. President, when we need them.

So, if the Senate wants to spend billions of dollars on an SDI Program that will never defend the American people, then I suggest they simply kill the program outright today and save us the billions that they are putting in here just for this. Rather than allow it to die a slow death, we might as well put it out of its misery here and now and stop wasting money. Because the Senate is not serious.

The amendment is not serious. This amendment denies Americans the right to be defended by technology that they possess. That is a statement I will guarantee, Mr. President—the right to be defended by technology that they possess.

I remind the Senate that last year the Congress strongly endorsed the rapid deployment of theater and strategic defense and continued robust funding for the advanced missile technology such as Brilliant Pebbles. That was a landmark piece of legislation that the Armed Services Committee reaffirmed this year. Yet, you cut additional funds from it, and there will be no such thing as the Missile Defense Act.

Supporters of the pending amendment have suggested that cutting additional funds from the SDI budget will somehow reduce the risk and put us on track. The opposite is true. It increases the expense, it increases the risk, it reduces the redundancy that is necessary in testing of technologies of this type. It denies us the ability to test concurrent technologies.

It is all very easy to have one little piece of information and another little piece of information and a third little piece of information. It is hard to integrate a system.

What are we doing here with this amendment, but setting ourselves on the inevitable path that cannot get us there. But to show Americans we are serious, somehow or another, about giving them a little defense—we do not have the courage just to eliminate the program entirely and tell them we know how to defend you, but we in the Congress are too wise and we will not. So we are going to bleed out your money a little bit at a time, a little bit at a time. And I remind the Senate that is precisely what happened with the ballistic missile defense systems of the seventies.

These are not new and fanciful ideas. We had ballistic missile defense systems in the seventies that would have worked, but time after time after time the Senate reduced the funding, reducing the development concept. And finally they were not up to the task, and they died of their own ridicule. And that is the plan and the plot that is afoot here.

It is to take this program and make it so expensive—you heard these arguments, not once but dozens of times on the floor—we have spent all these billions of dollars and gotten nothing. And why? Because the Senate and the Congress changes its mind; because the Senate and Congress takes a thing and directs it for a year or two, then directs it to do something else for another year or two. We play scientist when there is not a scientific mind in this entire body that can measure up to making these decisions.

We have caused the delay. We have caused the expense. And we are about to make it more expensive and delay it even further and tell Americans that as China, as India, as other nations in the world are getting these missiles, that the threat against them is not worth protecting them from.

I would say there is nothing so good as the ability to threaten to be able to loose off a single warhead someplace—I believe the Senator from Ohio in his Presidential campaign one time said that he would not object if somebody loosed off a missile and it landed someplace in the Rocky Mountains. Some of us who lived in the Rocky Mountains

thought it might be safer to loose it off in Ohio. But the point is that this Senate has time and time again said that one nuclear weapon is probably not survivable for mankind. Yet we are saying to the American people that even these countries that are now developing capability—they do not need the accuracy, Mr. President, they need the range, the range just to come out here and pop off someplace outside our continental shores. That is what they need. And that is what is going on in the world today.

There is an interesting little statement that appeared in the press on June 24 of this year. It says:

UKRAINE OFFERS MISSILES FOR SALE

The head of the gigantic Yuzhnoye missile complex in Dnepropetrovsk, Ukraine, recently told a delegation of French officials and defense industry representatives that he was ready to sell his factory's entire production of surface-to-surface ballistic missiles to the highest bidder, "just so long as the buyer comes with cash."

The French had gone to Ukraine in mid-March to discuss reconversion projects, but the director of the complex, which employs some 60,000 people and makes space-launch vehicles as well as strategic ballistic missiles, said that reconversion plans had been shelved in favor of hard currency exports. "We were promised by Gorbachev, and then by Yeltsin, that foreign capital would flow in once we abandoned our strategic manufacturing projects," he told the French. "Well, it didn't, so I am ready to deal with whoever comes in here—and believe me, I won't be asking Moscow or Kiev for any authorizations."

Maybe he will have to, Mr. President. But nobody in this Senate will dare tell me that the Chinese are not doing that. Nobody in this Senate will dare tell me that other countries in the world are not seeking to extend the range of the prototypical Scud missile, and have already. Nobody in this Senate better dare tell me that the CIA had it right when they told us that the Iraqis were not anywhere near to getting nuclear weapons. Nobody in here will dare tell me that the Russians are not, today, still producing SS-18's and SS-24's.

They do not have, probably the intention. I am willing to say they probably do not have those intentions. But how many times have we been told by everybody around, that should Yeltsin fall his most likely successor is some sort of Darth Vader.

If that is the case, his intentions might well be different than those of the able and heroic Mr. Yeltsin

What this Senate needs to be paying attention to is capabilities, anyway, not intentions. It is the capabilities which threaten Americans, and Americans are smart enough to know it. It is only the Senate that seems to have doubts about that.

Mr. President, the House has authorized $4.3 billion, the same amount recommended by the Senate Armed Services Committee. It would be an unprecedented situation, indeed, if the Senate approves an SDI budget that is lower than that of the House.

Some of our colleagues have been privileged to see the advanced state of Soviet missile defenses in areas in which our intelligence did not even know existed. Things like—very like our Brilliant Pebbles. So very like them that one might almost say that their espionage system was concurrent.

Mr. Yeltsin and others have suggested that there is, perhaps, a common interest between the United States and the former Soviet Union in deployed strategic defenses. There clearly is for theater missile defenses.

The Armed Services Committee in its report says the following thing.

The committee believes that the baseline program for theater missile defense and the limited defense system as set forth in this report constitute low to moderate technical risk program and low to moderate conservancy program. After months of review in the Pentagon the SDI approach now represents the unified DOD position.

The states of the former Soviet Union agree with the United States on the need to deploy a global missile defense system. Perhaps our friends would use their $1 billion and go buy that technology. Maybe that would advance us. It is certain to be a more purposeful act than simply denying us, and Americans, the opportunity to harness the technical genius of this country in their own protection and defense.

The Russians have demonstrated that they have their own version—of Brilliant Eyes. They are cooperating with us. The only organization in the world not cooperating is potentially the Senate of the United States.

If we are serious about missile defense, we should vote down this amendment. It merely denies Americans their fundamental right to remain secure in their homes at the earliest possible date. If the Senate wishes to deny the American people defenses, they should belly up to that statement honestly and just do it, and do it all at the same time. This amendment is not a forthright attempt, but a very veiled attempt to appear to support missile defenses while making, in fact, sure that the Nation will never be defended.

Mr. President, I urge and hope the Senate does not accept and adopt this cynical approach.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate from Georgia.

Mr. SASSER. Mr. President, will the Senator from Georgia yield for a unanimous-consent request? I would like to add two Senators as cosponsors.

Mr. NUNN. Yes.

Mr. SASSER. Mr. President, I thank the Senator from Georgia for yielding. I ask unanimous consent that Senator DECONCINI of Arizona and Senator DASCHLE of South Dakota be added as cosponsors.

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

Mr. NUNN. Mr. President, I will not take long because it is my hope we can either get a unanimous consent agreement to vote somewhere in the next 45 or 50 minutes, around 6, or that we can very shortly move to table.

I would prefer to get some kind of agreement. I hate to start tabling before everyone gets through speaking. I would like to do that. Everyone knows, too, we are getting a tremendous amount of urging from our fellow Senators to finish these matters so that we can move on at some point to the Bosnian resolution. So I am feeling a considerable amount of pressure on getting to that resolution, and all of us also know that on a Friday night at 6 o'clock we are going to have a very hard time getting to it unless somehow we can conclude this and move on.

Mr. President, the amendment offered by Senators SASSER, BUMPERS, and LEVIN cuts SDI to the level of $3.3 billion. It is my view that a reduction of this magnitude would stretch out the program to such a degree that it would render implausible any claim by Congress that we are on a steady course toward deployment of an initial ABM Treaty compliant defensive system, as we agreed to last year by a rather overwhelming vote. Mr. President, the Armed Services Committee already cut the President's request by over $1 billion.

The funding level we are recommending is $4.3 billion. That is the same level that was approved by the House of Representatives in separate floor votes on the defense authorization bill and the defense appropriations bill.

If we are serious about deploying a limited treaty compliant ABM system in the next decade, and the time has slipped on it, without any doubt, we must fund the program I think at the level recommended by the committee. The alternative would be to return to the wasteful years of the 1980's when $3 to $4 billion was spent each year on SDI without any consensus by the Congress, without any direction, with compromises every year that left no direction and nothing was really undergone but endless research.

Mr. President, let me explain briefly to the Members what action the Armed Services Committee took under the leadership of the Senator from Nebraska [Mr. EXON] with regard to SDI in its markup last month. One of our top priorities in acting on the SDI program this year was to reduce the level of technical risk and concurrency that SDIO had built into their planning. Henceforth, the program must be conducted according to sound acquisition procedures, including not committing to production or deployment until adequate testing has been completed. In this regard, the committee deleted last year's 1996 target date for deployment

of the first ABM site, a date which last year had been represented to the committee as realistic but which turned out to be clearly impractical and nonachievable. We now anticipate that the initial treaty compliant ABM deployment could likely occur and will occur, if properly funded, in the years 2001, 2003 range but, of couse, that depends upon the availability of appropriate technology, it depends on the funding levels, and it depends on the results of the test programs which must be successfully completed prior to moving toward deployment.

SDIO has identified an option for fielding some test missile prototypes and a test radar at the first site on an earlier timeframe. In our bill, we do not prohibit SDIO from planning these options, but we have included a provision in law making it clear that we have not authorized SDIO to exercise any such option. Whether we might at some point in the future authorize an early deployment using test prototypes as we did successfully, I might add, for the JSTARS surveillance aircraft which was deployed as a prototype during the Persian Gulf war and worked well in emergency situations, whether we do that in this program will depend on the development of the test program, it will also depend on the maturity of the technology which is key, and it will also depend, of course, on the assessment of the threat in the late 1990's.

The bill also incorporates an important change in the Brilliant Pebbles program. I have been concerned that SDIO has continued to spend excessive amounts on this program despite Congress' clear direction last year excluding Brilliant Pebbles, that is space-based interceptors, from the initial architecture for the multiple site limited defense system. Since that eventual multisite system will not likely be completed until after the year 2000, beyond the year 2005, there is no need to develop Brilliant Pebbles for possible deployment sooner than that.

In markup, we had considerable debate on the space-based interceptor funding level. There was vigorous debate on that. We finally settled on $350 million. That level is $225 million below the administration request and $110 million below last year's appropriations. Thus, we have put the Brilliant Pebbles funding profile on a downward slope, a course the committee believes is fully justified given the uncertainty over how and where this option might fit into the picture.

Before yielding, I would like to ask the authors of this legislation, if I could get their attention, the Senator from Tennessee, and the Senator from Arkansas, as I read this amendment, the amendment would delete all underlying language in the bill between page 58, line 18, and page 60, line 3. Could someone tell me if that is correct? That is the way we read the amendment.

Mr. SASSER. If the Senator will withhold for a moment.

Mr. NUNN. Let me repeat the question. As I read the amendment, it would delete all the underlying language in the bill between page 58, line 18, and page 60, line 3.

Mr. SASSER. The Senator is correct.

Mr. NUNN. I say to my colleagues, I am not sure if they intended to do this, but this has a profound effect. What this does is it substitutes $3.3 billion for $4.3 billion. In other words, a $1 billion cut, which I am sure is the intent of the authors, but it would also drop out of the bill the division of the total SDI funding among the five traditional SDI program elements, and those elements are theater missile defense, limited defense system, space-based interceptors, follow-on technology and research and support.

What that means is that we are saying to SDIO, if this amendment is adopted, maybe it is inadvertent or maybe it is intentional, that he can spend the money, all of it, on anything he wants, including Brilliant Pebbles. So basically, if this amendment is adopted, as I read it, and I think this is correct, it is a carte blanche to Ambassador Cooper and SDIO to spend the money on anything they want, $3.3 billion on anything. He would not have to spend money on theater defense. He would not have to spend money on limited defense. He would not have to spend money on other follow-on technologies. He would not have to spend money on research and support. He could put it all on Brilliant Pebbles.

I ask my colleagues if that is the intent of the amendment?

Mr. SASSER. Let me respond to my friend from Georgia. Of course, that is not the intent of the amendment. As laid out in my statement, that is not the intent. We would fund the theater missile defense, fully funded at the President's level.

Mr. NUNN. That is what the Senator's Dear Colleague says, but that is not what the amendment does.

Mr. SASSER. Will the Senator let me finish?

Mr. NUNN. I will.

Mr. SASSER. We have the level of specificity that is needed, and it would be, if the Senator thinks that is necessary, a very simple matter to modify the amendment in that way. We do not read the amendment precisely the way the Senator from Georgia does, but in order to remove any doubt, we have prepared an amendment or a modification which will specify in precise detail what our amendment would do.

Mr. NUNN. I will say to my colleagues, I do not know what their intent was, but I did read the Dear Colleague letter. It seemed to me the Dear Colleague letter was basically, fundamentally different from the amendment, because the amendment clearly eliminates all the language that puts these moneys in various categories and limits how much could be spent, particularly in space-based interceptors. So the effect of the amendment, whatever the intent of the authors, is that there is no limit and the money can be spent any way the SDIO chooses to spend it.

That is the way I read it.

Mr. President, for all those reasons, I would hope we could agree to some time limit. I notice there are others who would like to speak. But I would yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, one of the most remarkable and interesting of political phenomena of the recent decades was the rise and fall politically of Ross Perot. He came on like a comet streaking across the political sky, commanded all the polls and appeared headed, in the minds of many people, for election.

Mr. President, we do not know precisely, or at least I do not know precisely why Mr. Perot withdrew, but I am advised that it had something to do with the financial plan that one John White presented to Mr. Perot to show him how to balance the budget. There was an article this morning in the Washington Post about this plan and what it entailed.

Mr. President, this plan involved a 50-cent gasoline tax. It involved cuts in Social Security. It involved taxes on Social Security. It involved deep cuts in entitlement programs. It involved deep cuts in defense. It was, indeed, a very far-reaching plan, Mr. President. And I am told that when Mr. Perot looked that plan square in the face, he said, in effect, "This is not any fun. I do not want to run on that kind of plan."

It was not the kind of situation where he could say I have balanced the budget and have not broken a sweat.

He recognized, when he looked at the actual plan, how difficult it was going to be to balance that budget even over a 5-year period. And I am advised that that is the reason he withdrew from the race.

Now, Mr. President, the American public is facing some very difficult, stringent cuts. If we are going to make any progress toward balancing that budget, it is going to be cutting programs dear to the hearts of the American people, or by raising taxes, which is going to be very difficult to the American people, and right in the face of that, Mr. President, we have this madness called SDI.

Mr. President, I cannot imagine how people of such great intelligence can be hornswoggled, in my view, by such an expensive program.

And with that, Mr. President, I will yield for a unanimous-consent request by the majority leader.

Mr. SASSER. Will the majority leader yield?

Mr. MITCHELL. Yes.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Senator JOHNSTON has the floor and has yielded to me, and I will be pleased to——

Mr. JOHNSTON. I had not finished my statement.

The PRESIDING OFFICER. Did the Senator from Louisiana yield the floor?

Mr. JOHNSTON. I had been asked to yield for a unanimous-consent request, Mr. President, and I yield for that purpose only.

The PRESIDING OFFICER. The Senator from Louisiana yields to the majority leader for the purpose of propounding a unanimous-consent agreement.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that today, at a time to be determined by the majority leader after consultation with the Republican leader, there be 35 minutes for debate, 15 minutes under the control of Senator HEFLIN and 20 minutes under the control of Senator BIDEN, on the motion to go into executive session to proceed to the nomination of Edward E. Carnes to be a U.S. circuit judge; that upon the use or yielding back of time, the Senate, without any intervening action or debate, vote on the motion to proceed to the nomination; that immediately following that vote, regardless of the outcome, the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, reserving the right to object, I am quite sure I will not, I did not hear the first part of the agreement. How much time?

Mr. MITCHELL. I had made no request with respect to this pending amendment. I am about to do that after I get this request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as propounded?

Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that at 6 p.m. today, Senator WARNER be recognized to make a motion to table the pending amendment, and that the time between now and 6 p.m. be equally divided between the two sides under the control of Senator NUNN for the opponents of the amendment and Senator SASSER for the proponents of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. Reserving the right to object.

Mr. BUMPERS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I have been here about an hour. I want to get 8 minutes in. I do not know frankly whether I can get that in under this agreement.

Mr. SASSER. Mr. President, as I understand it, the remaining speakers on our side, Senator SIMON, wishes 8 minutes, Senator LEVIN just advises me he wishes 5, and 5 minutes for the distinguished Senator from Louisiana. That is 18. Senator HARKIN has sent word that he wants 10. That is 28 minutes. I will want 2 at the end. That is 30 minutes.

Mr. DOLE. Fifteen on this side. Vote at 6:15.

Mr. MITCHELL. Mr. President, I amend the request to ask that the recognition of Senator WARNER for purposes of a motion to table occur at 6:15 p.m. and that the time between now and then be divided 30 minutes under the control of Senator SASSER and 15 minutes under the control of Senator NUNN.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Is there objection?

The Senator from Tennessee.

Mr. SASSER. Reserving the right to object, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who seeks recognition?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

The Senate is not in order. The Senate will be in order.

Mr. JOHNSTON. Mr. President, I will yield the floor for a unanimous-consent request.

Mr. SASSER. Mr. President, I send a modification of my amendment to the desk.

Mr. WALLOP. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SIMON. Parliamentary inquiry.

Mr. MITCHELL. Mr. President, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The unanimous consent of the majority leader has been withdrawn.

The Senator from Louisiana has the floor. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, did the Senator wish a unanimous-consent request?

Mr. SASSER. Mr. President, I am seeking the floor in order to modify my amendment. Do I not have a right to do that?

The PRESIDING OFFICER. The Senator from Louisiana has the floor. The Senator from Tennessee does not have the right to modify while the Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I am advised anyway that the yeas and nays have been ordered and that it would take unanimous consent, to which objection has been heard.

The PRESIDING OFFICER. The yeas and nays have been ordered on the second-degree amendment.

Mr. JOHNSTON. Mr. President, I will yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Louisiana yields to the Senator from Tennessee.

Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. There is objection.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Louisiana, unless he has surrendered it, has the floor.

Mr. MITCHELL addressed the Chair.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana——

Mr. MITCHELL. He has left the floor.

Mr. SASSER. He left the floor, Mr. President.

The PRESIDING OFFICER. Has the Senator from Louisiana relinquished the floor?

Mr. JOHNSTON. Mr. President, in order to recognize the Senator from Tennessee, I would yield the floor.

Several Senators addressed the Chair.

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

The Chair recognizes the majority leader.

Mr. MITCHELL. 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 legislative clerk proceeded to call the roll.

Mr. SASSER. 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. 2918, AS MODIFIED

Mr. SASSER. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right, and the first-degree amendment is so modified.

The amendment (No. 2918), as modified, is as follows:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,300,000,000 may be obligated for the Strategic Defense Initiative, as follows:

(1) Of the amounts appropriated pursuant to title I for fiscal year 1993 or otherwise

made available to the Department of Defense for procurement for fiscal year 1993, not more than $62,500,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amounts appropriated pursuant to section 201 for fiscal year 1993 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $3,237,500,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIC AMOUNTS FOR THE PROGRAM ELEMENTS.—Of the amount set forth in subsection (a)—

(1) not more than $1,490,000,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $997,500,000 shall be available for programs, projects, and activities within the Theater Missile Defenses program element;

(3) not more than $100,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(4) not more than $325,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(5) not more than $325,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be 45 minutes for debate remaining on this amendment, 30 minutes under the control of Senator SASSER, 15 minutes under the control of Senator NUNN, and that upon the use or yielding back of that time the time limitation which I have so stated be prior to a motion to table, and that at the conclusion or yielding back of that time, Senator WARNER be recognized for the purpose of making the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, that vote would then come at about 6:20; is that correct?

The PRESIDING OFFICER. Forty-five minutes from the point at which time the unanimous consent is ordered. Is there objection to the unanimous consent? Without objection, it is so ordered.

The Senator from Tennessee controls 30 minutes, the Senator from Georgia 18 minutes. Who yields time? The Senator from Tennessee.

Mr. SASSER. I yield 8 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois for 8 minutes. Would the Senator suspend? The Senate is not in order.

The Senator from Illinois.

Mr. SIMON. Mr. President, I yield to the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, following this vote it is my intention to exercise the authority just given to me in the unanimous-consent agreement relating to the nomination of Judge Carnes, to proceed to executive session, and for the debate of 35 minutes on the motion to proceed to the executive session to consider that nomination, following which there will be a vote on that motion to proceed.

So we will now have 45 minutes on this pending amendment, a motion to table, a vote on the motion to table that, and then 35 minutes on the Carnes nomination, and then a vote on that motion to proceed.

I thank my colleagues. I thank the Senator from Illinois for his courtesy.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2918 AS MODIFIED

Mr. SIMON. Mr. President, I rise in support of this amendment.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. SIMON. Mr. President, I rise in support of this amendment, and I ask unanimous consent to be added as a cosponsor.

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

Mr. SIMON. Mr. President, I have great respect for the chairman of the Armed Services Committee. In fact, all the Members of the Senate have great respect for the chairman of the Senate Armed Services Committee. If we did not have such great respect, frankly, I do not think the defense appropriations and the authorization would be where they are today.

I remember very, very well that evening when I heard President Reagan make his speech about star wars. I remember being startled by that speech. It turned out I was not the only one who was startled by that speech. The leaders at the Pentagon were startled by that speech. Someone had sold President Reagan on a concept that has cost a massive waste of money. We have spent almost $29 billion up to this point on star wars.

There is a very interesting comment in Khrushchev's memoirs. He meets with President Eisenhower and President Eisenhower asked him "Mr. Khrushchev, why do you spend so much money on weaponry?"

If I may have order, Mr. President? I do not mean to interrupt the good conversation over there.

Khrushchev is asked by Eisenhower, "Why do you spend so much money on weapons?" Khrushchev says,

> I try to keep the defense budget down and then the admirals and generals come to me and say the Americans are doing this, the Americans are doing that, if you want to save your country you had better spend more money on defense.

Eisenhower responds, you know, I go through the very same thing. Except now, one of the reasons for doing this has disappeared. There is no Soviet Union anymore. But the winds of change have hardly touched the defense budget and candidly have hardly touched the U.S. Senate. Senator MOYNIHAN said that a little bit ago. Senator SARBANES said that a little bit ago.

We are just trimming at the edges slightly if we pass this amendment. I hope this amendment can pass. But I think historians 50 years from now, looking back, are going to ask why did we trim so little.

I remember our colleague from Iowa who chairs the subcommittee on appropriations saying we have spent as much on military research in the last 7 years as we have spent on medical research since the beginning of this century, and I thought, how our priorities are out of order.

Then I just remind you of a few things. Bill Colby, who directed the CIA for Richard Nixon and Gerald Ford, William Colby recently said that if we were to reduce the defense budget 10 percent a year for the next 5 years, basically a 50-percent reduction in the defense budget, we would still have by far the most powerful defense of any country in the world.

What is the great threat to this country? The great threat to this country, my friends, is not missiles; the great threat to this country is that we are eroding our economic base.

That is why I supported the Presiding Officer, Senator GRAHAM, when he had these amendments to reduce administrative costs. It is a small thing, but at least it is an inching in the right direction.

Look at the GAO report from June 5, if you want to know what the real threat to the future of this country is. I think it is the most important and significant report ever issued by the GAO, and I am amazed that it did not reach the front pages of every newspaper and was not on national television at the time.

That report says that if we continue on the present course economically, we are going to see a gradual decline in the standard of living in this country between now and the year 2020. But if we reach a balanced budget amendment by the year 2001, we will see an increase in the standard of living per capita in this country, in real terms, of 36 percent, better than one-third, by the year 2020.

We are not just wasting money. That is bad enough. We are eroding the future of our children and our grandchildren.

On the way over here on the subway, Mr. President, I met a family from Northbrook, IL, with two girls in high school. What is the great threat to their future? It is that we have this project, that project, the other project. And I vote for some of them.

I voted against Senator BUMPERS on the super collider the other day. But we can do that. We can have the super

collider; we can have SDI; we can have the space station. I am going to vote against that. We can have everything under the Sun, and borrow from our children. We are the first generation in the history of this Nation to live on a massive credit card and send the bill to our children.

In the first 175 years, 60 percent of the time we balanced the budget. In the last 75 years, 4 percent of the time we have.

We have to say: Where are the real needs? This star wars program has more holes in it than swiss cheese. It is an absolutely ridiculous waste of money. I wish we had an amendment to reduce it more than a billion dollars. But at least we ought to do that. It contravenes any kind of logic to continue the program as we now have it.

Mr. President, I yield the remainder of whatever time I may have back to the Senator from Tennessee.

The PRESIDING OFFICER. Who yields time?

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

Mr. SHELBY. Mr. President, I rise today, as a member of the Armed Services Committee, in strong opposition to the amendment offered by Senators BUMPERS, SASSER, and LEVIN, to cut $1 billion from the $4.3 billion funding level reported by the Armed Services Committee for SDI.

Mr. President, funding for SDI, the strategic defense initiative, is always one of the most controversial provisions of any defense authorization bill. This bill before us today is no different. There are disagreements among the committee members about certain provisions of the Missile Defense Act. Positive changes were made to that act. We directed, Mr. President, the Secretary of Defense to develop the advanced TMD, an initial ABM deployment consistent with sound acquisition procedures, in accordance with the low-to-moderate technical risk and low-to-moderate concurrency program.

Mr. President, I supported an amendment during markup that would have funded SDI at a level of $4.9 billion. A lot of us felt that $4.9 billion was the optimum level to carry out the provisions of the Missile Defense Act. However, this was not successful. We were successful in offering an amendment during markup to raise the overall funding level to $4.3 billion, which is currently in the bill. This allowed the committee to once again reach a bipartisan consensus in the committee on SDI, and reaffirm the Missile Defense Act of 1991.

Mr. President, I find the funding level of $4.3 billion for fiscal year 1993, that was eventually agreed to, and is identical to that of the House of Representatives, the minimum necessary to carry out the goals of this revised plan. I believe one must remember that this funding level—which is $1.1 billion less than the budget request—is $300 million less than last year's committee level of $4.6 billion, and represents the largest funding cut the Armed Services Committee has ever made to the SDI program.

The authors of this amendment would like to cut funding for SDI by an additional $1 billion. They say this is a reasonable funding level, one that can still meet the goals of the revised Missile Defense Act of 1991.

Mr. President, they say that a $3.3 billion funding level for SDI, with over half of the cut coming from the limited defense system, will continue to allow the program to make the deployment goal of 2002. To reach the 2002 development of an initial ABM site, Mr. President, I believe we must build on what we have already learned. We must fully fund programs such as the ground-based interceptor, ground-based radar, and the ground-based surveillance and tracking system.

I believe we must fully fund the various command and control and battle management programs associated with the limited defense. This huge cut in the LDS Program element will gut this program. This amendment before us makes additional cuts in the follow-on and research and support programs. These programs have already been cut to bare bones by the Armed Services Committee. Any additional cuts would totally gut these program elements.

Mr. President, the supporters of this amendment would try and tell this body that this amendment is consistent with the goals of the Missile Defense Act. The reality of the situation before us, however, is that the authors of the amendment are opposed to the goals of the Missile Defense Act. They have taken the Senate floor time and time again to cut SDI. They voted last year against the goals of the Missile Defense Act. And to use the product of the Senate Armed Services Committee now as a vehicle to persuade this body, the Senate, that real intentions are other, I have to differ.

Mr. President, the number one threat to our national security is to continue the proliferation of nuclear weapons. Today, over 20 non-NATO nations, have ballistic missiles. By the year 2000, 8 years hence, as many as 20 others may have weapons armed with chemical, nuclear, or biological warheads.

Mr. President, it is time that we developed a theater, a strategic ground-based missile defense to counter this coming threat. The SDI provisions in this bill represent a viable path to achieve these goals.

I ask my colleagues to vote against the Sasser amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I would like 1 minute.

Mr. NUNN. Mr. President, I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in strong opposition to the Bumpers-Sasser amendment. I think it is detrimental to the security of this Nation, and I hope the Senate will defeat it.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. How much time is remaining on our side?

The PRESIDING OFFICER. The Senator from Tennessee controls 21 minutes, 54 seconds.

Mr. SASSER. Mr. President, let me make a couple of preliminary remarks, and I will yield to the distinguished Senator from Iowa.

Mr. President, the modification that I sent to the desk really addresses the concerns that were expressed by the distinguished chairman of the Armed Services Committee.

The modification that is sent to the desk is in total conformance with the "Dear Colleague" letter which was circulated among our colleagues. It is in conformance with the statement that I made in introducing the original amendment. And, quite frankly, Mr. President, it is my view that the original amendment stands upon its own.

But in order to close the loop and to totally reassure the distinguished chairman, we have modified the amendment in such a way that we clearly delineate in the amendment how the funds, the $3.3 billion, is to be spent.

Mr. President, I now yield to the distinguished Senator from Iowa.

I wonder if my friend could confine himself to 15 minutes. Would that be possible?

Mr. HARKIN. I might make it shorter than that, Mr. President.

Mr. SASSER. I thank the Senator from Iowa.

Mr. HARKIN. Ten minutes; may I have 10 minutes?

Mr. SASSER. Absolutely; I am pleased to yield 15 minutes.

The PRESIDING OFFICER. The Senator yields 15 minutes to the Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding very much, because I want to take this time to rise in support of the amendment offered by the Senator from Arkansas and the Senator from Tennessee.

At the outset, let me say that I do not object to all star wars programs. I have always supported research into new defensive technologies.

Furthermore, after the TV hype about the success of the Patriot missile during the gulf war, the SDI office incorporated tactical ballistic missile defense into the overall star wars program. The Patriot missile, which I have long supported, was never part of the star wars program.

I continue to support the tactical ballistic missile defense portion of SDI.

But I continue my long-term objection to two things: First, the extraor-

dinary cost of SDI; and second, the rush to deploy ineffective defenses against intercontinental ballistic missile.

Mr. President, remember the bear in the woods? SDI was supposed to protect us from the bear in the woods. Well, the bear has come out of the woods, hitchhiked to town, and he is now making Big Macs in Red Square. And we are still in hibernation. Well, it is time to wake up and put an end to the cold war.

The star wars program was ill-advised, wasteful, and dangerous during the cold war, when there was a remote chance that the Soviet Union might unleash a nuclear holocaust.

Now that the cold war is over, continued exorbitant funding of star wars is even more ill-advised and wasteful, at a time in our nation's history when we can least afford expensive, wasteful welfare for the military-industrial complex.

Now is the time for changing direction, not continuing down the worn cold war path.

Not only is the cost of SDI too high, but the opportunity cost of SDI is too high. What do I mean by the opportunity cost?

Think of it this way: Every dime we spend to put weapons above the jet stream is a dime we do not spend to help children into the mainstream of America. At a time when 10 million Americans are out of work, half a million Americans are dying each year from cancer, and one of every two children under the age of 2 are not fully immunized, you cannot tell this Senator that spending another $4 to $5 billion each year on SDI is our highest priority right now.

It is time we answer some basic questions. What are the objectives of star wars? Are these objectives legitimate in the post-cold-war era? If some objectives are desirable, how can we best reach those goals?

We all know that the objectives of the star wars program have been steadily declining over the years, as supporters try to justify its existence by reducing the goals.

First, we were told it was to be a global shield to render nuclear weapons impotent and obsolete from the President himself. That was President Reagan. The Reagan-Bush team led the American people to believe that the goal was to provide complete protection, although even the SDI Program leaders admitted that was not possible.

Well, after that failed, then we were told it was a partial, leaky defense to disrupt Soviet attack plans by stopping 15 percent of the Soviet arsenal. The goal was to stop 1,500 to 2,000 warheads of the Soviet 12,000-warhead strategic nuclear arsenal.

Now the crossbar has been lowered even further, in the hopes that star wars might be able to achieve at least some objective. The GPALS system is now chartered with stopping just 200 warheads from an accidental launch of the ex-Soviet arsenal.

So the crossbar just keeps coming down all the time. The odd thing is the funding keeps going up. So every time the threshold and the threat keeps lowering, we keep putting more money into it. Strange things, Mr. President, strange happenings here on the floor.

Or, from future Third World nations that manage to acquire both nuclear weapons and ballistic missiles to deliver those warheads.

Are these two objectives realistic—stopping a Soviet-Russian accidental launch and stopping a Third World attack?

The chances of a Russian accidental launch are decreasing. Both sides are moving to lower states of alert and readiness, and as we are reducing strategic nuclear forces on both sides it seems to me that arms reductions and confidence-building measures—such as taking all missiles off alert and eventually removing nuclear warheads from all missiles—would be much more cost effective than star wars in reducing the risks of an accidental launch.

As for Third World attacks, no nations other than Russia, China, France, and Great Britain have both compact nuclear weapons and intercontinental ballistic missiles that could reach the United States. Other nations may acquire both capabilities in the decades ahead, but listen to what Adm. William Crowe, former Chairman of the Joint Chiefs of Staff, said in June of this year about the possibility of Third World nations attacking the United States with nuclear weapons:

> At some point near the end of the first decade of the next century we might be vulnerable to attacks by Israel and India although attacks from those quarters seem highly unlikely.

Mr. President, is it wise to spend $30 to $50 billion over the next decade to provide a shield against a nuclear attack by Israel? Or India? I do not think so.

DEPLOYMENT TIME

But even so, what is the rush to deploy?

Suppose Admiral Crowe is right, and suppose further that Israel does become our mortal enemy by 2010. Why do we need to rush to a 1996 or 1997 deployment of a limited defense?

That high-risk approach would require significant concurrency. We would build and deploy untested prototypes. David Chu, the Pentagon acquisition specialist, has stated that, with normal acquisition procedures, deployment would not be possible before the 2003 time period.

During the debate on last year's Missile Defense Act, I offered an amendment to strike the 1996 deployment date. That amendment was defeated, 64–34, but I am pleased to see that this year's DOD bill has specifically repudiated this ill-conceived rush to deploy by 1996.

So I think maybe the amendment I offered was right, even though it did not win.

COST

Finally, assuming that we do accept the thesis that Israel or India or some other Third World nation would acquire the capability and the motivation to attack the United States with nuclear-tipped ballistic missiles sometime after 2010, how much should we spend on missile defenses to thwart such an attack?

CBO estimates that we need spend only $3.3 billion to achieve a 2003 deployment date. This would include a very robust program to provide tactical ballistic missile defense—such as an improved Patriot missile—to defend our military forces and cities from local attack in future wars.

My own preference would be to reduce star wars to a robust research program to explore missile defense technologies, and to provide tactical missile defenses. CBO estimates that $2.3 billion would be adequate for this research program. At $2.3 billion, star wars would still be one of the largest research programs in the world.

Again quoting Admiral Crowe:

> I would argue for a throttle back effort for SDI more within military and economic reality, perhaps to $2 billion annually to keep the program moving and our knowledge ahead of competitors * * * Money which funds SDI will come from programs that buy good defense against more plausible and probably more likely threats.

Mr. President, we should listen and heed these words from the man who served as Chairman of the JCS during much of the star wars buildup.

I will support this amendment to cut SDI to $3.3 billion, but I firmly believe that this program should be cut substantially more.

RUSSIAN COOPERATION

Mr. President, I would also like to address the question of Russian cooperation with a star wars defensive shield. The Bush administration has distorted the comments of President Yeltsin regarding a defensive shield. The administration implied that Yeltsin had agreed to a joint SDI Program.

In reality, President Yeltsin said that our two nations should jointly design, jointly build and jointly operate a defensive shield in place of SDI. In the same speech, Yeltsin reiterated that Russian continues to support the ABM Treaty, which certainly precludes the space-based weapons, Brilliant Pebbles.

Mr. President, I traveled to Russia in May of this year, and met with several senior Russian officials, including George Mamedov, Deputy Foreign Minister who helped Yeltsin prepare his arms control positions, and I met privately for almost two hours with Mar-

shal Shaposhnikov, commander of the CIS forces and the man with his finger on the Russian nuclear button.

Both Russian officials reiterated their support for the ABM Treaty. Both indicated a willingness to consider some aspects of joint defensive systems, particularly space-based sensors to detect missile launches. But they would not support the deployment of space-based weapons such as Brilliant Pebbles, particularly if the United States wanted to deploy these weapons unilaterally.

So I repeat, Mr. President, less than 2 months ago when I was in Russia, meeting with Marshal Shaposhnikov, the head of the CIS forces, he said to me quite forthrightly in front of other people who were there with me—people from our State Department, people from our Defense Department, said that No. 1—that they would be interested in joining the United States in putting space-based censors up to detect possible missile launches, but they would be absolutely opposed to busting the ABM Treaty and putting anything like Brilliant Pebbles into orbit.

Those facts are on the record Mr. President. Those statements I believe were in State Department documents and transmittals made back to the United States after my meeting with Marshal Shaposhnikov.

So I conclude from firsthand discussions with key Russian officials that they would never agree to the full GPALS deployment as currently planned by the administration.

In summary, Mr. President, I ask my colleagues to begin the step of changing our national priorities from cold war anachronisms to revitalizing our domestic economy. Reducing the star wars budget from $4.3 to $3.3 billion is one key step on this road to economic recovery.

Mr. President, I yield the floor.

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

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

The PRESIDING OFFICER. The Senator from Tennessee controls 9 minutes and 30 seconds.

Mr. SASSER. Mr. President, I want to, first, Mr. President, ask unanimous consent that Senator RIEGLE from Michigan be made a cosponsor.

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

Mr. SASSER. Mr. President, I want to make it very clear once again precisely what we are doing with this amendment. With this amendment we are reducing funding for SDI from the level of $4.3 billion down to $3.3 billion. Within the parameters of this amendment we fully fund the theater missile defense program as requested by the President. In other words, the theater antimissile defense is fully funded. So there will be missiles, under this program, to knock down, in an area of battle or in a theater of battle, tactical missiles. That program will be fully funded.

What we are doing is reducing part of the funding for the missiles that might be located at Grand Forks, ND. What we are doing is funding that program at a level that will allow it to come on line in the year 2002, as Dr. Chu, at the Department of Defense, has indicated would be the reasonable time for the program to be able to come to fruition and to deploy in the most cost-effective manner, and also in the most effective manner with regard to completing its mission.

How can we do this and still reduce it by $1 billion? Because that portion of SDI that would be based at Grand Forks or some other location is being funded at 90 percent of the level that it was being funded when it was to be deployed by 1996. So what we have is a system to be deployed in a stretched-out version, which is being funded as an accelerated program which is no longer an accelerated program. That is, frankly, the genesis of the savings that we have realized, and it is being funded at the level that the Congressional Budget Office says will bring the program to fruition and deployment in the year 2002.

I have listened to my colleagues here this afternoon. They make very persuasive cases in opposition to SDI. And I agree with them. But I am simply saying we have lost that battle. Now what I am trying to do is impose some budgetary sense on the SDI program, and we think this amendment does it. That is what it is all about.

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

The PRESIDING OFFICER (Mr. WOFFORD). The Senator has 6 minutes remaining.

Mr. SASSER. I see the distinguished Senator from Michigan on his feet. How much time did the Senator request?

Mr. LEVIN. I wanted 5 minutes, but I will be happy to take 4.

Mr. SASSER. If the Senator will take 4 and perhaps reserve me 2, I would appreciate it.

Mr. LEVIN. Mr. President, I support in principle a cost-effective, limited defensive system, but the resources that we devote to the SDI program must be proportional to the threats that we face and the budget realities that we also face.

The committee's revisions to the Missile Defense Act are wise and prudent. They attempt to implement a lower risk, lower concurrency normal acquisition program that we ought to have. But the funding the committee proposes is more than necessary to advance that kind of program.

This amendment of the Senator from Tennessee and the Senator from Arkansas tries to reestablish the right spending priorities for SDI. The amendment provides robust research funding for SDI at a more appropriate level, given the threat. It will allow us to proceed with research that could lead to an initial missile defense site deployment shortly after the year 2000, with the option of multiple sites at a later date.

The committee's adjustments to the Missile Defense Act recognize the threat of ballistic missile attack is not as urgent as the committee believed last year and that the SDIO's acquisition strategy is flawed and wasteful. The SDI funding that the committee provided, however, exceeds what is needed for the restructured program.

The Congressional Budget Office released a study in May of 1991 called "Costs of Alternative Approaches to SDI." That study shows that we can stay on a track like the bill describes—standard acquisition policy, lower concurrency, and lower risk than the administration's plan—for $3.3 billion this year, instead of the $4.3 billion in the committee's bill. This was the CBO's Alternative No. III. Our amendment proposes that CBO Alternative No. III; $1.5 billion would be devoted to the national missile defense, the limited, ground-based ABM system.

The CBO has just examined closely the question of concurrency in the various SDI proposals at the request of the chairman of the Budget Committee and myself. We wanted to know whether CBO's alternative that suggested $3.3 billion for SDI this year to achieve an initial deployment option by the year 2002 or 2003 would meet the guidelines suggested by Dr. Chu's memo for a standard acquisition approach with low risk and low concurrency. In short, the CBO says that it does. To quote from their paper: "The timing suggested in CBO's alternative III"—which is what this amendment proposes—"which called for the deployment of the initial site in 2003, corresponds to a schedule that Dr. Chu suggested would eliminate concurrency."

We should eliminate concurrency. This SDI Program which should proceed, but without concurrency and at low risk.

The committee bill says if we are going to pursue SDI, we should do it right, not do it as fast as possible. This amendment endorses that strategy, but says we can do it for $1 billion less this year.

The chairman of the committee and the chairman of the Strategic Subcommittee deserve a great deal of credit. They were not content to let the SDI Program proceed without scrutiny after last year's Missile Defense Act. Instead, they led the committee in a careful examination of what Ambassador Cooper was doing with the funds and direction Congress had provided, and we did a thorough assessment of SDIO's plans to see if the stated goals

were achievable. I feel it is important to summarize that process briefly for the Senate.

What the committee found was very distressing. SDIO was planning to meet the 1996 goal for initial ABM system deployment by installing prototypes at the first site. These prototypes would have received only a fraction of their initial operational testing and no demonstration/validation testing before deployment. SDIO claimed this unusual process was justified as an essential contingency capability that could be easily upgraded later, and they gave it a new term: UOES, "User Operational Evaluation Systems." But I prefer the old terms to describe this plan: Risky. Costly. Highly concurrent. In short—a rush job.

In a moment of candor, SDI Director Hank Cooper acknowledged this in testimony to the Armed Services Committee on May 20. He said he could deploy and activate an ABM site in 1997, but that "meeting the 1997 date represents a major challenge with high concurrency and high risk * * * including technical cost and schedule risk. I believe the risk," he continued, "although high, is acceptable given the urgency related to our uncertainty in predicting when we might actually be threatened with ballistic missile attack."

Senator NUNN spoke for all of us, I think, when he concluded "we have been substantially misled" into believing that an early deployment was possible without such high risk and abnormal acquisition procedures.

And there was more welcome candor from the Pentagon. Dr. David S. Chu, Assistant Secretary of Defense for Program Analysis and Evaluation, reviewed the SDIO plan for Donald Atwood, the Under Secretary of Defense for Acquisition, and concluded:

> In our judgment, SDIO's proposal contains excessive risk of cost growth and schedule slippage in the ground-based interceptor demonstration/validation fabrication program due to a compressed design phased uninformed by flight and system testing.

Chu also called the early warning radar upgrades, quote—"a highly concurrent, compressed program."

He concluded that the initial deployment plan "is almost certain to suffer early, significant cost growth and schedule slippage. Worse, it could lead to technological inferior—or inadequate—choices."

And he noted that pursuing SDIO's accelerated plan would likely require the Defense Department to seek relief from the laws of the land, from statutes and directives governing the way we acquire weapons.

Chu strongly recommended:

> That we pursue a standard acquisition program for initial deployment, but incorporate an even-based strategy that couples authority to proceed with demonstrated achievements of a rigorous test program.

He estimates that this could lead to an initial deployment in fiscal year 2002 or 2003, although success in testing of components could offer an opportunity for earlier deployment.

Mr. President, I request unanimous consent that Dr. Chu's memo of May 15, 1992 and attachments be included in the RECORD in its entirety.

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

(See exhibit 1.)

Mr. LEVIN. Mr. President, the comments of Ambassador Cooper and Dr. Chu raised a loud warning signal which, to their credit, Senator NUNN and Senator EXON responded to immediately.

Congress should be intimately familiar with the problems that can result from highly concurrent weapons programs, systems where production and/or deployment begins while testing is continuing and modifications are still being made. The DIVAD and the B-1 bomber are two famous examples. The first program was so flawed that we had to cancel it. The second program we are still paying to fix.

When systems go into production before they are thoroughly tested, there is a very high risk that changes will be necessary, that problems requiring costly fixes will arise late in the process. And the more complex the system, the greater the risk. With SDI, we're not just talking about interceptors and guidance systems, but also radar systems and the software that must integrate them. It's a highly complex, integrated system.

And SDI interceptors have failed several recent flight tests. In a way, those failures make the point about the dangers of concurrency very clearly—we can learn from test failures and incorporate changes before we go into production. But if we intentionally plan to freeze a design, begin production, and actually deploy components of SDI knowing that only minimal testing will be completed first, we are asking for trouble.

Why rush? The only reason is if we expect threats to develop soon that SDI could actually protect against. But we do not. We are facing very different threats after the cold war, and SDI is only designed to address one of them—limited ballistic missile attack. Even if SDI works, it gives us no protection against other means of delivering weapons of mass destruction—cruise missiles, planes, boats, even backpacks.

CIA Director Robert Gates told us what the situation is. He gave us this unclassified estimate on June 22:

> Only China, the Commonwealth of Independent States, the United Kingdom, and France have the capability to reach United States territory with nuclear-armed missiles. We do not expect an increased risk to U.S. territory from nuclear missiles of other countries for at least the rest of the decade.

That means threats to the United States from ballistic missiles—the only threat that the national missile defense part of SDI is hopeful of combatting—is not urgent, not imminent, not great enough to justify rushing and the risks and costs that would entail.

Let me be clear—missile proliferation is a real threat we need to combat, but the CIA Director says that the threat national missile defenses are oriented against is not urgent. We can combat the proliferation threat in other ways, but we need not rush the SDI Program

Another reason for SDIO's urgency was the anticipated changes in the ABM Treaty that the administration has said it wants. The Missile Defense Act urged the President to pursue discussions with the Soviet Union—which no longer exists—on these issues, and the President has. But Russian defense officials have repeatedly stated that their support for shared missile launch warning systems or for global defense systems does not contemplate major revisions of the ABM Treaty. We may still reach agreement with the Russians on mutually acceptable treaty revisions, but there is no sign of it yet, so our SDI plans cannot be based on the assumption that such revisions will take place.

In response to the Cooper and Chu revelations, and the revised threat assessment, Senator EXON and Senator NUNN crafted very strong language to revise the Missile Defense Act, and most of the revisions in their original mark are in the committee bill before us:

The bill mandates significant changes in the program, and the committee report insists that the program development be "consistent with sound acquisition procedures and in accordance with a low-to-moderate technical risk and low-to-moderate concurrency."

The bill clarifies that Congress did not intend to set an artificial deadline for initial deployment of a national missile defense but instead wants a system "by the earliest date allowed by the availability of appropriate technology and the completion of adequate integrated testing of all system components."

The committee repeats its insistence that an initial ABM deployment must be "cost-effective, operationally-effective and ABM Treaty-compliant."

And the bill declares that Congress is not yet authorizing the deployment of missile and radar prototypes for which only limited testing has been completed.

In sum, the committee's adjustments to the Missile Defense Act recognize that the threat of ballistic missile attack is not as urgent as the committee believed last year, and that SDIO's acquisition strategy is flawed and wasteful.

The committee bill still contains $350 million for space-based interceptors,

primarily Brilliant Pebbles. In the Missile Defense Act, Congress attempted to ensure that this program would not be developed before the basic ground-based system. We said explicitly in the Missile Defense Act that "deployment of Brilliant Pebbles is not included in the initial plan for the limited defense system architecture."

But the committee discovered this year that its intent had been disregarded. More money was being put into research on Brilliant Pebbles and taken away from limited defense systems even though early deployment of Brilliant Pebbles had been specifically excluded. After that experience, we should have learned that if we don't want Brilliant Pebbles to be a priority for deployment, we should stop allocating such high sums for research on Brilliant Pebbles.

Space-based sensors are something we should be continuing research on, but space-based interceptors like Brilliant Pebbles should be explored for a follow-up system, not funded as a crash course program, as many of the committees have pointed out.

So our amendment reduces Brilliant Pebbles funding by $250 million to $100 million, enough to support one contractor team in researching this technology as part of a follow-on system.

Mr. President, I support research on missile defenses. I support, in principle, a cost-effective, limited defensive system, if it can be developed mutually with Russia and other nuclear powers. But the resources we devote to the SDI Program must be in proportion to the threats we face. I think the committee's revisions to the Missile Defense Act are wise and prudent. They attempt to implement the lower-risk, lower-concurrency, normal acquisition process program that we ought to have. But the funding is more than necessary to advance that kind of program.

This amendment tries to reestablish the right spending priorities for SDI. To summarize: This amendment provides robust research funding for SDI at a more appropriate level given the likely ICBM threat. It will allow us to proceed with research that can lead to an initial missile defense-site deployment soon after the year 2000, with the option of multiple sites at a later date. It will allow funding for development of Brilliant Eyes space based sensors, and full funding as requested by the administration for theater missile defenses.

If this amendment is not adopted, I am convinced that the SDI Program will be throwing away more money, and raising the risk that we will waste billions of taxpayer dollars without buying much security.

If this amendment is adopted, we can put the SDI Program back on the standard acquisition track that the Pentagon's own analysts say it belongs on. We can lower the risk and lower the concurrency. And we can make another investment of $1 billion in deficit reduction this year alone—that's a real contribution to our security as a nation.

I urge adoption of the amendment.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 7, 1992.

Hon. CARL LEVIN,
Chairman, Subcommittee on Conventional Forces and Alliance Defense, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You recently asked several questions about the Strategic Defense Initiative (SDI) program described in the Administration's Plan for Deployment of Theater and National Ballistic Missile Defenses. The questions relate to the level of concurrency and the potential for cost growth in the Administration's plan. You also asked about alternatives presented in the earlier CBO analyses of the costs of the SDI program. The paper attached to this letter—"Answers to Questions about Concurrency and Cost Growth in SDI"—responds to your request.

I hope this information is useful. If we can be of further assistance please let me know.

Sincerely,

ROBERT D. REISCHAUER.

ANSWERS TO QUESTIONS ABOUT CONCURRENCY AND COST GROWTH IN SDI

In a letter dated July 29, 1992, Senators Jim Sasser and Carl Levin asked the Congressional Budget Office (CBO) a number of questions concerning its past analyses of the Strategic Defense Initiative (SDI) program. This memorandum answers those questions.

CONCURRENCY

The letter asks CBO about the degree of concurrency present in the Administration's current plan for completing the National Missile Defense (NMD) portion of the Strategic Defense Initiative program.[1] NMD is another name for the Limited Defense System used in the Presidential budget for fiscal year 1993. It is that portion of the SDI program that funds the ground-based interceptors, radars, battle management systems, and space-based sensors that would be deployed to protect the territory of the United States against attack by ballistic missiles.

Concurrency, which is the practice of permitting development and production of a weapon to overlap, was to be defined as it was in a 1988 CBO study of weapon concurrency.[2] That study defined concurrency as the percent of initial operational testing and evaluation (IOT&E) planned for completion after production is authorized.[3] IOT&E is part of a series of weapons tests that also typically includes development, and follow-on testing and evaluation. Among the many ways of measuring concurrency, CBO selected IOT&E as a partial measure of concurrency for reasons that are discussed in the study.

In measuring concurrency in the NMD program, this memorandum focuses only on the missiles that will serve as ground-based interceptors. The NMD program will also purchase radar, space-based sensors and a battle management system, but the ground-based interceptors are the only item that would be produced in significant quantities and for which detailed acquisition data are available.

The degree of concurrency in the current Administration plan depends on what point in the plan appropriately represents the commitment to production. In most programs, that point is clearly defined, but such is not the case for the Administration's proposed NMD program. In response to the Missile Defense Act of 1991, which called for rapid deployment of some defenses, the Administration plans to have an initial site operational by late 1997. Sixty missiles which are to be built during the demonstration and validation (dem/val) phase of the program, and thus would be considered prototypes, would be deployed as operational interceptors at the initial site. Subsequently, the Administation intends to purchase about 1,000 missiles as "production hardware." The missiles would be deployed as ground-based interceptors at other sites starting in 2000. The Administration views the first 60 interceptors as test missiles that fulfill a "contingency" role. When production hardware becomes available, the initial site will be retrofitted with new missiles.

Adding to the complexity of measuring concurrency, the IOT&E program proposed by the Administration is also atypical. Largely in response to the Missile Defense Act's call for early deployment, the plan begins IOT&E earlier than usual so that some operational testing occurs before the dem/val missiles are deployed.

Usually, IOT&E begins during full-scale development (after Milestone II) and must be successfully completed before the program can advance to full-rate production at Milestone III.[4] The hardware used in IOT&E must approximate production hardware as closely as possible. To achieve early deployment, the Administration's plan includes an earlier phase of IOT&E (called Phase 1) several years before Milestone II in order to test the dem/val hardware that will be deployed at the initial site. The Administration's plan also includes a more typical IOT&E program (called Phase 2) after Milestone II to test the production hardware that will be deployed at the other sites. The Strategic Defense Initiative Organization (SDIO) has stated that Phase 1 will include 11 test events. CBO has assumed that Phase 2 will include an additional 11 test events.[5] For the purposes of measuring concurrency in the acquisition of the production missiles, CBO has assumed that all 22 tests are part of the IOT&E program because production hardware will benefit from both Phases 1 and 2 testing.

The NMD program features significant concurrency if, as the Administration contends, the commitment to production occurs when the Department of Defense decides to begin purchasing the roughly 1,000 missiles that constitute production hardware. Fourteen of the 22 scheduled IOT&E tests would remain to be completed at the end of 1997, when authorization for the production hardware is scheduled to begin.[6] Based on the definition in the CBO study, this implies concurrency of 64 percent. According to the ranges defined in the study, this would place the NMD program in the medium- to high-concurrency range.[7]

Concurrency in the NMD program would be much higher if the production commitment is assumed to occur when the Department of Defense decides to begin purchasing the initial 60 dem/val missiles. In a typical program, the purchase of dem/val missiles would not represent a commitment to production, but it may suggest such a commitment in the NMD program because those 60 missiles are intended to serve as operational interceptors at the initial site. At the time that the commitment is made to begin procuring these 60 missiles, all of the IOT&E tests

would have yet to be completed. (CBO has assumed that the commitment to production in this case begins when funding is authorized for the first components of the interceptor—so-called long-lead funding.) Thus, using the definition in the 1988 study, concurrency would be 100 percent.[8] Among the 14 major systems that CBO examined in its 1988 study, only one—the Harpoon missile—had concurrency as high as 100 percent.

The Administration is retaining the option to add an endoatmospheric capability to its ground-based interceptors, if the capabilities of potential adversaries warrant it. An endoatmospheric capability would permit missiles to make (intercepts within the earth's atmosphere.) Because CBO has no data on the IOT&E program for this variant, it cannot determine how much concurrency the upgraded versions of the missile would generate.

High concurrency offers some advantages and entails some risks. It can speed the delivery of weapons to meet a threat. High concurrency can also lower costs because it reduces the time to develop and produce a weapon, which in turn can lower overhead. A tighter schedule can also mean more continuity and stability in the labor force, improving efficiency. Nevertheless, high concurrency imposes substantial risks. After production has begun, problems may be uncovered that require major redesign and production changes, significantly increasing costs and delaying deployment. Weapons already deployed may need to be modified, further adding to cost.

Perhaps because there are both advantages and risks, CBO's 1988 study found that there was no strong relationship between concurrency and two measures associated with the success or failure of weapon programs; cost growth and schedule delay. Cost growth was, on average, somewhat higher among highly concurrent programs. But other factors may have been at work because—using statistical measures—concurrency explained only 14 percent of the overall variation in cost growth among the 14 programs that CBO analyzed. There was no statistically significant relationship between high concurrency and schedule delay. There are other ways to measure the effects of concurrency, such as how well a system works after it is fielded, that were not included in the CBO study because they could not be readily quantified.

COST GROWTH

CBO was also asked whether the costs of the NMD program will grow above currently planned levels. The Administration has estimated that the system of defenses proposed by the administration would cost $49 billion. (All costs in this memorandum are expressed in constant 1993 dollars of budget authority and do not include the costs to operate the system once it is deployed.) This money would pay for much of the development and deployment of a national missile defense, theater missile defense, and space-based interceptors, which together are called the Global Protection Against Limited Strikes (GPALS) system. If funds for GPALS research, systems engineering, and management of risk are included, according to a CBO estimate in a January 1992 memorandum, the costs for the GPALS system would be close to $70 billion.[9] This estimate does not reflect the possibility that costs could grow above currently planned levels.

If history is a guide, however, such growth is likely to occur. On average, Department of Defense weapon systems experience at least some cost growth. A recent study by a Department of Defense analyst indicated that weapons similar to those in the NMD system experienced cost growth that averaged about 35 percent above estimates made at the time full-scale development was approved.[10] Cost growth might be higher for the NMD program because the decision to enter full-scale development will not be made for another five years.

Concern about cost growth is also reflected in a memorandum of May 15, 1992, from Dr. David Chu, Assistant Secretary of Defense for Program Analysis and Evaluation.[11] That memorandum stated that a program that attempted to deploy an initial NMD site in 1997 carried an "excessive risk of cost growth."

CBO ALTERNATIVES

The Senators' letter asked CBO whether the analysis of the costs of three alternatives in a May 1992 CBO paper dealing with SDI must be altered in view of the Administration's current plan, which was submitted to the Congress in June.[12] That plan did not include detailed cost information. Therefore, there is no reason to believe that the May paper must be revised.

The Senators also asked CBO to compare the alternatives described in the May paper with a revised acquisition approach for SDI proposed in Dr. Chu's memorandum of May 15, 1992. In order to comply with last year's Missile Defense Act, the Administration's current plan calls for an accelerated program that would lead to the deployment of a system of national missile defenses beginning in 1997. In his memo, Dr. Chu strongly recommended that SDIO pursue an "event-based" acquisition program. Under an event-based program, initial deployment would not be likely to occur before 2002 or 2003 if standard acquisition procedures are followed. Production rather than dem/val hardware would be deployed at the initial site. Deployment could take place sooner only if test goals were achieved earlier than would normally be expected.

Alternative III in CBO's May 1992 paper assumed that defenses would be deployed at an initial site in 2003 and therefore could be viewed as generally consistent with Dr. Chu's preferred approach to NMD acquisition. Alternative III provided $3.3 billion for SDI in 1993, of which $1.5 billion would go to the NMD program. It should be noted, however, that CBO's estimates of the costs for Alternative III make some assumptions about changes in funding for space-based interceptors and research that were not discussed in Dr. Chu's memo. Also, if the United States decided to deploy the system earlier because testing was successful or the threat had changed, funding increases above the levels of Alternative III would have to be made in subsequent years.

If the Department of Defense chose instead to deploy dem/val hardware at the initial site as soon as possible, Dr. Chu recommended that risk be reduced by conducting an event-based dem/val program. This revised program would ensure that the commitment to purchase the 60 deployable dem/val interceptors would not be made before adequate testing is done. He felt that 1999 was the earliest possible planned date for such a program, but left open the possibility that deployment could be accomplished sooner if successful test results were achieved earlier than planned. Alternative II from CBO's May paper could be viewed as generally consistent with the option in Dr. Chu's memo that would deploy dem/val hardware, because it assumes the deployment of an initial site in 2000. The Administration's current plan, which features some early testing of dem/val missiles, incorporates SDIO's response to these recommendations by Dr. Chu.

Finally, the letter asked CBO about the concurrency associated with Alternatives II and III in its May paper. CBO's alternatives were developed by varying budgetary figures. They are not based on a specific test and acquisition schedule from which concurrency can be precisely calculated. It is possible, however, to reach some qualitative conclusions about concurrency. The timing suggested in CBO's Alternative III—which called for deployment of the initial site in 2003—corresponds to a schedule that Dr. Chu suggested would eliminate concurrency. Concurrency under Alternative III may therefore be quite low. Alternative II would begin deploying weapons at an initial site in 2000. This alternative would probably entail more concurrency than Alternative III. But Alternative II should be less concurrent than the Administration's plan because it would allow up to three more years for testing before deciding to buy the ground-based interceptors for both initial and subsequent sites.

FOOTNOTES

[1] See Department of Defense, *Report to Congress: Plan for Deployment of Theater and National Ballistic Missile Defenses* (June 1992). All references to the Administration's plan and all details on NMD acquisition provided by the Strategic Defense Initiative Organization in this memorandum are based on this report. Any changes in this plan to reflect recent Congressional action are not analyzed here.

[2] Congressional Budget Office, *Concurrent Weapons Development and Production* (August 1988).

[3] CBO has calculated concurrency in the NMD program as the number of planned IOT&E test events remaining at the time initial procurement is authorized divided by the total number of such events. By contrast, the 1988 study based the measure of concurrency on the percentage of time remaining in the IOT&E program after production is authorized. Although IOT&E test events are a preferable measure, data limitations made time the measure of choice used in the CBO study.

[4] Weapon systems go through a series of phases, from program initiation to completion of production. Each major phase is preceded by a managerial decision called a milestone. Milestone II occurs between demonstration and validation and full-scale development; Milestone III before full-rate production.

[5] According to SDIO, the details of Phase 2 IOT&E have yet to be determined. Since the total purchase of test missiles for IOT&E is 40 and SDIO plans to fire a second missile for each event if the first test fails to meet objectives, CBO has assumed that, like Phase 1, Phase 2 will include 11 test events. If the number of test events SDIO plans turns out to be higher, concurrency would be higher. Likewise, concurrency would be lower if the number of planned test events turns out to be lower than 11.

[6] In keeping with the definition used in the 1988 study, CBO has specified that the production decision will occur when low-rate initial production is authorized. At this point, the Department of Defense makes a commitment to production facilities and infrastructure. In the Administration's current plan for NMD, this decision would occur at Milestone II.

[7] No official definition of high concurrency exists. In the 1988 study, CBO divided programs into three arbitrary categories: 0–33 percent concurrency was categorized as low, 34–66 percent was categorized as medium, and 67–100 percent was categorized as high.

[8] This does not mean that all 60 missiles would be authorized for procurement before any testing is complete. Initial procurement of 12 of the 60 missiles would be authorized before any IOT&E testing is complete. Procurement of 36 to 60 missiles would occur before about 90 percent of the testing is done, and procurement of all 60 missiles would be authorized before about 75 percent of the testing is complete.

[9] Congressional Budget Office, "The Budgetary Impact of Limiting Strategic Defense Initiative Programs," (CBO Staff Memorandum, January 1992). The estimates in this memorandum were based on Administration budget data from January 1991.

[10] Gary R. Bliss, "The Accuracy of Weapon Systems Cost Estimates" (paper presented at the 59th Military Operations Research Symposium, U.S. Military Academy West Point, N.Y., June 12, 1991).

[11] Dr. David Chu, Assistant Secretary of Defense for Program Analysis and Evaluation, "Memorandum for the Under Secretary of Defense for Acquisition" (May 15, 1992).

[12] Congressional Budget Office, "Cost of Alternative Approaches to SDI," (CBO Paper, May 1992).

WASHINGTON, DC, *May 15, 1992.*

Memorandum for: The Under Secretary of Defense for Acquisition.

Subject: Comments on the Strategic Defense Initiative Organization's (SDIO's) Proposed Acquisition Strategy for an Initial National Missile Defense (NMD) Deployment.

The purpose of this memorandum is to respond to your request made at Tuesday's meeting for comments on SDIO's plans for the initial NMD deployment.

SUBMISSION OF THE 180-DAY REPORT SHOULD BE DEFERRED UNTIL AFTER THE JUNE SUMMIT

Resolution of ABM Treaty issues regarding the compliance of proposed space- and ground-based sensor systems and modifications permitting multiple-site deployments is central to determining the preferred design, cost, and effectiveness of an initial ballistic missile defense deployment. Absent favorable resolution of these issues, there may be no cost- and operationally-effective initial deployment possible at a single site. Consequently, I recommend that the 180-Day Report be submitted after the June summit between Presidents Bush and Yeltsin; this would be the earliest time at which we would have an understanding of how outstanding treaty issues might be resolved.

SDIO'S PROPOSED ACQUISITION PLAN FOR THE INITIAL DEPLOYMENT CONTAINS EXCESSIVE COST AND SCHEDULE RISK

In our judgment, SDIO's proposal contains excessive risk of cost growth and schedule slippage in the ground-based interceptor (GBI) dem/val fabrication program due to a compressed design phase uninformed by flight and system testing. Authority to fabricate 40 dem/val interceptors is granted at program inception, in the absence of any design work or testing. Furthermore, to meet the 1997 initial deployment date, the SDIO schedule requires commitment to production of GBIs earmarked for deployment before any system testing with the Kwajalein NMD test radar could be conducted.

Likewise, we believe SDIO's proposal also contains an unrealistic, compressed schedule for defining, implementing, and testing early warning radar (EWR) upgrades, and a highly concurrent, compressed program for designing, building, and testing the initial deployment command center and associated terrestrial and satellite communications.

Thus, the SDIO proposal for achieving the initial deployment is almost certain to suffer early, significant cost growth and schedule slippage. Worse, it could lead to technologically inferior—or inadequate—choices, in the compromises that so often characterize programs that get into this kind of trouble. In short, the proposal challenges the central principles of the revised acquisition system that you and the Deputy Secretary have labored so hard to put into place. There are good reasons for those principles, and it is for those reasons that I believe the proposal should be revised to follow your principles. Our concerns regarding the risks associated with the SDIO's plans for the initial NMD deployment are discussed in more detail at Tab 1; my recommendations for revising the proposal are outlined in the sections that follow.

INITIAL NMD DEPLOYMENT SHOULD BE BASED ON AN EVENT-BASED ACQUISITION PROGRAM

I strongly recommend that we pursue a standard acquisition program for initial deployment, but incorporate an event-based strategy that couples authority to proceed with demonstrated achievements of a rigorous test program. The GBI and battle management, command, control, and communications (BM/C^3) acquisition programs contained in the FY92 President's Budget would be modified somewhat to adopt an event-based acquisition strategy. This program would conform fully to the department's major systems acquisition procedures, and because it eliminates concurrency, would entail much lower risk than SDIO's proposal. Production hardware (vice dem/val hardware) would be used to support the initial deployment.

Based on SDIO's estimates of the time required to execute the plan in the FY92 budget, this event-based approach—if "normal" times to complete events characterized its progress—could result in an initial deployment in FY02 or FY03. Because the approach is event-based, however, successes during any phase would naturally offer an opportunity to accelerate the program, and SDIO should be encouraged to strive for such success. A more detailed description of this program is provided at Tab 2.

FABRICATION OF DEM/VAL HARDWARE FOR OPERATIONAL DEPLOYMENT SHOULD BE CONTINGENT ON SUCCESSFUL SYSTEM TESTING

Although I would prefer not to deploy operationally dem/val hardware, if we decide this is necessary to accelerate initial deployment over the standard program, then at a minimum we should restructure the SDIO proposal to reduce risk substantially and enhance our confidence that the deployed hardware would be operationally effective. To achieve this objective, we should overlay an event-based dem/val deployment program on the standard event-based acquisition program, which would still be used to acquire the objective GBI and BM/C^3 systems. (Tab 3 contains a more detailed description of a restructured SDIO proposal that permits deployment of dem/val hardware along these lines.)

In this event-based overlay, authority to fabricate dem/val GBIs would be made contingent upon test program results; no fabrication authority, other than for ERIS test vehicles would be granted at program inception. The decision to begin long-lead purchases for fabrication of up to 20 dem/val GBIs for test purposes only would be made at the final design review, which would be made contingent upon successful flight test at Kwajalein of at least three ERIS vehicles. The decision to begin fabrication of up to 60 additional dem/val interceptors for the initial deployment would be made contingent upon successful completion of three system tests at Kwajalein using the NMD test GBR and dem/val BM/C^3 hardware and software.

This restructured SDIO proposal contains less risk because it couples authority to proceed past key decision points to successful test demonstrations; i.e., it attempts to conduct during dem/val many of the performance assurance and test activities normally conducted in EMD. Nonetheless, this approach must be assessed overall as high risk because it would deploy dem/val hardware for operational use; it would also likely require the department to seek relief from a number of statutes and directives (see Tab 3). (In this regard, I support the comments made to Dr. Schneiter by the CAIG Chairman in his May 14, 1992 memorandum.)

A program involving the operational deployment of dem/val hardware is likely to be more expensive than the standard acquisition approach I recommend. Increased cost is caused by conducting additional tests to assure performance of the dem/val system, and replacement after FY02 of the dem/val GBIs and BM/C^3 systems deployed initially with production GBIs and final, validated BM/C^3 software and hardware.

Based on SDIO's estimates of the time required to design and fabricate dem/val GBIs, this restructured version of the SDIO proposal would probably achieve initial deployment in FY99, at the earliest. Because the program is event-based, however, opportunities for acceleration could occur.

COST-EFFECTIVENESS OF AN INITIAL DEPLOYMENT IS ADDRESSED IN THE GPALS COEA

The Missile Defense Act (MDA) stipulates that the initial deployment should be cost- and operationally-effective. At Tuesday's meeting, you asked if the cost-effectiveness of the initial deployment had been analyzed. This issue is being addressed as part of the overall GPALS COEA that the SDIO is preparing in response to the guidance you issued in September, 1991.

Draft versions of the GPALS COEA technical report and Appendices prepared by SDIO's Architecture Integration Study contractors have been delivered to OASD (PA&E) and to the Institute for Defense Analyses (IDA). We have asked IDA to perform an independent review of the objectivity and accuracy of the COEA as a means of satisfying the requirement in DoDD 5000.2 that a COEA be conducted by an analysis activity independent of the program office. The COEA addresses four classes of objective GPALS deployment (all ground-based, ground-based with space-based sensors, space- and ground-based sensors and weapons, and all spaced-based), as well as several alternative early deployment architectures. My office will provide an interim assessment of the COEA in support of the July DAB review of GPALS.

CONCLUSION

From the information available to date, I do not believe it is possible to construct an acquisition program for initial NMD deployment in FY97 that has acceptable cost and performance risk. The fundamental reason for this situation is that SDIO's plans—as recently as the submission of the FY92 President's Budget—have been focused on initial deployment of space-based weapons and sensors beginning in FY99, followed by ground-based deployments beginning in FY01. Thus, the MDA requires us to reverse long-standing program priorities and to accelerate ground-based deployments by at least four years. In the aftermath of the $1 billion reduction mandated by the MDA to SDIO's FY92 request, I fear this is an impossible task.

If we decide to pursue an accelerated initial deployment with dem/val hardware, I would suggest adopting a restructured version of SDIO's proposal along the lines I have described. Furthermore, SDIO should be tasked to prepare a separate acquisition program baseline and exit criteria for the dem/val deployment for review and approval at the upcoming July DAB. This would quantify the performance, cost, and schedule expected of the dem/val deployment and distinguish it from the standard acquisition program for the objective system. I would urge that we characterize any operational deployment of dem/val as an option and decide at a date to be established whether that option should be pursued.

I am aware of the suggestions made by SDIO that we describe an initial dem/val deployment program as being composed of user operational evaluation equipment (UOE) (or as an "emplacement"). In contrast to the THAAD program, in which the UOE equipment is meant primarily for testing, the UOE approach is inappropriate for the initial deployment. Flight tests demonstrating the integrated operational effectiveness of the initial NMD interceptors, radar, and BM/C ^{3} can be conducted only at the Kwajalein test range. There is little, if any, system testing or evaluation that would provide information superior to that obtained at Kwajalein that could be performed at the initial deployment site in the United States. Moreover, labelling the initial deployment as UOE is unlikely to preclude it from being viewed outside the department as a fully operational system. Thus, I recommend that we forthrightly characterize the initial NMD deployment as an operational system and that we not pursue initial deployment with dem/val hardware at a single site unless we are convinced that it has military utility and is operationally effective.

I also recommend that the issues raised by the DAB principals in response to your request for comments (most of which are likely to be highly contentious) be resolved prior to additional testimony by Ambassador Cooper to Congressional committees regarding plans for the initial deployment. In particular, the Ambassador's testimony before the Senate Armed Services Committee scheduled for May 20 should be deferred until a final draft of the 180-Day Report has been reviewed within the department; to do otherwise would preempt the report.

DAVID S. C. CHU,
Assistant Secretary of Defense.

[Tab 1]

COMMENTS ON SDIO'S PROPOSAL FOR THE INITIAL NATIONAL MISSILE DEFENSE (NMD) DEPLOYMENT

SDIO's proposal contains excessive risk of cost growth and schedule slippage in the ground-based interceptor (GBI) dem/val fabrication program due to a compressed design phase uninformed by flight and system testing.

Authority to fabricate 40 dem/val GBIs (10 for deployment and 30 for flight testing) is granted at the inception of the program before any design work or tests have been completed.

The first kill vehicle flight test occurs after design freeze.

The first flight test of an integrated kill vehicle and booster occurs one year after start of fabrication.

The first system test at Kwajalein of the interceptor and radar occurs within six months of completion of the fabrication of the first 40 interceptors.

The option to begin long-lead purchases of technology-pacing items for fabrication of 65 additional dem/val interceptors for use in the initial deployment is exercised prior to any system tests of the interceptor, radar, and BM/C^3 systems.

Only four and one-half years are allotted to design and deploy the dem/val GBI. The Institute for Defense Analyses study of the characteristics of acquisition programs for contemporary munitions systems (including air and ground-launched tactical missiles) found an average advanced development time of 45 months and an average full-scale engineering development time of 85 months, thus, on average, over 10 years elapsed prior to availability of systems that could be deployed for operational use.

The unrealistic assumption is made that design changes to correct problems realized during tests conducted concurrently with fabrication could be implemented without cost growth or schedule slippage in the fabrication program.

SDIO's proposal contains an unrealistic, compressed schedule for defining, implementing, and testing early warning radar (EWR) upgrades:

Definition of needed upgrades and preparation of requests for proposals is allotted only three months.

Only three years are allotted to design, build, install, and test all radar upgrade hardware and software and all hardware and software for a new radar data fusion center. The five programs that became the Cheyenne Mountain Upgrade (CMU) program in FY89 were started in the period FY83–87. FOC for CMU is scheduled now for FY96.

SDIO's proposal contains a highly concurrent, compressed program for designing, building, and testing the initial deployment command center and associated terrestrial and satellite communications:

No definition of command center functions or needed communications is provided, implying that requirements definition will be performed as part of the (compressed) design phase; normally, requirements are defined before design begins.

Proof-of-concept and deployable command and control capabilities are developed concurrently.

Shipment of deployable command and control products for installation at the initial deployment site (and possible remote sites) occurs simultaneously with planned initial site activation at the beginning of FY97.

Only four years are allotted for definition, development, fabrication, installation (or launch), and test of all terrestrial and satellite communications needed for the initial deployment. (After requirements are defined, the best design programs for the simplest new military communications satellites require about four years to design, build, test, and launch the first development satellite. Satellite communications needed for the initial deployment would need to support uninterrupted data rates of tens of hundreds of kilobits per second in a nuclear environment; there are no existing systems that could satisfy this need. Milstar medium-data-rate (which is already oversubscribed) will be available for use in FY99 at the earliest, and is not designed to provide uninterrupted medium-data-rate service in a nuclear environment.)

[Tab 2]

DESCRIPTION OF AN EVENT-BASED STANDARD ACQUISITION PROGRAM FOR INITIAL NATIONAL MISSILE DEFENSE DEPLOYMENT

This attachment describes an initial deployment achieved by proceeding with the standard (i.e., conforming fully to the department's acquisition procedures for the acquisition of major systems) GBI and battle management, command, control, and communications (BM/C^3) acquisition programs contained in the FY92 President's Budget, modified to adopt an event-based acquisition strategy:

Begin GBI MD after completion of at least three successful integrated system tests of the dem/val interceptor, NMD test GBR, and dem/val BM/C^3 software and hardware at Kwajalein.

This would provide confidence that a complete set of issues requiring resolution during EMD have been identified.

Deploy production GBIs after completion of initial operational test and evaluation of the integrated system (performed at Kwajalein and Grand Forks).

This would provide confidence that the deployed production interceptors, radar, and BM/C^3 would function properly as an effective system.

Initiate early warning radar (EWR) upgrade and BM/C^3 dem/val after completion of a rigorous requirements definition process; i.e., after defining the needed upgrades, BM/C^3 functions, the terrestrial and satellite communications separately for the initial and subsequent deployments. Adopt final plans for EWR upgrades and BM/C^3 after the dem/val integrated system tests at Kwajalein.

This would provide confidence that expensive rework of EWR and BM/C^3 software could be avoided.

Based on SDIO's estimates of the time required to execute the plan in the FY92 budget, adopting this standard approach would likely mean that the initial deployment would occur in FY02 or FY03. Because the approach is event-based, however, successes during any phase would naturally offer an opportunity to accelerate the program.

DESCRIPTION OF A RESTRUCTURED VERSION OF SDIO'S PROPOSAL FOR INITIAL DEPLOYMENT WITH DEM/VAL HARDWARE

This attachment describes a restructured version of SDIO's proposal that overlays an event-based dem/val deployment program on the standard event-based acquisition program used to acquire the objective GBI and BM/C^3 systems.

A standard, event-based acquisition program would be used to acquire the objective GBI and BM/C^3 systems.

Authority to fabricate dem/val GBIs would be made contingent upon test program results; no fabrication authority, other than for ERIS test vehicles (see immediately below), would be granted at program inception.

The final design review for the dem/val GBIs would be made contingent upon successful flight test at Kwajalein of at least three ERIS vehicles using upgraded seekers and semi-autonomous discrimination algorithms designed according to plans presented at the initial design review.

This would provide confidence that the semi-autonomous GBI kill vehicle needed to enable a single site to protect the contiguous 48 states would function properly.

The decision to fabricate up to 20 dem/val GBIs for test purposes only would be made at the final design review.

The decision to begin long-lead purchases for fabrication of up to 60 additional dem/val interceptors for the initial deployment would be made contingent upon the successful completion of three system tests at Kwajalein using the NMD test GBR and dem/val BM/C^3 hardware and software; the decision would be made by the USD(A).

This would provide confidence that the dem/val interceptors and BM/C^3 would function properly as an integrated, effective system when deployed at Grand Forks.

Based on SDIO's estimates of the time required to design and fabricate dem/val GBIs, this restructured version of the SDIO proposal would probably achieve initial deployment in FY99, at the earliest.

TITLE 10, UNITED STATES CODE

Sec. 2366

1. MDAP may not proceed beyond LRIP until after survivability and lethality testing.

2. Testing must be early enough to permit time to include fixes into production items.

3. SECDEF may waive testing if he certifies that testing is too expensive or impractical. But

a. He must do that before Milestone II.

b. Must report to Congress how survivability and lethality will be demonstrated.

4. SECDEF must report testing results to Congress.

Sec. 2399

1. MDAP may not proceed beyond LRIP without OT&E.

2. Dir, OT&E must approve test plans.

3. Dir, OT&E must determine from testing if the item is effective and suitable for combat.

4. MDAP may not proceed beyond LRIP until results are reported to Congress.

5. OT&E based upon computer modeling, simulation or analysis are not satisfactory for the statute.

Sec. 2400

1. LRIP will produce minimum quantity necessary;

a. to provide OT&E test articles,

b. to establish an initial production base, and

c. to insure an orderly transition to full production.

Sec. 2432

1. Requires reporting of program in Selected Acquisition reports, After start of EMD, R&D only SARs are not acceptable.

2. SARs require both baselines and full life cycle costs.

Sec. 2433

1. Requires Unit Cost reports for programs submitting SARs. Specific reporting requirements to Congress by the SECDEF exist for cost variances of specified amounts. This section is triggered by SAR reporting, i.e. if a SAR is required, cost reporting is also required.

Sec. 2434

1. Prior to approval of EMD, or production and deployment by the Secretary, an independent cost estimate is required.

2. Thirty days prior to approval of EMD by the Secretary, a manpower report must be submitted to the military committees of Congress.

Sec. 2435

1. Requires a program baseline (with technical characteristics) for any program in EMD or production.

TITLE 41, UNITED STATES CODE

Section 401

1. Establishes the policies of Congress for procurement. The acquisition strategy of SDIO conflicts with many Congressional policies.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I yield 4 minutes of the opponents' time to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Arkansas.

Mr. President, much has been written and said in this election year about Congress's failure to honor its pledges, and the perpetual gridlock that prevents us from legislating laws and policies which promote the common good. Frankly, much of it has been justified. Too often, politics rears its ugly head on this floor and prevents us from responsibly executing our constitutional obligations to the Nation and to our constituents.

One notable exception to this trend was last years adoption of the Missile Defense Act of 1991. As my colleagues know, the legislation enjoyed strong bipartisan support, and represented an historic consensus on the issue of ballistic missile defense. The Missile Defense Act included three basic programmatic initiatives: First, to rapidly develop and deploy highly effective theater missile defenses; second, to rapidly develop and deploy a multiple-site limited defense system to protect the United States, beginning with an initial ABM treaty-complaint site; and third, to maintain robust funding for brilliant pebbles to preserve the option of augmenting theater and strategic defenses in the future with space-based interceptors.

Mr. President, my colleagues may recall that a primary stimulus of the Missile Defense Act was the tragic death of 28 American military personnel at the hands of one of Saddam Hussein's Scud missiles. This tragedy demonstrated once and for all that ballistic missiles pose a clear and present danger to the United States, and our friends and allies. And to its credit, the Congress set forth on a course to ensure that the sacrifice of these 28 brave men and women from the Army Reserve's 14th Quartermaster Detachment would not be repeated. Passage of the Missile Defense Act was, perhaps, the most significant and responsible initiative that Congress has ever made.

Yet, inexplicably, certain Members of this body who supported the Missile Defense Act, are now backtracking away from their pledge to the American people. Suddenly, we are in an election year and some of my colleagues seem more interested in playing political games than in getting on with the business of defending America. I, for one, am outraged by it. And I believe the American people will be also.

The bill before us slashes the administration's SDI budget request by one billion at the very time which we are supposed to be accelerating development of missile defenses. This intentional budgetary low-balling will inevitably cause schedule delays and cost increases, both of which run contrary to the Missile Defense Act and national security. Furthermore, the bill cuts funding for brilliant pebbles from the requested level of $575 million down to $350 million. This hardly represents robust funding and falls well short of the 11 percent baseline which Congress established for Brilliant Pebbles last year.

Mr. President, the fact of the matter is, Brilliant Pebbles offer the most cost and operationally effective missile defense option for the future. We must not deny our Nation the tools to defend against the wide range of existing and emerging missile threats. If this program is terminated or transformed into a mere technology demonstrator, we will have foregone the most promising deployment option that we have. The $350 million contained in the bill represents a bare-bones minimum necessary to sustain a viable program. Further reductions are intolerable.

Which brings us to the amendment offered by the Senator from Arkansas. As disappointing as the committee allocation is, the pending amendment reaches a new height in irresponsibility. I have listened to the arguments made by the Senator from Arkansas, the Senator from Tennessee, and the Senator from Maryland today and, frankly, it sounds like the same negative rhetoric which we have heard from them all year. Contrary to the statements of my colleagues, the SDI Program is not the cause of the budget deficit, the decline of our cities, or the degradation of our infrastructure. Let's be clear on that from the start.

What SDI is the cause of, in large part, is the capitulation of the Soviet Union in the cold war. As information continues to disseminate out of the former Soviet Union, it becomes more and more clear that our technological superiority, particularly in the strategic defense arena, led the Soviets to obsessively and fatally exhaust its resources in a futile effort to keep pace. Obviously, the Soviets had a far more favorable impression of American technology than my colleagues from Arkansas, Tennessee, and Maryland.

Mr. President, this amendment assumes that the world is safe and benign. With all due respect to my colleagues, this is naive and shortsighted. The former Soviet Union remains politically unstable and economically bankrupt, and there are numerous ongoing ethnic conflicts throughout its territory. Elsewhere, the proliferation of nuclear, chemical and biological weapons and related delivery systems to hostile nations is continuing virtually unabated, irrespective of our non-proliferation efforts. To suggest that we need not prioritize or adequately fund the development of missile defenses is irresponsible and denigrates the sacrifice made by those brave men and women of the 14th Quartermaster Detachment.

If we have learned anything over the course of the past few months, it is that the American people are sick and tired of elected representatives failing to deliver on their promises. Well, last year's Missile Defense Act was a solemn and clearly understood commitment to the American people that never again would we be held hostage to ballistic missiles. Let there be no mistake, those who support this amendment are saying that partisan politics is more important than defend-

ing America. Because if this amendment passes, it will severely undermine our Missile Defense Program, and cause devastating schedule delays and cost overruns.

History will not judge this body kindly if this amendment is adopted.

I urge my colleagues to reject this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. How much time is left on the opponents side?

The PRESIDING OFFICER. Five minutes.

Mr. EXON. I yield myself whatever time is necessary from the remaining 5 minutes.

Mr. EXON. Mr. President, the SDI matter comes up on the floor of the Senate each and every year. We spend more time in the Armed Services Committee arguing back and forth about SDI I guess than any other issue that has come before us.

I rise in strong opposition to the amendment offered by Senator SASSER and Senator BUMPERS, which I point out reduces the SDI number reported out by the Armed Services Committee by a billion dollars. The Armed Services Committee in itself cut a billion dollars below the President's request of $5.4 billion.

My own desires and wishes, if I could make the decision, would have been that this figure should have been about $4 billion, or about the same figure as last year giving the constraints of the budget. But we worked out what I thought was a reasonable compromise after lots of discussions in the Armed Services Committee. Therefore, I enthusiastically support the reduced figure mark outlined by the Armed Services Committee and recommended on the floor of the Senate to our bill.

Mr. President, I also point out that if those who are supporting the amendment get their way, we will be cutting $600 million for the ground-based defense system that at least all of us think is important, and I suggest that probably many of the Members who might consider voting for this amendment would consider as reasonable.

Why do I talk about point defenses? I, from the very beginning of the SDI program when it was initiated by President Reagan, had some skepticism with regard to the program. I felt that the sites were entirely too high and I was turned off on the program very early when I saw some television commercials run by the proponents of SDI that showed a very little girl with a crayon drawing an umbrella and then there would be bombs that would drop down and bounce off this umbrella. That was Star Wars. We have gone a long way, I suggest, from that principle. It is no longer Star Wars but a realistic system that would require most of the funding that we are recommending to have some point defenses.

I think those who are making this cut, especially the $600 million from the point defenses, are overlooking the fact that I fear that the greatest possible threat to the national security interests of the United States in the years to come would be from a Third World dictator calling up the President of the United States on the phone and saying: I have a nuclear device off your shores, off Washington, off New York, off San Francisco; and if you do not do what I ask you to do, we are going to fire this in 3 hours.

I really believe that the point defenses that the Armed Services Committee has been concentrating on is something that is full and well worthwhile, and all of the people of the United States, if they understood that possible threat, I think, would go along with the recommendations of our committee.

If the reduction is made, we will not be able to remain on a course for a deployment of ground-based defenses by 2002 or 2003, as recommended by the committee. In effect, we will stretch this out unnecessarily. We will, therefore, increase the costs and delay achieving the real objective and the capabilities that I think are entirely possible. Therefore, Mr. President, I urge that we defeat the amendment before the body, and reserve the remainder of our time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. EXON. I yield whatever time is left to the Senator from Virginia.

The PRESIDING OFFICER. The time of the opponents has expired.

Mr. EXON. Mr. President, I ask unanimous consent for 3 additional minutes to be awarded to the Senator from Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Reserving the right to object, and I do not intend to object, I am hopeful in the event we might want an additional 3 minutes our friends would not object also.

Mr. EXON. I amend my unanimous-consent request to 3 additional minutes be awarded to each side, and I award our 3 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I object. I simply think we shall not readjust the question of time because Members have programmed themselves accordingly.

Mr. President, I move to table the underlying first-degree amendment. I ask for the yeas and nays.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator has 2 minutes remaining. A motion is not in order.

Mr. HEFLIN. Mr. President, I rise in strong opposition to this amendment. Its proponents claim that this cut in the SDI Program is necessary because of the looming deficit. Too often I hear defense cuts being touted as the bill-payer for the new domestic programs, the new tax cuts, balancing the budget and all the other cure-alls for our sagging economy. The President's 1993 defense budget is $272 billion, compared to a $400 billion deficit. A defense cut, no matter how large, simply cannot pay for all our problems.

Needless to say, with the end of the cold war we can and should reduce our defense spending, but we must do so in a rational, deliberate manner. After every war we have been too quick to cut, too quick to assume we have entered an era of world peace. After sending our poorly trained, poorly equipped young men and women to die in WW II, Korea, and Vietnam, you would think every American would say never again will we send our youth to war unprepared. Instead, America is in danger of becoming consumed by short-term measures, driven by a crisis mentality.

Mr. President, Members of Congress are not called to be weather vanes, they're called to be statesmen, men who understand the long-term implications of their acts. You don't have to be a prophet to know that one day, perhaps only a few years from now, the wolf will again be at our door. Why then are so many of my colleagues posed to begin dismantling our defenses, brick by brick, leaving only a house of straw to protect us?

There are almost 40 wars and rebellions going on in the world today. Match this fact with the economic situation in Russia and their need for hard capital, and you have a recipe for disaster. The Russians have announced that they will sell SS-19 missile boosters on the open market. The Russians claim this booster is excellent for launching satellites, but they actually designed it to launch nuclear warheads at the United States. There is no more need to worry about Third World nations developing there own ballistic missiles, now they can simply buy the very best long range ICBM's from the Russians. They can purchase these missiles and arm them with nuclear warheads designed by hired Russian engineers, using stolen fissionable material. Certainly there has never been a clearer, stronger case for the deployment of strategic defenses. SDI was the only defense program President Bush spoke in support of during his State of the Union Address, and I believe his priorities could not be better placed.

Mr. President, the Soviet Union had superpower status for years because of its vast nuclear arsenal, but has now learned that a strong army doesn't make a strong country. Kuwait is a nation of riches, but learned that economic strength won't preserve your borders. The United States is now at a crossroads in history, and the decisions we make today will shape the worlds future.

Proponents of this funding cut have said that we don't have to worry about the former Soviet Union because they are selling off all their weapons, their soldiers are going unfed and unhoused, and their defense industries are in dire straits and soon to go out of business. Furthermore, it seems every month brings a new agreement that lowers the total number of nuclear warheads the Russians possess, though, of course, they have not yet dismantled the first bomb or missile.

Frankly, Mr. President, thoughts of the former Soviets arming the Third World and of the economic instability in their countries brings me no comfort. It is our responsibility as Senators to recognize that we are in a period of great hope, but also of great uncertainty. The strategic defense initiative is geared to offer us protection from the one threat from which there is currently no protection. During World War II the British stopped the Germans at the channel, and eventually managed to keep German planes from their skies, but they had no defense against the V-2. Though it is little known, during World War II American forces came under ballistic missile attack at Antwerp, which was hit by 1,610 V-2 missiles. Almost 4,000 Allied lives were lost during these missile attacks. I hope my colleagues will keep in mind that when World War II started just a few years earlier, no nation on Earth had ballistic missiles in production. I also hope my colleagues realize that ballistic missiles like the V-2, and the atomic bomb for that matter, were cutting edge technologies during the 1940's, 50 years ago.

We were fortunate that more men and women were not killed by the Scud missiles during the Persian Gulf war. The Patriot, designed to defend against aircraft, performed well but served only as a point defense. Had Saddam Hussein put chemical agents in the Scud warheads, I hestiate to even guess the number of lives that would have been lost.

Mr. President, the military is the sorcerer's apprentice who let the genies out of the bottle, never to be recaptured. Gunpowder, the Maxim machinegun, ballistic missiles, the atomic bomb, each was a weapon held originally only by one army. Today they or their descendants are spread across the face of the Earth. Who can stand before this body today and say that only five countries have long-range ballistic missiles and no other country ever will. A much safer statement would be to say that we will need strategic defenses in the future, and if we are to have them, we must invest today.

I implore my colleagues to join with me today in defeating this effort to cut SDI funding.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment before us, which would reduce funding for the SDI Program to $3.3 billion.

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, both for our forward deployed forces and for the protection of our citizens. Iraq was only one of many Third World countries that possesses or has the ability to develop ballistic missiles. Director Gates testified to that fact when he stated that the United States might be threatened by Third World ballistic missiles within the next 10 years. Additionally, we must not forget that our citizens are still threatened by the unauthorized or accidental use of ballistic missiles from the Republics of the former Soviet Union and China. Mr. President, the Armed Services Committee has supported the goal of deploying 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. The committee authorized $4.3 billion for fiscal year 1993 to support this goal, as well as to fund 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.

Mr. President, we are at a decisive point in the SDI Program. The Armed Services Committee has provided a roadmap for a national missile defense system. We have the personnel and technical expertise to field an effective missile defense system before the end of the century. Let us not miss this opportunity to provide for the protection of our Nation.

The amendment before us would cripple continued research and development of a missile defense system. It would also cast a shadow on the historic and far-reaching agreement reached by President Bush and President Yeltsin, working together with allies and other interested States to develop a concept for a global protection system against limited ballistic missile attacks.

Mr. President, I urge the Senate to reject the cuts proposed in this amendment and support continued funding of a program to protect the United States from limited nuclear missile attacks.

SASSER-BUMPERS-LEVIN SDI AMENDMENT

Mr. MITCHELL. Mr. President, the Sasser-Bumpers-Levin amendment would provide funding to continue the SDI Program at a rate consistent with sound management and development principles. It provides a total of $3.3 billion in fiscal year 1993 for continuing research and development of all SDI Program elements.

The amendment's funding level for continuing development of a ground-based SDI system will ensure that the program's pace is consistent with a deployment based on adequate evaluation and testing. A higher risk, lower certainty approach would be a waste of taxpayer dollars and irresponsible at this time of great budgetary constraints.

The Senate Armed Services Committee report on the national defense authorization bill directs the Defense Department [DOD] to develop the initial ground-based SDI site consistent with sound acquisition procedures that would represent a low-to-moderate risk program. The committee report and administration's recent SDI report to Congress both note that DOD compliance with these guidelines would result in deployment of the initial ABM site in the year 2002.

The nonpartisan Congressional Budget Office has estimated that $3.3 billion is the appropriate fiscal year 1993 funding level for an SDI development schedule that would provide deployment by this date. However, the committee has recommended $4.3 billion in fiscal year 1993, $1 billion more than necessary to meet the committee-endorsed deployment schedule.

This deployment schedule also has been supported by David Chu, Assistant Secretary of Defense for Program Analysis and Evaluation. As noted in the New York Times, Mr. Chu recently reported to the Under Secretary of Defense for Acquisition that deployment of the first site of a ground-based defensive system should be delayed from 1996 to 2002 or 2003, so that prototype missile defenses could be adequately tested and modified before their use. In his report, Chu argued that a 1997 deployment would be "almost certain to suffer early, significant cost growth and schedule slippage."

The Department of Defense has acknowledged that even partial deployment of the initial site before adequate testing has occurred could result in a waste of 150 million taxpayer dollars on unsuitable missile defense equipment.

Mr. President, I support this amendment because it will provide adequate funding for all elements of the SDI Program, consistent with the recommendations of the Senate Armed Services Committee, the Congressional Budget Office, the Assistant Secretary of Defense for Program Analysis and Evaluation, common sense, and fiscal prudence.

Mr. SASSER. Mr. President, just stripping this controversy away to the bare bones, essentially what we are talking about is very simple.

The amendment that Senator BUMPERS and I are offering says that the theater missile defense will be fully funded, just as the President requested. We are saying that the SDI or the missiles that are slated to go to Grand Forks in compliance with the ABM Treaty will also be fully funded on a

level that will bring the program to fruition and deployment by the year 2003.

What we are saying is that the program is still being funded as if it were proceeding on last year's accelerated level which contemplated deployment by 1996. And simply by funding it in accordance with when the program will reach fruition and the antiballistic missiles will be deployed, we will save $7 billion over the next 3 years. And that will be $7 billion that will not have to be taken out of domestic discretionary programs as we adhere to the budget agreement that otherwise would have to be taken out. It will mean that we will not have to take $7 billion out of education programs, other such programs, or we will not have to increase the deficit by an additional $7 billion.

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

Mr. SASSER. I thank the Chair.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I move to table the underlying first-degree amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting the Senator from Minnesota [Mr. WELLSTONE] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Wisconsin [Mr. KASTEN] are necessarily absent.

I also announce that the Senator from Utah [Mr. HATCH], is absent due to a death in the family. I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS], the Senator from Utah [Mr. HATCH], and the Senator from Wisconsin [Mr. KASTEN] would each vote "yea."

The result was announced—yeas 43, nays 49, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—43

Bentsen	Burns	Craig
Bingaman	Coats	D'Amato
Bond	Cochran	Danforth
Brown	Cohen	Dixon
Dole	Mack	Shelby
Domenici	McCain	Simpson
Durenberger	McConnell	Smith
Exon	Murkowski	Specter
Gorton	Nickles	Stevens
Gramm	Nunn	Symms
Heflin	Packwood	Thurmond
Hollings	Pressler	Wallop
Inouye	Roth	Warner
Lott	Rudman	
Lugar	Seymour	

NAYS—49

Adams	Fowler	Metzenbaum
Akaka	Glenn	Mikulski
Baucus	Graham	Mitchell
Biden	Grassley	Moynihan
Boren	Harkin	Pell
Bradley	Hatfield	Pryor
Breaux	Jeffords	Reid
Bryan	Johnston	Riegle
Bumpers	Kassebaum	Robb
Byrd	Kennedy	Rockefeller
Chafee	Kerrey	Sanford
Conrad	Kerry	Sarbanes
Cranston	Kohl	Sasser
Daschle	Lautenberg	Simon
DeConcini	Leahy	Wofford
Dodd	Levin	
Ford	Lieberman	

NOT VOTING—8

Burdick	Hatch	Wellstone
Garn	Helms	Wirth
Gore	Kasten	

So the motion to table the amendment (No. 2918), as modified, was rejected.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I rise today in support of S. 3114, the Defense Authorization Act for Fiscal Year 1993. I believe this legislation to be a sound reflection of the current state of world affairs. At $274.5 billion in budget authority it is $2.9 billion below the budget resolution figure and $13.9 billion below the fiscal year 1993 cap on defense spending contained in the Budget Enforcement Act of 1993.

I would also like to congratulate the senior Senator from Georgia, the chairman of the Armed Services Committee, for the excellent job he has done in fashioning this strong, well-balanced legislation. I would also like to commend the distinguished Senator from Virginia, the ranking member of the committee, for his bipartisan cooperation that was so necessary in putting this bill together.

It is my understanding that the senior Senator from Virginia will be serving in the next Congress as the vice chairman of the Senate Select Committee on Intelligence. While I am sure that he will continue to exert a strong influence on the armed services committee, his leadership will certainly be missed.

A major focus on this bill revolves around the committee's call for a comprehensive review of the military services' roles and missions. Fiscal constraints and the reduction of the threat to our national security make it necessary for the Department of Defense to consolidate and streamline its functions. This legislation makes strong recommendations and calls for reviews in the areas of tactical aircraft, heavy bombers, and naval shipbuilding.

I believe that the Department of Defense should also focus its attention on the substantial savings that could be achieved through streamlining and consolidating in other areas such as initial helicopter pilot training.

Funding for the strategic defense initiative is always one of the more controversial provisions of any Defense authorization bill. This year's bill is no different. I am pleased that the committee was able to once again reach a bipartisan consensus on SDI and reaffirm the Missile Defense Act of 1991. I supported an amendment during markup that would have funded SDI at a level of $4.9 billion. I felt that $4.9 billion was the optimum level to carry out the provisions of the Missile Defense Act.

Therefore, I find the funding level of $4.3 billion for fiscal year 1993 that was eventually agreed to, and is identical to that of the House of Representatives, the minimum necessary to carry out the goals of this revised plan. While I will reserve additional comments for a later debate, I want to state now that I will oppose any and all efforts to cut SDI further.

I am extremely proud of the committee's action taken in regard to the National Guard and Reserves. This legislation funds Army National Guard and Reserve end-strengths at the level provided for in fiscal year 1993 in last year's bill. This translates into 425,450 for the Army Guard and 296,230 for the Army Reserves. The committee also included a provision that would prohibit any Selected Reserve Force structure reductions in fiscal year 1993. This bill also provides for important temporary transition initiatives for the Guard and Reserves, as well as active duty personnel.

U.S. National Guard and Reserve Forces were invaluable to the success of Operations Desert Shield and Desert Storm. I believe that they will be even more necessary to our national security as Active Duty Forces draw down.

Other highlights of the bill include: $1.2 billion in defense conversion assistance to individuals, communities, and the industrial base; the funding of a new LHD amphibious assault ship for the marines; four DDG–51 destroyers; $350 million in advance procurement funds for a new aircraft carrier; $2.2 billion for continued development of the F–22 fighter; a 3.7-percent cost-of-living increase for the uniformed services; and funding for the final increment of B–2 bombers.

I am especially pleased that S. 2389, legislation that I introduced on June

11, of this year, concerning surplus military equipment, was incorporated in the DOD authorization bill. This provision will give State and local governments first priority for surplus Department of Defense construction and fire equipment. Currently, surplus equipment is used as part of foreign aid and, in most cases, is simply given away to foreign nations. Under this provision, the equipment will be sent to the General Services Administration for distribution to State and local governments.

I am, however, deeply disappointed that the committee chose to terminate the RAH-66 Comanche Light Helicopter Program. While I do not agree with the committee's decision, I share the committee's belief that the central problem with the Comanche Program is its flawed acquisition strategy. The Department of Defense has, so far, been unwilling to provide evidence that it will agree to take this program to procurement at the end of the existing demonstration phase. This policy does not, however, subtract from the fact that the Comanche is a good program, well-developed, well-conceived, and the Army's No. 1 priority. The Comanche is the most cost and operationally effective way to modernize the current light helicopter fleet.

I believe that this is also an issue of fairness. The Department of Defense budgeted nearly $11 billion to develop a new attack aircraft for the Navy, even though there is not a single design approved for the program. Yet, the Department refused to budget more than $1.9 billion for the Comanche, which is 5 years ahead of the ax and just as critical for future warfighting needs. Indeed, the entire Army procurement budget is just $6.8 billion, compared to $22 billion for the Navy and $24.6 billion for the Air Force. Similar inequities exist in the research and development accounts. The R&D budget is $5.4 billion for the Army, $8.5 billion for the Navy, and $14.5 billion for the Air Force. Taking these low spending levels into consideration, I cannot find any justification for terminating the Army's only major new start, apart from the flawed acquisition strategy imposed on the Army.

I have recently held a meeting with the Vice Chief of Staff of the Army, Gen. Dennis Reimer, and Mr. Frank Kendall, the Deputy Director of the Department of Defense tactical warfare programs, in an effort to bring the Department of Defense to a decision on the Comanche. I found this meeting to be very productive and believe that public support for the Comanche program by the Secretary of Defense will be forthcoming.

The Army current light scout and attack helicopter fleet must be modernized. The Comanche will be more deployable, more supportable, more compatible for shipboard operations, and more versatile than any aircraft in the Army fleet. I will continue to fight to ensure funding for this valuable aircraft.

Mr. President, I cannot end this statement without conveying my thanks and appreciation to two of our colleagues on the Armed Services Committee whose last defense authorization bill is before this body today. First, I would like to commend my very good friend, the chairman of the Readiness Subcommittee, for his 12 years of service in the Senate to the people of Illinois and the Nation. ALAN DIXON and I served together on identical subcommittees of the Armed Services Committee and on the Banking Committee. I believe that ALAN DIXON is one of the most well-liked and respected Members of this institution. I will miss his good counsel, his good humor, and ability to turn the seemingly most mundane of issues into one of supreme national security.

My relationship with the senior Senator from Colorado goes back to 1979, when I was first elected to Congress. We served together on the House Energy and Commerce Committee and the Armed Services, Banking, and Energy Committees of this body. I have always been impressed with TIM WIRTH's quick grasp of issues, his wit, and strong convictions. I will miss my friend of 14 years.

Mr. DOLE. 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. SASSER. Mr. President, there is obviously a quorum present in the Chamber.

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

The PRESIDING OFFICER. We are in the process of a quorum call.

Mr. SASSER. Mr. President, I make a point of order that a quorum is present in the Chamber.

Mr. DOLE. I object. A quorum is not present.

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

The bill clerk resumed the call of the roll.

ORDER OF PROCEDURE

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

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

Mr. MITCHELL. Mr. President and Members of the Senate, under an order previously agreed to by all Members of the Senate, I have the authority following consultation with the Republican leader to proceed to executive session to permit consideration of a motion to proceed to the nomination of Edward Carnes to the U.S. Circuit Court of Appeals. Under that order there will be 35 minutes for debate; 15 minutes under the control of Senator HEFLIN, 20 minutes under the control of Senator BIDEN, and then a vote will occur on that motion to proceed.

It is my intention momentarily to exercise that authority, and to proceed to that matter so that a vote will occur in just over 35 minutes.

Following consultation with the Republican leader, with the distinguished Senators from Georgia and Virginia, the managers of the bill; with Senators SASSER, BUMPERS, and others who have been active in the amendment that has been considered and with respect to which a motion to table has just failed, it is my belief we are not going to be able to accomplish any further business on this bill this evening or tomorrow. Therefore the vote on the motion to proceed to the nomination of Mr. Carnes will be the last vote this evening.

The Senate will not be in session tomorrow or Sunday. The Senate will return to consideration of this bill at 9:30 a.m. on Monday.

Neither I, nor anyone else, can now predict with certainty what the situation will be on Monday when we return to consideration of this bill. And, therefore, votes may occur at any time during the day on Monday. Senators should be alerted to that possibility.

I do not know for certain what will happen or when. Obviously, the matters under consideration will be reviewed and considered over the weekend. But as Monday is the first of only 3 days next week prior to the time the Senate goes into recess to permit our colleagues to attend the Republican convention, that is we have only 3 days, Monday, Tuesday, and Wednesday, we will attempt to proceed as efficiently and expeditiously as we can under the circumstances.

Therefore, I regret that I cannot state to my colleagues with anymore certainty what the situation will be on Monday.

Mr. WARNER. Will the distinguished leader be willing to indicate that this amendment of the Senator from Arkansas would be the pending business, assuming under regular order at some point the defense bill would be brought up?

Mr. MITCHELL. Mr. President, it is my understanding that that is the parliamentary situation.

To make certain I will ask the Chair, since under the order, following the vote on the motion to proceed to Mr. Carnes, regardless of the outcome the Senate is to return to legislative session. And under the rules I believe the pending business would be the bill.

And since the pending amendment was not tabled, the pending business would be the amendment.

I inquire of the Chair whether my understanding of the order and the operation of the rules is correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. WARNER. Mr. President, I thank the majority leader.

Mr. DOLE. Mr. President, I think the majority leader has accurately stated the situation we are in. Maybe by Monday there will be willingness to set aside the amendment, take other amendments up on the DOD authorization bill. There could be no votes on Monday. There could be a number of votes. If this is not set aside there will not be any votes. If it is set aside I know there are a number of us who would like to get to the Bosnian resolution, and maybe something that would accommodate some kind of amendment sometime on Monday morning.

Mr. MITCHELL. Mr. President, I thank my colleagues. I express my regret at the fact we have not acted on the Bosnian resolution, that we would do so. It is a matter on which I think the Senate should express its will. And we will see when, as we can proceed to it, we will do so.

Mr. President——

Mr. WARNER. Mr. President, I think we should like to say—and I defer to the Republican leader—we have been working diligently to determine whether or not in fact prior to this impasse of the vote that we could reach a resolution which, hopefully, would meet the expectations of the great majority of the Members here on Bosnia.

EXECUTIVE SESSION

MOTION TO PROCEED TO THE NOMINATION OF EDWARD E. CARNES, OF ALABAMA, TO BE U.S. CIRCUIT JUDGE

Mr. MITCHELL. Mr. President, there being no further comment on this matter, I now exercise the authority under the previous order and ask that the Senate proceed to executive session for the purpose of consideration of the motion to proceed to the nomination of Edward Carnes to the U.S. circuit court.

The PRESIDING OFFICER. The Senate will now proceed to executive session to consider the motion to proceed to Executive Calendar 571, the nomination of Edward E. Carnes.

Who yields time?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware controls 20 minutes.

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

Although I continue to oppose the nomination of Mr. Carnes, I and others who oppose his nomination are willing to support the motion to proceed to the nomination under the agreement to vote in September, and I do that for two reasons. First, I hope the agreement will permit the Senate to proceed to act on the 12 judicial nominations as well as other nominees.

The first reason I support the motion to proceed, notwithstanding the fact I oppose the nomination of Mr. Carnes, is that I hope this agreement, the agreement which is encompassed in us moving forward, which means there will be a cloture vote in September when we get back, I believe the second day we get back. It is my hope that we will now be able to allow the 12 judges, 12 nominees beyond Mr. Carnes, who are before the Senate, to proceed.

As chairman of the committee, I hope to be able to report to the Senate by Wednesday an additional four or five additional judges. It would be my hope that we could move as many as 18 judges before we go out. So I hope this will break that impasse.

The second reason I support the motion to proceed is it will allow my colleagues ample time to review the record of this nomination and come to a reasoned vote in September. I recognize all my colleagues take this opportunity seriously, and I hope they will carefully consider whether Mr. Carnes should be confirmed to the court of appeals.

Before us today is a procedural motion to take up the nomination of Edward Carnes to the U.S. Court of Appeals for the Eleventh Circuit. Under a unanimous consent agreement entered today, we will fully debate the merits of Mr. Carnes' nomination—and ultimately vote on his nomination—in September.

Although I continue to oppose the nomination of Mr. Carnes I am willing to support the motion to proceed to this nomination under the agreement to vote in September—for two reasons.

First, I hope this agreement will permit the Senate to proceed to act on the 12 judicial nominees, as well as other nominees, now pending on the Senate Calendar.

Second, this procedure will allow all of my colleagues ample time to review the record on this nomination and come to a reasoned vote in September. I encourage all of my colleagues to take this opportunity to carefully consider whether Mr. Carnes should be confirmed to the court of appeals.

Mr. Carnes has for many years served as an assistant attorney general for the State of Alabama in charge of the State's capital litigation unit. Many have assumed that opposition to Mr. Carnes stems from his support of the death penalty. This is not the basis of my opposition—I support the death penalty under appropriate circumstances.

These include, in my view, adequate procedural and constitutional safeguards by which our courts ensure this ultimate sanction is meted out justly.

In my view, Mr. Carnes failed to demonstrate an appreciation for the fundamental unfairness of race-based jury selection—discrimination the Supreme Court has long held to be unconstitutional; discrimination that continues to undermine confidence in our entire system of justice.

All of us pay the price for this failure of confidence. All of us pay the price for the continuing vestiges of race discrimination in our justice system. To repair this failure, we must have nominees whose sensitivity to racial discrimination—and commitment to zero tolerance of racial discrimination in any part of our justice system—is without question.

Too many questions have been raised about Mr. Carnes in this respect for me to support his nomination. I hope all Senators will carefully examine his record before we vote in September.

But I am not convinced that Mr. Carnes understands what is at stake in protecting the integrity of our procedural safeguards in such cases. Most troubling, in my opinion, is his handling of appeals in capital cases—despite evidence that the trial prosecutor has used race in selecting a jury.

For example, in one case, the trial prosecutor had divided prospective jurors into four categories—strong, medium, weak, and black. After the defendant was convicted, Mr. Carnes' office pursued the appeal, without asking either the prosecuting attorney or the Attorney General to confess error.

When I asked Mr. Carnes about it, he admitted that such a selection method was unlawful, but said it would not necessarily affect the fundamental fairness of a trial. I yield the floor.

Mr. HEFLIN. Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I thought I was controlling the time.

Mr. HEFLIN. I was told differently. Under the unanimous-consent agreement it said me.

The PRESIDING OFFICER. The agreement is Senator HEFLIN controls that portion of the time.

Mr. THURMOND. Does the Senator want to control the time?

Mr. HEFLIN. It is perfectly all right to go ahead. It makes no difference.

Mr. THURMOND. The ranking member generally controls the time. If you want, I will turn it over to you.

Mr. HEFLIN. Go ahead.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, in order to save time, I just want to say this. The President has appointed Mr. Carnes. Both Senators from Alabama favor Mr. Carnes. Mr. Carnes has a fine record, a good judicial temperament, integrity, professional qualifications. He has everything it takes to make a good judge, and I hope the Senate will confirm him.

Mr. President, I urge my colleagues to support a motion to go into execu-

tive session in order to begin consideration of the nomination of Mr. Edward Carnes, of Alabama, to be a U.S. circuit judge for the Eleventh Circuit Court of Appeals.

Mr. President, Mr. Carnes was nominated by President Bush on January 27, 1992, approximately 7 months ago. The Judiciary Committee conducted a comprehensive review of Mr. Carnes' record prior to his confirmation hearing on April 1, 1992. During his hearing, the committee heard testimony from prominent witnesses who strongly support his nomination for this very important position. The committee considered Mr. Carnes' nomination on May 7, 1992, and voted 10 to 4, to favorably report his nomination to the Senate for confirmation. Over the past 2 months, Mr. Carnes' nomination has been pending before the Senate awaiting final action by this body.

Mr. President, the Judiciary Committee has acted favorably on this nomination. It is now up to the full Senate to begin consideration of Mr. Carnes' nomination. I know of no reason his nomination should be blocked from consideration. The Judiciary Committee has thoroughly reviewed his background and qualifications, and an overwhelming number of committee members favorably endorsed his nomination for confirmation.

Mr. President, I firmly believe every nominee should be afforded the opportunity of an up or down vote by this body. It is not fair to a nominee to unnecessarily drag out the confirmation process for months at a time. I have reviewed Mr. Carnes' background for this position and I am convinced that he possesses the experience, integrity, and temperament to become an outstanding judge on the Eleventh Circuit Court of Appeals. I urge my colleagues to join me in supporting the motion to go into executive session to begin consideration of this nominee.

I now yield 5 minutes to the distinguished Senator from Alabama [Mr. SHELBY].

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today to support the nomination of Ed Carnes to be a judge on the Eleventh Circuit Court of Appeals—a position for which he is exceptionally qualified. I initially voiced my support for Mr. Carnes when he appeared before the Senate Judiciary Committee for his confirmation hearing, and nothing has been brought to my attention to alter my strong support of that view. The Judiciary Committee voted to confirm Mr. Carnes on a 10 to 4 vote.

While I was disappointed that a few of my colleagues have prevented, until today, full Senate consideration of Mr. Carnes' nomination, I want to thank the majority leader for moving to this nomination.

Ed Carnes grew up in Albertville, AL. He attended the University of Alabama where he achieved a perfect grade point average.

After graduating from the University of Alabama, Mr. Carnes attended Harvard Law School, where he excelled and graduated with honors. After graduating from law school, he did not go to work for a big law firm, but instead chose to serve the people of Alabama as an assistant in Alabama's attorney general's office. During his 17 years in the Alabama attorney general's office, Mr. Carnes has litigated hundreds of complex cases, both civil and criminal, jury and nonjury trials giving him a strong working knowledge of the Federal judicial process and preparing him well to serve on the Federal bench.

For more than a decade, Mr. Carnes has been the chief of capital litigation division in the attorney general's office of Alabama. This division, Mr. President, is responsible for representing the State in all capital case litigation at the post-conviction stage. Because Mr. Carnes is the head of this division, he has handled the appeals of all eight death row inmates executed in Alabama since 1980. In addition, as division chief, he also supervised all other State cases against inmates on death row. Mr. Carnes has a remarkable reputation for the quality of his work and the fairness in which he practices law.

Ed Carnes' expertise is not limited to capital cases as some of his opponents have claimed. He has had the responsibility for prosecuting ethical complaints filed against State court judges by the Alabama Judicial Inquiry Commission. He has litigated 18 cases against judges for unethical conduct ranging from promises of favorable treatment for personal favors to making racial remarks in the courtroom. Ed Carnes won all 18 cases for the State of Alabama.

Mr. President, Mr. Carnes has received many honors and awards. He is a member of the American Bar Association, the Alabama Bar Association, and the Alabama District Attorneys Association. He has not limited his service to professional legal organizations. He has actively participated in civic and social organizations such as the Parent Teachers Organization.

I believe that you can often best judge a lawyer by what fellow members of the bar have to say about him. Mr. Carnes' colleagues use terms like "a good lawyer," "a fair guy," "a tough, formidable adversary," and "a quick wit", more than that, he has integrity. In addition, Judge Frank Johnson, Jr., whom Mr. Carnes will succeed, has given Carnes high marks as an attorney. Judge Johnson has been quoted as saying that Mr. Carnes is "a good choice" for the appeals court. Bill Baxley, a former attorney general for the State of Alabama, and Morris Dees, the cofounder of the Southern Poverty Law Center, testified in support of Mr. Carnes before the Judiciary Committee. The three States within the eleventh Circuit Court of Appeals' jurisdiction are Alabama, Florida, and Georgia. The attorney generals of these three States have written in support of Ed Carnes' nomination saying that "he has a reputation for ethical propriety that is unsurpassed." They also wrote that "he has earned and enjoys a reputation as one of the finest attorneys in the eleventh circuit."

Mr. Carnes also has the support of many prominent black leaders in Alabama, including Alabama Supreme Court Justice Oscar Adams, Montgomery Circuit Judge Charles Price, and State Representative Alvin Holmes, the chairman of the affirmative action committee of the Alabama Black Legislative Caucus.

Despite what some opponents of Mr. Carnes claim, there is no evidence that he is in any way prejudiced. In fact, his career, his membership in an integrated church, and the strong recommendations he has received from prominent Alabamians of all races describe a man who will be a fair and impartial judge. Ed Carnes has been a foe of racial discrimination his entire life. Morris Dees describes Ed Carnes as a man who has:

> * * * worked to bar the importation of South African coal. He personally prosecuted disciplinary charges against two racist judges and had them removed from the bench. As chief counsel for the State on appeal, he preserved the conviction of the Klansman who murdered four young black girls in the notorious Sixteenth Street Baptist Church bombing case.

Many other individuals, who have worked with Ed Carnes, have stated that he has been in the forefront of the fight against racial intolerance in Alabama.

Mr. President, a prominent attorney in Mobile, Alabama, David Bagwell, stated in a letter to the New York Times that "[n]o judicial nominee in recent years has had a better civil rights record than Mr. Carnes. Years before the Supreme Court banned racially discriminatory 'peremptory strikes' of black jurors by prosecutors, Mr. Carnes was urging State prosecutors to stop." Mr. Bagwell clerked for Judge Johnson and has opposed Mr. Carnes in a number of capital cases, but testified in favor of Ed Carnes before the Senate Judiciary Committee.

Mr. Carnes' adult life has been spent in service to the people of Alabama. I believe that Mr. Carnes possesses the intellect, education, and experience to sit on the eleventh circuit. I am proud and honored today to express my support for his nomination and I urge all of my colleagues to not merely examine what some special interest group has to say about Ed Carnes, but to review the transcript of his hearing. I have no doubt that if all Senators reviewed the transcript there would be few, if any, votes cast against him.

Mr. President, I ask unanimous consent that a letter from 31 State attor-

neys general, both Republican and Democratic, who have written in support of Ed Carnes, be printed in the RECORD. In addition, Mr. President, I ask unanimous consent that a letter from David Bagwell to the New York Times and a resolution by the Alabama State Bar in support of Mr. Carnes be printed in the RECORD.

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

JUNE 9, 1992.

Senator GEORGE J. MITCHELL,
Majority Leader, U.S. Capitol, Washington, DC.
Senator ROBERT DOLE,
Republican Leader, U.S. Capitol, Washington, DC.

Re: Nomination of Ed Carnes to the United States Court of Appeals for the Eleventh Circuit

DEAR SENATORS MITCHELL AND DOLE: We, the undersigned state attorneys general, are writing to urge a prompt and affirmative vote on confirmation of the nomination of Ed Carnes to the United States Court of Appeals for the Eleventh Circuit.

Mr. Carnes is a highly qualified attorney with in-depth experience in appellate practice and expertise in criminal law, constitutional law, and federal procedure. His career has been distinguished, and he has displayed a fine sense of principled fairness. Mr. Carnes' record on civil rights is outstanding.

We are concerned that some of the groups opposing Mr. Carnes' nomination are not only distorting his record but are also taking a position that threatens to undermine our adversary system. Every attorney, including every government attorney, has an ethical duty to his client and to the legal system as a whole, to represent his client "zealously within the bounds of the law." See, Model Code of Professional Responsibility, Canon 7-1. We are well aware of Mr. Carnes' efforts in that case, because he persuaded forty-five states to join an amicus curiae brief supporting his position. The Southern Christian Leadership Conference and the Southern Poverty Law Center also filed a brief supporting Mr. Carnes' position.

After the Supreme Court declined to decide the issue in that case, Mr. Carnes persevered. He succeeded in getting an Alabama appellate court to hold that both the federal Constitution and state law prohibited defendants from engaging in the racially discriminatory use of peremptory strikes. Such a holding will make it far more difficult for white defendants charged with crimes against African-Americans to obtain an all-white jury. Therefore, the Rodney King case illustrates the wisdom of Mr. Carnes' efforts, which argues strongly in favor of confirming his nomination.

Consideration of this nomination is not and should not be a partisan matter. While Mr. Carnes is the nominee of a Republican President, he has served under four Alabama Attorneys General, all of whom were Democrats and all of whom strongly support his nomination. The Judiciary Committee vote in favor of his nomination came from both Democrats and Republicans. Some of us are Democrats and some of us are Republicans, but we are united in asking you to use your influence to secure prompt confirmation of this nomination.

Sincerely,

James H. Evans, Alabama Attorney General; Grant Woods, Arizona Attorney General; Charles E. Cole, Alaska Attorney General; Daniel E. Lungren, California Attorney General; Gale A. Norton, Colorado Attorney General; Robert A. Butterworth, Florida Attorney General; Larry Echohawk, Idaho Attorney General; Chris Gorman, Kentucky Attorney General; Frank J. Kelley, Michigan Attorney General; Don Stenberg, Nebraska Attorney General; Robert J. Del Tufo, New Jersey Attorney General; Nicholas J. Spaeth, North Dakota Attorney General; Charles M. Oberly III, Delaware Attorney General; Michael J. Bowers, Georgia Attorney General; Robert T. Stephen, Kansas Attorney General; Richard P. Ieyoub, Louisiana Attorney General; Mike Moore, Mississippi Attorney General; Frankie Sue Del Papa, Nevada Attorney General; Lacy H. Thornburg, North Carolina Attorney General; Susan B. Loving, Oklahoma Attorney General; Ernest D. Preate, Jr., Pennsylvania Attorney General; Dan Morales, Texas Attorney General; Jeffery L. Amestoy, Vermont Attorney General; Joseph B. Meyer, Wyoming Attorney General; Lee Fisher, Ohio Attorney General; John P. Arnold, New Hampshire Attorney General; Mark Barnett, South Dakota Attorney General; Paul Van Dam, Utah Attorney General; Ken Eikenberry, Washington Attorney General; Warren Price III, Hawaii Attorney General; James E. O'Neil, Rhode Island Attorney General.

The 31 state attorneys general signing the joint letter include 19 Democrats an 12 Republicans. They represent 24 states that have capital punishment statutes and 7 states (Alaska, Hawaii, Kansas, Michigan, North Dakota, Rhode Island, and Vermont) that do not.

[From the New York Times, June 13, 1992]

MR. CARNES IS STRONG ON CIVIL RIGHTS

To the Editor:

"Replacing Judge Johnson: Try Harder" (editorial, May 31), against confirmation of Edward Carnes to the United States Court of Appeals for the 17th Circuit to replace Judge Frank Johnson, is just dead wrong.

Nobody—not any lawyer or judge—can ever replace Judge Johnson. But somebody has to take his seat after his retirement, and Judge Johnson himself has said publicly that Mr. Carnes is a "very good" choice.

He's right. And I should know. I'm one of a very few people who know both men. I was Judge Johnson's law clerk, and I have also litigated death penalty cases against Ed Carnes from the bottom of the court system to the top. (In two cases, I had to call and tell the men they would die by electrocution that night, that all appeals had failed.) And I was a founding member of the Alabama State Bar Task Force on Capital Defense Representation.

No judicial nominee in recent years has had a better civil rights record than Mr. Carnes. Years before the Supreme Court banned racially discriminatory "peremptory strikes" of black jurors prosecutors, Mr. Carnes was urging state prosecutors to stop. In a case with a black defendant and a white victim, Mr. Carnes advised the State Attorney General—in a sort of "reverse Simi Valley"—to transfer the case to a forum with more potential black jurors.

And nobody else has done more to stop white criminal defendants from excluding blacks from juries. In a case in my hometown, some Ku Klux Klansmen were charged with lynching a young black man. Mr. Carnes went all the way to the Supreme Court to stop those Klansmen from striking blacks from the jury. He was joined in that effort by the Southern Christian Leadership Conference and the Southern Poverty Law Center. The Supreme Court wouldn't decide the issue, but Mr. Carnes persuaded the Alabama court to adopt a rule forbidding white defendants to remove African-Americans from juries because of their race.

And Mr. Carnes worked hard to uphold the murder conviction of the people who brought us the 16th Street Baptist Church burning in Birmingham, where Klansmen killed four young black girls. He prosecuted two Alabama judges for racial conduct and got both removed from the bench.

You mentioned that Senator Joseph Biden, the Judiciary Committee chairman, decided to vote against Mr. Carnes. You didn't mention that Senator Biden also said, "if you put all the positive marks next to this man's name and all the negative marks, that the positive marks far outweigh, on civil rights, the negative marks, in my view."

Mr. Carnes has spent his career fighting crime, but along the way he consistently fought bum raps. Your editorial gave Edward Carnes a bum rap.—David A. Bagwell, Mobile, Ala., June 3, 1992.

ALABAMA STATE BAR, BOARD OF BAR COMMISSIONERS

RESOLUTION

Whereas, the Alabama State Bar is composed of all of the attorneys licensed to practice law in the State of Alabama;

Whereas, the Board of Commissioners of the Alabama State Bar is the statutory body governing the affairs of the Alabama State Bar, and it is duly authorized to act in matters such as this resolution;

Whereas, on January 28, 1992, Edward Carnes was nominated by the President of the United States to be a judge on the United States Court of Appeals for the Eleventh Circuit;

Whereas, after conducting an extensive investigation, the American Bar Association's fifteen-member Standing Committee on the Federal Judiciary unanimously rated Mr. Carnes qualified for the position;

Whereas, Mr. Carnes has been an attorney practicing law in Alabama for more than sixteen-and-a-half years, and during that time he has never had an ethical complaint of any kind filed against him;

Whereas, the Judiciary Committee of the United States Senate has favorably reported Mr. Cranes' nomination to the Senate as a whole;

Whereas, some persons and groups have expressed opposition to confirmation of Mr. Cranes' nomination based upon the performance of his duties as an advocate while he has served as assistant attorney general for the State of Alabama;

Whereas, in our adversary system of justice every attorney owes a duty, both to his client and to the justice system as a whole, to represent his client "zealously within the bounds of the law" as that ethical duty is phrased in the Preamble of the Alabama State Bar Rules of Professional Conduct;

Whereas, no appointee to a judicial position should be denied confirmation because he has carried out his ethical duty to be an advocate for his client;

Whereas, to deny Mr. Carnes confirmation because he has carried out his duty as an advocate would undermine the adversary system and could deter other attorneys from fully representing some clients in the future, particularly unpopular clients who need legal representation the most;

Whereas the opposition to Mr. Carnes also threatens to undermine the efforts of the Alabama State Bar and the American Bar Association to educate the public about the duty of an advocate and our adversary system of justice;

Now, Therefore, Be It Resolved, that the Board of Commissioners of the Alabama State Bar strongly affirms its belief in the adversary system of justice and the duty of every attorney to diligently represent clients as an advocate;

Be It Further Resolved, that the Board of Commissioners of the Alabama State Bar condemns in the strongest possible terms any opposition to a judicial nomination based solely upon the nominee's actions in ethically and honorably performing his duty as an advocate to represent his client to the best of his ability.

Be It Further Resolved, that the Board of Commissioners of the Alabama State Bar calls upon the United States Senate to reject the opposition to confirmation of the nomination of Edward Carnes, which is based upon the performance of his duty as an advocate for his client, the State of Alabama;

Be It Further Resolved, that the Board of Commissioners of the Alabama State Bar calls upon the United States Senate to confirm the nomination of Edward Carnes;

And, Finally, Be It Further Resolved, that a copy of this resolution be transmitted to the majority leader and the Republican leader of the United States Congress and to both of Alabama's United States Senators.

Mr. SHELBY. Mr. President, I urge my colleagues to support this motion to proceed, and subsequent to that, the confirmation of Ed Carnes himself.

Mr. THURMOND. Mr. President, I yield the remainder of the time to the distinguished Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. I thank the Senator.

How much time is remaining on our side?

The PRESIDING OFFICER. Nine minutes, eight seconds.

Mr. HEFLIN. Mr. President, I support the nomination of Ed Carnes to the U.S. Court of Appeals for the Eleventh Circuit which includes my home State of Alabama as well as the States of Georgia and Florida. I would like to review the record and cite to you the basis for my support.

As the head of the capital litigation division of the attorney general's office for the State of Alabama, it has been Mr. Carnes' responsibility for representing the State in capital litigation at the postconviction stage—on direct appeal as well as State and Federal collateral litigation.

The Judiciary Committee conducted an extensive investigation of the nominee's background and held a hearing where witnesses were heard both in support of and in opposition to his nomination. Further, the committee has submitted additional questions to which the nominee fully responded. The committee voted 10–4 to report his nomination.

When the President submitted Mr. Carnes' nomination, I did an extensive investigation into his background, as I endeavor to do relative to all judicial nominations, on the issues of integrity, qualifications, judicial temperament, civil rights, and general philosophy. I knew Mr. Carnes' nomination would be controversial because of his background in representing the State of Alabama in capital punishment cases.

I was surprised to learn of his strong support from the civil rights community in Alabama. I heard from or discussed this nomination with most of the leaders of the civil rights community in my State. Among those with which I discussed Mr. Carnes' nomination or heard from are the following:

Leaders of the Southern Poverty Law Center, including Morris Dees and Richard Cohen; John Carroll, former Associate Director of the Southern Poverty Law Center and now a U.S. magistrate judge. Justice Oscar Adams,. an African-American member of the Alabama Supreme Court; Judge Charles Price, an African-American trial judge of the circuit court bench in Montgomery; State Representative Alvin Holmes, chairman of the affirmative action committee of the black caucus of the Alabama State Legislature; Bill Dawson, a civil rights attorney of Birmingham; David Bagwell, former law clerk to Judge Frank M. Johnson and former U.S. magistrate; Steve Glassroth, a Montgomery criminal defense attorney; Rick Harris, a Montgomery criminal defense attorney; and other civil rights and political leaders whose names I hold in confidence at their request for other reasons.

The answer that I got was that Ed Carnes was a highly intelligent, competent lawyer, a tenacious advocate, but an individual of the highest integrity and who at all times practiced fairness and ethical conduct. I became convinced that he was a tough battler, but an honorable battler. Most of these individuals told me that personally they opposed capital punishment, but they realize that a potential judge should not be evaluated on a one-issue basis, but should be viewed on a much broader spectrum, particularly on issues that will affect the future of the 11th Circuit Court of Appeals on civil and human rights.

In reviewing the opposition that has been generated against Mr. Carnes, one can conclude that his opponents view his confirmation as being a referendum on capital punishment, although they deny it. There is strong evidence that most of the opposition to Mr. Carnes has originated from one individual who vehemently opposes capital punishment. This is Steve Bright, who is director of Southern Center for Human Rights in Atlanta. Mr. Bright has marshalled considerable forces to oppose Mr. Carnes' nomination. I have only observed Mr. Bright as a witness before the Judiciary Committee so therefore I will not attempt to personally evaluate Mr. Bright's motivation, but I direct your attention to the words of Morris Dees, the director of the Southern Poverty Law Center, which are contained in a letter to Dr. Joseph Lowery, president, Southern Christian Leadership Conference, a portion of which follows:

DEAR JOE: I would like to reply to Steve Bright's sixteen page letter opposing Ed Carnes for the Eleventh Circuit Court of Appeals. My copy of Steve's letter did not arrive until ten days after it was dated. I had no way to reply earlier.

First let me say that I sympathize with Steve for opposing anyone for a judgeship who favors capital punishment. Steve is a one-issue person because of the work he does. I also oppose the death penalty, but view a potential judge on a much broader range of issues that are important to civil and human rights.

Ed Carnes has an outstanding record on civil rights and this is the reason I support him so strongly. I'd like to take a few pages and point to the more obvious omissions and misstatements in Steve's letter.

In discussing capital punishment in Alabama, Steve neglected to tell you about a case involving a client of his who was scheduled for execution at the time of Steve's letter, and whose sentence has since been carried out. The man, whom Steve defended, was white. He hired two African-American men to kill his wife, who was 9 months pregnant, so he could marry another woman to who he was secretly engaged. Both of the African-American men who actually carried out the murder got life sentences in Alabama. Steve's client, who is white, got a death sentence which was carried out last week. I am surprised Steve did not use that case to argue that Ed is prejudiced against whites.

I can understand that Steve is upset because his client was executed. But it is simply unfair for Steve not to admit that Ed has by far the strongest record on civil rights, of any Federal judicial nominee in the State in at least the past decade * * *.

Steve Bright cannot tell you the name of any other recent Federal judicial nominee in Alabama who has prosecuted State judges for racist misconduct and gotten them thrown off the bench, as Ed has done. Steve cannot tell you the name of any other recent Federal judicial nominee in Alabama who, as early as the 70's, defended black public officials who were being sued by whites, as Ed did. Steve cannot tell you the name of any other recent Federal nominee who has gone to the United States Supreme Court in an attempt to prevent members of the Klu Klux Klan from discriminating against blacks, as Ed did. Steve cannot tell you the name of any other recent Federal judicial nominee who has been joined by the SCLC in one of his efforts to fight racial discrimination, as Ed has.

Ed has been successful in getting the Alabama Court of Criminal Appeals to rule in two cases that white criminal defendants cannot practice racial discrimination against African-American members of the jury. Steve omitted these two important cases.

Steve says you should oppose Ed because he supported Bill Baxley's opponent in the Alabama gubernatorial race in 1986. The irony of Steve's argument is that Bill Baxley strongly supports Ed's nomination. Bill recalls the hard work Ed did to ensure that the murder conviction of Klansman Robert Chambliss was upheld in the Birmingham Church bombing case, which involved the

murder of four young African-American girls. Bill also recalls that Ed assisted him in the mid-1970's in a legal action to prevent Alabama Power Co. from importing South African coal. That legal action that Bill and Ed took so threatened the economy of South Africa that it was forced to change its laws involving the use of indentured black labor. I invite you to call Bill Baxley (phone number) about Ed.

Steve lists the names of others he says would be better nominees. It was ironic that he includes Justice Oscar Adams in that list, because Justice Adams strongly supports Ed's nomination. He has sat on a number of Ed's cases. I invite you to call Justice Adams (phone number) about Ed * * *.

The facts are that Ed Carnes drafted legislation to increase money paid to attorneys to represent indigent capital defendants; he wrote an official advisory opinion of the Attorney General which doubled the amount of money to be paid for out-of-court work in such cases; and he succeeded in having the Legislature appropriate thousands of dollars for use in paying litigation expenses of indigent defendants under capital sentences. Ed Carnes has done more than virtually any other attorney in Alabama to increase State funding for indigent capital defendants.

Steve ignores the fact that, in case after case, Ed Carnes has been fair to defendants even when doing so angered district attorneys. In one case Ed went into the appellate courts and argued that a death sentence was unconstitutional and should be reversed, while the district attorney argued to the contrary. In another case Ed argued to the Alabama Supreme Court that trial judges should have authority to order district attorneys to open their files to capital defendants. The entire Alabama District Attorneys Association argued against Ed's position, but he won. As a result, Alabama has one of the most liberal discovery rules in capital cases of any State in this country.

Steve also chooses to ignore the fact that Ed Carnes has exposed attempts of district attorneys to hide evidence favorable to capital defendants. In at least two cases involving African-Americans under sentence of death, Ed discovered and disclosed evidence favorable to them that the prosecutors had not divulged at trial. As a result of Ed's efforts, and his integrity and sense of fairness, both those African-American defendants won new trials * * *.

The SCLC should not oppose this nomination. For once, we have a nominee who is not a country club lawyer who has served corporate interests. For once, we have a nominee who has fought the Klan and who has fought racist judges. For once, we have a nominee with a strong record of fairness.

Sincerely,

MORRIS DEES.

In making up my mind to support Mr. Carnes, I gave much more credence and weight to the opinions of Morris Dees, Richard Cohen, John Carroll, and other criminal defense attorneys who have been in court with Ed Carnes far more times than Mr. Bright. I am also persuaded by fairminded jurists who have observed the abilities, ethics, and integrity of Mr. Carnes in court on far more numerous occasions than Mr. Bright.

It appears that the second paragraph of Morris Dees' letter to Joseph Lowery sums up this issue in a succinct manner:

First let me say that I sympathize with Steve for opposing anyone for a judgeship who favors capital punishment. Steve is a one-issue person because of the work he does. I also oppose the death penalty, but view a potential judge on a much broader range of issues that are important to civil and human rights.

I have reviewed the evidence for and against Ed Carnes with care. One must realize the emotional atmosphere that capital cases bring to a courtroom. They are messy, passions are aroused, frequently lawyers explode at each other. If a lawyer loses at the appellate level he usually blames the opposing counsel or the judge. It is remarkable how many losing lawyers nevertheless praise the fairness and ethical conduct of Ed Carnes. The entire record supports the conclusion that Ed Carnes' conduct has been fair, ethical, and within the bounds of existing law.

I am convinced that Mr. Carnes' background, intelligence, integrity, and record qualify him for a position on the U.S. Court of Appeals, 11th Circuit. I urge his confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 5 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senate is about to vote on whether to proceed to consider the nomination of Edward Carnes to the U.S. Court of Appeals for the Eleventh Circuit. I believe that the Senate should consider that nomination and should reject it.

When the Senate does consider the nomination, I will explain the basis for my opposition in more detail. For the moment, however, I would ask my colleagues to consider four points.

First, Mr. Carnes is being asked to replace one of the most respected and courageous judges in the Nation's history, Judge Frank Johnson. In presiding over many of the most controversial desegregation cases of our time, Judge Johnson displayed an extraordinary and courageous dedication to the Constitution's great promise of equal protection of the laws for all Americans. He recognized the many forms that racism have taken in our history, and he wisely and fairly applied the Constitution to combat it.

By contrast, Mr. Carnes appears to be remarkably insensitive to the existence of racial discrimination.

As chief of the capital punishment unit of the Alabama Attorney General's office, Mr. Carnes presided over many aspects of the death penalty in Alabama.

Yet he told the Judiciary Committee: "I do not believe that capital punishment is applied in a racially discriminatory manner in Alabama or in the Nation."

In fact, study after study has come to the conclusion that the death penalty is applied in a racially discriminatory manner. Those who murder whites are more likely to be sentenced to death than those who murder blacks. Put another way, the findings are that those who murder blacks do not deserve the same level of effective prosecution as those whose victims are white.

This is the case in Alabama. There are more black homicide victims there than white, yet comparatively few of those cases are prosecuted to the fullest extent of Alabama's law.

It is an incredible disparity—two-thirds of the state's murder victims are black, yet in death penalty cases, less than 15 percent of the murdered victims are black. Two-thirds of those executed in Alabama have been black.

Mr. Carnes is the author of Alabama's capital punishment statute.

In describing his position on capital punishment to the Senate Judiciary Committee, he said that the death penalty should be reserved only for the most brutal and atrocious crimes.

But as the law is applied, the murder of a black person is not considered nearly as brutal and atrocious as the murder of a white person, and does not receive the harshest penalty the State can give.

This flagrant devaluation of the lives of black Americans is racial discrimination. It exists in Alabama and many other States. It is plain for any one to see—yet Mr. Carnes, who has been nominated for this high judicial office, does not see it.

My second point concerns another racial issue—discriminatory use of peremptory challenges in jury selection.

Despite a landmark 1986 Supreme Court decision that the discriminatory use of such preemptory peremptory challenges by a prosecutor violates the 14th amendment, Mr. Carnes and his staff have defended such practices in more than 20 cases on appeal.

In fact, Mr. Carnes has never refused to pursue a case where racially motivated peremptory strikes were at issue. No matter how serious the constitutional violation, the State would never confess error.

In one case, the prosecutor divided potential jurors into four categories: strong, medium, weak—and black. In other cases, prosecutors have used 10, 11, even 26 peremptory challenges in order to ensure an all-white jury.

Yet in these cases, Mr. Carnes or his staff urged the court not to consider claims of racial discrimination, because defense lawyers did not make a timely objection.

Mr. Carnes and his staff have raised technical, procedural defenses when substantive, constitutional rights are at issue, even when blatant racial discrimination obviously tainted the process of jury selection.

The third point I will address is Mr. Carnes' commitment to basic fairness in the criminal justice system. He has

stated that he believes that by and large the defense in these cases is "excellent." That is a wholly inaccurate assessment.

In one case, the trial attorney neglected to tell the jury that the defendant was mentally retarded. In another, defense counsel called no witnesses and offered no evidence. In still other cases, in which the lawyer came to court intoxicated and was sent home to sober up.

Finally, while testifying on behalf of habeas corpus legislation, Mr. Carnes expressed his view that, if a State court has given a defendant a full and fair hearing, review of constitutional violations in a Federal court should not be available.

Imagine what the United States would be like today if States were the final arbiters of constitutional rights. Imagine what our school systems would be like.

Before voting on the merits of the Carnes nomination, I urge every Senator to take the time to examine these major questions. We have a responsibility to see that justice is done, and to withhold our confirmation if Mr. Carnes does not meet the high standards of fairness that the Constitution requires.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

[From the Atlantic Constitution, May 3, 1992]

HOLD UP THE CARNES NOMINATION

If the Rodney King verdict has demonstrated anything, it is that black Americans have good reason to distrust the workings of our criminal justice system. For that reason, special care needs to be taken to ensure that judges be as vigilant as possible against racially discriminatory justice.

This brings us to the case of Alabama Assistant Attorney General Ed Carnes, whom President Bush has nominated to a seat on the 11th U.S. Circuit Court of Appeals. Mr. Carnes, who has no prior judicial experience, has spent his career prosecuting death penalty cases for the state of Alabama.

Mr. Carnes has attempted to portray himself as a staunch defender of racial justice. To that end, he cites his prosecution of two state judges for racist behavior. Be it noted, however, that he did this simply at the behest of the state Judicial Inquiry Commission.

Meanwhile, Mr. Carnes has turned the blindest of eyes to the kind of racial discrimination that gets black defendants sentenced to death in Alabama. He has, for example, personally defended many cases in which Alabama prosecutors systematically excluded African-Americans from juries in capital cases.

Yet, at his April 1 confirmation hearings before the Senate Judiciary Committee, Mr. Carnes blandly asserted that racial discrimination does not exist in Alabama's criminal justice system. He also said that, in defending the prosecutors, he was just following orders.

Indigent black defendants are very often convicted of capital crimes as a result of violations of their constitutional rights to counsel, due process and a fair trial. Mr. Carnes' special claim to fame has been in devising technical reasons for courts to throw out appeals of death sentences. Indeed, no one deserves more credit than he for rationalizing the current evisceration of the federal writ of habeas corpus, under which such appeals are filed.

At the urging of Sen. Howell Heflin (D-Ala.), Mr. Carnes' nomination has been pushed ahead of other judicial nominees. There is reason to suspect that Mr. Heflin acted in the face of mounting opposition to Mr. Carnes' nomination.

The National Association for the Advancement of Colored People has asked that additional hearings be scheduled to allow for a further examination of Mr. Carnes' record. That is the least the Senate Judiciary Committee should do.

[From Legal Times, Apr. 20, 1992]

PROSECUTOR BEHIND THE BENCH

(By Monroe Freedman)

There is one objection to the controversial nomination of Edward Carnes to the U.S. Court of Appeals for the 11th Circuit that is clearly unfair. Carnes, critics say, has no judicial experience: His career has been pretty much limited to the capital punishment division of the Alabama attorney general's office, which he has headed since 1981.

But even Carnes' most determined critic, Stephen Bright, director of the Southern Center for Human Rights, acknowledges that the assistant attorney general has had more experience writing judicial findings of fact and conclusions of law than some of the Alabama state judges before whom he practices. In a statement submitted to the Senate Judiciary Committee, Bright complains that Carnes has written numerous judicial decisions that have been adopted by Alabama judges without the change of a single word or even of a punctuation mark.

Although that practice arguably adds significantly to Carnes' curriculum vitae, it also raises some serious ethical issues.

It is not uncommon, of course, for trial judges to state their judgments in open court and to direct counsel for one side to submit proposed findings of fact and conclusions of law. Although appellate courts have expressly disapproved this practice, they have tolerated it. Also, the American Bar Association's new Model Code of Judicial Conduct (1990) permits a judge to request counsel to draft judicial orders, "so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions." Commentary to Canon 3(B)(7).

Insofar as Ed Carnes has been directed by trial judges to draft judicial orders, he cannot be faulted, as an advocate, for complying.

Nor can he be blamed if trial judges slothfully adopt verbatim the proposed findings and conclusions submitted by one side. The fault lies with the trial judges who don't exercise judgment and discretion, and the appellate judges who disapprove the practice in their dicta but condone it in their holdings.

EX PARTE OPINIONS

But Southern Center for Human Rights director Bright raises a more serious charge that does fall within the realm of Carnes' responsibility. Bright claims that Carnes and lawyers working with him have engaged in ex parte communications with judges, going so far as to ghostwrite judicial findings of fact and conclusions of law.

The Alabama Supreme Court has sharply criticized ex parte communications as unethical. In *Medical Arts Clinic, P.C. v. Henry* (a 1986 case in which neither Carnes nor any other member of the attorney general's office was involved), a judicial order, written by the trial judge, was modified in part because of ex parte communications. Although the Alabama Supreme Court declined to require the trial judge's recusal, the court denounced ex parte communications as a form of "judicial and advocatorial misconduct" that is "particularly malodorous." 484 So. 2d 385, 387.

The 11th Circuit—the court to which Carnes has been nominated—has also emphatically denounced this kind of practice. For example, in *In re Colony Square Co.*, 819 F.2d 272, 274 (1987), the 11th Circuit said: "This circuit and other appellate courts have repeatedly condemned the ghostwriting of judicial orders by litigants." The 11th Circuit added that the cases are "legion" in which courts have issued admonitions against such conduct. A principal danger inherent in ghostwriting by litigants, the court explained, is the temptation to "overreach and exaggerate."

Documents submitted to the Judiciary Committee by Bright suggest that Carnes might have engaged in the kind of conduct condemned by the Alabama Supreme Court and the 11th Circuit. In one case, for example, Carnes participated with another assistant attorney general in drafting a document titled "Sentencing Findings and Order." At that point, the defendant was unrepresented. The assistant nevertheless sent the document to the judge, even while acknowledging in a cover letter that "consideration of the contents of the sentence order is somewhat premature" because the defendant had no lawyer to protect his interests.

The conviction was reversed (on other grounds), but the defendant was subsequently convicted again of capital murder. In that case, although there is no indication in the record of any request from the judge, another assistant attorney general again forwarded drafts of sentencing orders "prepared by Ed Carnes and myself." In his cover letter, the assistant added, "I have not served the opposing counsel with these drafts," and expressed the intention not to do so unless the judge ordered it.

OVERREACHING IN WRITING

Ed Carnes has not been available to respond to my inquiries, but his colleague and friend, Rosa Davis, has done so, challenging Bright on several key points. Davis, the chief of the appeals division of the Alabama attorney general's office, denies that Carnes knew or approved of any ex parte communications with judges on the part of lawyers in the attorney general's office. "He would have apoplexy if a member of his division did that," Davis says. And Davis gets some support for her position. The assistant who wrote the second letter described above takes full responsibility for it, confirming that Carnes knew nothing about the submission of the ex parte order.

Davis does acknowledge one instance of ex parte communication by Carnes: Carnes spoke with a judge in the absence of opposing counsel. But, Davis insists, the sole topic of discussion was procedural and did not go to the merits of the case.

Bright pointed out in an interview last week that only participants in ex parte discussions are able to have firsthand accounts of what was or wasn't said. And he notes that clandestine contacts, by their nature, are not generally known, raising the possi-

bility that the known instances of contacts by Carnes and his associates are the tip of an iceberg. Davis responds that there is no iceberg because there is no tip. The ex parte contacts made by other members of the attorney general's office, she says, provide no basis for inferring that Carnes himself, or any assistant acting under his supervision, was ever guilty of that practice.

Bright remains skeptical, urging the Judiciary Committee to compare each of the capital sentencing orders drafted by Carnes with the order handed down by the judge in such instance. Where there are significant similarities, the committee should then inquire into the circumstances under which the Carnes drafts were submitted.

While the existence of ex parte communications is unclear, there is uncontradicted evidence that Ed Carnes has taken advantage of the opportunity to draft judicial opinions by overreaching and exaggerating. On at least one occasion, an order written by Carnes and a member of his office went significantly beyond findings of fact to fabricate for the judge both a conscientious deliberative process and a subjective sense of outrage. In a judicial order of capital punishment written by Carnes—not the judge—Carnes had the judge say that "after long deliberation, [I cannot] erase from my mind the circumstances surrounding this most senseless crime."

This language is not just rhetoric. On appeal, it supports deference to the trial judge's decision to impose the death penalty, and in federal habeas corpus litigation, it helps to bolster the argument for deference to the proceedings that took place in state court.

Another troubling allegation in the Bright testimony is that Carnes has cynically sought to maintain a system of ineffective assistance of defense counsel in capital cases.

Illustrative of Bright's charge are cases in which defense lawyers in the Alabama trial and appellate courts have neglected to raise fundamental constitutional issues on their client's behalf. In those cases, Carnes has taken advantage of the defendants' ineffective assistance of counsel by arguing in federal habeas cases that the defense lawyers have "waived" the neglected issues. The result: Defendants were unable to raise those issues in court.

Davis responds that Carnes shouldn't be called unethical for making arguments that are acceptable by the federal courts, including the Supreme Court.

The more troubling aspect of Bright's complaint is that Carnes has sought to maintain the system of ineffective assistance of counsel so that he can continue on procedural grounds to block defendants from raising substantive issues in capital cases. Carnes has certainly gone to great lengths to exalt the virtues of Alabama's defense lawyers in capital cases. Testifying before an ABA task force on the capital punishment process, Carnes stated that, while "there are exceptions," capital defendants in Alabama "by and large" receive "excellent legal representation," indeed even "more than the Constitution requires." Carnes therefore urged against taking steps to improve the quality of representation for poor people in capital cases.

Carnes' testimony proved contrary to the overwhelming conclusion of the task force report, as modified by the ABA's Criminal Justice Section, that "the inadequacy . . . of counsel at trial" is one of the "principal failings" of the capital punishment system today.

Carnes' statements also ran against those of another witness before the task force, who also had specific knowledge of the Alabama system. Stephen Kinnard, a partner who primarily litigates commercial cases for the Atlanta office of Jones, Day, Reavis & Pogue, chaired an Alabama state bar committee on the quality of counsel in death-penalty cases. Based on that experience, Kinnard, who has represented capital defendants, testified: "Maybe there are just two Alabamas, one [Carnes has] seen and the one I have seen."

Davis dismisses Kinnard's testimony on the ground that he is "a lawyer who defends capital cases." As far as Kinnard's knowledge of the facts, that observation seems to be a credential rather than an indictment. It also falls short of establishing that Kinnard would misrepresent what he has observed. Indeed, it is Carnes whose testimony was inconsistent with that of most other witnesses and who failed to persuade the ABA task force that the quality of representation in capital cases is "more than the Constitution requires."

THE DAMAGE DONE

Bright cites several cases to illustrate the damage that ineffective assistance can do; Davis disputes almost all of them. In one, *State* v. *Haney* (1990), Bright says that the trial was delayed for a day because defense counsel came to court drunk, was held in contempt, and was sent to jail for the day and night. Ala. Cr. App. 7 Div. 148, 846/849. Davis responds that Haney had two lawyers (as required by state law). One lawyer, upon realizing a defense he had been preparing had "fallen through," got drunk; the other lawyer, though, had given effective assistance. "There was, therefore, no problem in the representation," Davis says.

Bright, in an interview, cited some further facts. The defense that had "fallen through" was that Haney and her children had been battered by her husband (the victim) for 15 years. The lawyer who had gotten drunk had failed to arrange for the defense's psychological expert to see Haney until the night before he was to testify. The expert was therefore inadequately prepared and was badly damaged on cross-examination.

Also, the expert had relied on Haney's statements that both she and her daughter had required hospitalization after her husband had broken her arm and her daughter's nose. On rebuttal, the prosecution presented evidence that no records of the injuries having been treated existed at the hospital. Haney was convicted and sentenced to death. Only afterward did trial counsel seek and obtain the medical records—which her lawyer had failed even to look for in preparing for trial—that corroborated the broken arm and broken nose.

In that case and others where Davis disputes Bright's claim of ineffective assistance, Bright seems to have the better of the argument.

SENATE APPROVAL?

Although Stephen Bright's testimony can be characterized as a brief written by a longtime adversary, it is nevertheless a persuasive brief on crucial issues relating to Ed Carnes' fitness for judicial office. On the other hand, the response, of Rose Davis, a colleague and friend of Carnes, challenges Bright on important factual matters.

The issues, then, are: (1) Whether Carnes has ghostwritten judicial opinions (suspicious circumstances, but not enough evidence available without further Judiciary Committee investigation and hearing); (2) whether Carnes has overreached in drafting judicial opinions, illustrated in part by his preparation of an order fabricating a judge's conscientiousness and the judge's subjective reaction to the evidence (a prima facie case made by Bright); (3) whether Carnes has cynically sought to maintain a system of ineffective assistance of counsel in capital cases so that he can take unfair advantage of defendants (a) prima facie case made by Bright).

Any one of these charges, if true, is ground for rejecting Carnes' nomination to the 11th Circuit. It is imperative, therefore, that the Judiciary Committee inquire carefully into Bright's allegations before voting on whether to forward Carnes' nomination to the Senate with its approval.

[From the National Law Journal, January 1992]

A WORTHY SUCCESSOR HE IS NOT

(By Jack Bass)

In the downtown federal courthouse in Montgomery, Ala., the Rev. Martin Luther King Jr. once commented that Judge Frank M. Johnson is "the man who gave true meaning to the word 'justice.'" The U.S. Senate is now considering a successor to Judge Johnson, for whom that courthouse was named in ceremonies last May. He took "senior status" last fall.

To replace Judge Johnson on the 11th U.S. Circuit Court of Appeals, President Bush has nominated Edward Carnes, 42-year-old head of the capital litigation unit in the Alabama attorney general's office, a nomination that has run into trouble. ("Carnes to 11th Circuit?" NLJ, May 4.) Mr. Carnes' legal experience is limited almost entirely to death penalty issues, a field in which he has established a record as a skilled and zealous advocate.

The current Alabama death penalty law, which Mr. Carnes drafted, allows elected judges to overrule juries and impose the death penalty. He organized the national support of state attorneys general for an unsuccessful White House effort to cut back on federal habeas corpus protection. He is backed by a committee composed of Alabama's three most prominent elected Republican officials—Gov. Guy Hunt, U.S. Rep. William Dickinson and Montgomery Mayor Emory Folmar—all of whom he has supported politically.

In contrast to Mr. Carnes, Judge Johnson was an experienced trial lawyer who had distinguished himself as an outstanding U.S. attorney in Birmingham, Ala., before going on the bench at age 37, then the youngest federal judge in the nation. Among other distinctive cases, he prosecuted the only peonage conviction in Alabama this century and got convictions for tax evasion against prominent citizens in Birmingham in cases that had been dormant for several years. He already had established himself in private practice.

The naming ceremony for the courthouse in Montgomery epitomized the change that Judge Johnson has wrought in Alabama. A quarter century ago, with only one dissenting vote, the Alabama House of Representatives passed a resolution calling for his impeachment. At the naming ceremony, veteran black Democratic state Rep. Alvin Holmes read a unanimous House resolution commending Congress for naming the courthouse for Judge Johnson. Turning toward him, Holmes said, "We will never forget your contribution to this nation."

Yale University Law Prof. Owen Fiss, a leading scholar on the development of civil

rights law and its impact on the legal process, considers Frank Johnson "the John Marshall of the federal district courts."

INNOVATIVE RULINGS

Judge Johnson, who was appointed in 1955 by President Eisenhower, displayed a creativity that responded to the force of historic circumstances to make the rule of law prevail during a period of upheaval. His innovative rulings on matters of voting rights, discrimination in public accommodations and employment, and rights of women, helped transform the South and the nation. The judge virtually created the structural injunction, using it first to reconstruct an entire state school system that the Supreme Court had declared unconstitutional, then expanding its use to protect rights of other politically powerless groups.

The Senate Judiciary Committee voted 10–4 in favor of Mr. Carnes. However, despite a glowing letter of support from Morris Dees, director of the Southern Poverty Law Center in Montgomery, chairman Joseph Biden, D-Del., voted against Mr. Carnes. It was only Senator Biden's 10th vote against more than 650 Reagan and Bush judicial nominees.

Although the senator supports capital punishment, his negative vote was a reaction to Mr. Carnes' insensitivity to the systematic removal of black jurors in death penalty cases by prosecutorial use of peremptory strikes. He cited Mr. Carnes' failure to state to the committee "that such a practice is fundamentally unfair" to a defendant "whose life, literally, is on the line."

As head of the capital litigation unit in Alabama, Mr. Carnes had testified before an American Bar Association committee that death penalty defendants in his state generally are more than adequately represented. An Alabama Bar Association committee reached the opposite conclusion.

Mr. Carnes also displayed a disingenuous quality in response to written questions from Senator Biden. He stated that he did not believe that the death penalty is applied in a racially discriminatory manner. When asked if he had considered statistical evidence in a significant number of capital cases, he said he had.

In his response to the final question on the subject—whether he would believe the death penalty is meted out in a discriminatory manner if he believed that the race of the victim affected the decision to bring capital charges or to impose the death penalty—he answered, "Yes."

INFLUENTIAL STUDY IGNORED

With the exception of one reference, he chose to ignore the findings of the comprehensive and sophisticated study of the death penalty in Georgia by Prof. David Baldus—a study that has had a profound influence on an issue in which Mr. Carnes is a recognized authority.

Although supporters of Mr. Carnes make much of a newspaper quote from Judge Johnson that Mr. Carnes would be a "good choice," the article was published in November 1991, long before the Senate Judiciary Committee delved into his record.

The Congressional Black Caucus and numerous civil rights groups are opposing him. At the head of the opposition is Democratic Rep. John Lewis of Atlanta, who helped shepherd the bill naming the courthouse through the House and who attended the Montgomery ceremony.

Mr. Lewis was no stranger to the Alabama state capital. In 1962, as a Freedom Rider, he first sat inside Judge Johnson's courtroom. And he was present again in 1965, when Judge Johnson ruled that the second Selma-to-Montgomery march should be allowed to go forward, saying: "It seems basic to our constitutional principles that the extent of the right to assemble, demonstrate and march peaceably along the highways and streets in an orderly manner should be commensurate with the enormity of the wrongs that are being protested and petitioned against. In this case, the wrongs are enormous." His application of the basic legal principle of proportionality to a constitutional injury set a precedent that expanded the role of law.

Judge Johnson's judicial career has also been notable for acts of personal courage. After enjoining the Klan in the Freedom Rider case, he for years received round-the-clock protection from federal marshals. He also received unrestrained and vituperative attacks from Gov. George Wallace, who said the judge needed "a barbedwire enema."

Before giving its consent to a successor to Judge Johnson, the Senate would do well to wait a few months until after the voters decide who they want to lead the nation—and appoint their judges. Worthy successors can be found.

[From the Fayetteville (NC) Observer-Times, June 8, 1992]

COLOR BLINDNESS

Most studies on the topic show that more than two-thirds of all Americans support capital punishment. A Washington Post/ABC News poll taken after the Rodney King verdict found that half of all Americans (and 89 percent of blacks) also feel that our criminal justice system treats whites and minorities differenity. There is no inconsistency there. Just because a citizen backs the death penalty, that doesn't mean he or she wants it imposed unfairly.

The people seem pretty savvy on the topic. Why, then, should they want a federal appeals judge who sees nothing wrong with systematically excluding blacks from juries in capital cases?

We have one, almost. His name is Ed Carnes, and one U.S. Senate vote stands between him and confirmation to the 11th U.S. Circuit Court of appeals. (It covers Alabama, Florida and Georgia.) President Bush has nominated Mr. Carnes to take the place of Judge Frank Johnson of Alabama, who at age 73 is taking senior status.

It's a poor exchange.

Judge Johnson courageously desegregated Montgomery's public transit system, and in more than two decades on the 11th circuit has handed down scores of other anti-discrimination rulings. Mr. Carnes, for the last decade, has been the Alabama assistant attorney general in charge of getting condemned prisoners executed upon appeal.

So far, fair enough. But in Mr. Carnes' testimony before the Senate Judiciary Committee, he testified that he does not think race discrimination affects the administration of capital punishment in Alabama or elsewhere.

This flies in the face of repeated studies showing that minorities, who are likely to be poorer than the average defendant, are prone to have hastily prepared or even slipshod defenses. Their conviction rates are wildly out of proportion to the general population's. This situation is compounded when minorities are systematically excluded from juries. Prosecutors in Alabama (and, assuredly, elsewhere) have done just that in many capital cases.

Mr. Carnes—who, by the way, has no judicial experience—looks at this picture and claims to see nothing wrong. The only conclusion that can be drawn is that either he really doesn't see it, or he does see it and lied to the committee. Either is a serious failing.

The Judiciary Committee approved the Carnes nomination. That leaves the full Senate, which should either reject Mr. Carnes or let the nomination die a quiet death. The American people deserve better.

[From the Washington Post, Apr. 28, 1992]

LESS THAN THOROUGH SEARCH FOR JUSTICE

(By Colman McCarthy)

ATMORE, Ala.—A weather-beaten sign to the left of the double-door entrance to Holman State Prison announces: "All persons entering this prison will be subject to a thorough search." Further down: "The staff of Holman Prison hopes you enjoy your visit."

For the thoroughly searched coming to see their loved ones on death row, the hopes aren't likely to be fulfilled. Alabama's condemned prisoners number 117, most awaiting death here in Atmore, a rural town near the Florida line. The maximum security prison, far back in some scrublands dissected by a shoulderless country road, houses a death row with a disproportionate number of black inmates.

Since 1980, less than 5 percent of Alabama's murders involved blacks who killed whites, while four out of the nine post-1976 executions resulted from convictions for black-on-white homicides. More than 60 percent of Alabama's murder victims are black, while the overwhelming number of death row prisoners killed whites. This racially applied standard prevails in other southern death houses—including Texas, Florida and Louisiana—where most executions have occurred.

Holman prison—part of a state system rated the worst in the country in 1976 when it was declared unconstitutional—cages a large number of prisoners who had the ill fortune of crossing paths with Edward Carnes, Alabama's assistant attorney general in charge of death penalty litigation since 1980. Carnes, who has overseen eight of the nine executions, is the state's leading specialist in killing killers. His unrivaled zeal for electrocuting people who are poor, mostly black and usually uneducated put him in fine favor with the Bush administration. In January, its judicial talent scouts nominated Carnes to serve on the U.S. Court of Appeals for the 11th Circuit, which includes Alabama.

Earlier this month, the Senate Judiciary Committee, after hearing civil rights and human rights groups argue that Carnes was dismally unqualified, postponed what might have been a routine vote until at least April 30.

The delay allows the committee, as well as the full Senate, to go beyond a mere spot-check hearing that takes the word of Alabama's Sen. Howell T. Heflin (D) that Carnes, 41, is a fine young fella. It also allows opposition to Carnes to be seen as much broader than only the arguments advanced by anti-death-penalty groups that would speak out against any nominee who favors executions.

The issue is how Carnes favors killing prisoners, not why. His legal passion for securing capital convictions is traceable to Alabama's death penalty law. He wrote it, in 1981 when 30 years old. One feature of that law is allowing trial judges to demand an execution by overriding a jury sentence of life imprisonment. One-fourth of Alabama's death row inmates are override cases.

Another part of Carnes' law—the Alabama "legislature did not change one word in it," he bragged to the Senate Judiciary Commit-

tee in 1990—is that it does not prevent prosecutors from trying to select juries based on race. Julius Chambers of the NAACP Legal Defense and Educational Fund, who opposes Carnes's nomination, told the committee of a homicide case now being appealed. At the trial stage in Chambers County, Ala., "the prosecutor divided the jury list into four categories. Three categories were reserved for white jurors, and they were divided under the headings of 'strong,' 'medium' and 'weak.' The fourth category was for the black jurors, and their names were separately typed under the heading of 'black.'"

To Julius Chambers, this defendant was owed a fair trial, but the state "instead deliberately gave him a crooked one."

A judicial philosophy favoring capital punishment can be, and is, held by conscientious judges and prosecutors. Carnes is different. He has less a philosophy than a record of smart-mouth statements that reveal both his arrogance and his biases.

"Under Alabama law, you can't execute someone who is insane. You have to send him to an asylum, cure him up real good, then execute him."

"The problem defendants have is that 99.9 percent are guilty as hell."

On whether courts favor prosecutors in capital trials: "Hell no. The system is tilted in favor of the damn defendant."

Carnes has one other large minus on his record. He is being nominated to the federal appeals court without a day's toil as a judge. Total inexperience aside, he is a specialist on only death row law. Why that should distinguish him has yet to be explained.

[From the Wilmington (DE) News Journal, Apr. 20, 1992]

THIS DEATH PENALTY ADVOCATE SHOULD NOT MAKE FEDERAL JUDGE

(By Edward Carnes)

The Senate Judiciary Committee, under chairman Joseph R. Biden Jr., D-Del., has paused to ponder whether it should elevate Edward Earl Carnes of Alabama to the U.S. Circuit Court.

Ponder it should, Mr. Carnes is the Alabama deputy attorney general whose specialty is getting the death penalty carried out in the state. As an agent of death, he has been quite successful. Alabama's death penalty law, written and successfully used by Mr. Carnes, is one of the toughest in the nation, allowing a judge to overrule a jury recommendation against death. (Delaware also allows judicial override).

His conservatism is such that he has defended the right of prosecutors to use their powers to exclude jurors suspected of opposing the death penalty, even if they all happened to be black and the case involved a black suspect. He is an advocate of lessening the role of the federal courts in death penalty appeals.

His proponents are quick to point out that Mr. Carnes is personally a progressive on racial issues, refuses to belong to segregated clubs and has prosecuted judges for discriminatory behavior.

That is all to the good, but the federal Circuit Court is where doomed prisoners appeal for a review of their cases. Putting a man with Mr. Carnes' conviction on that bench would remove a critical check from the system.

He should not be confirmed.

[From the Atlanta Constitution]

A SHAMEFUL JUDICIAL APPOINTMENT

(By Nat Hentoff)

At the end of a recent speech, Justice Harry Blackmun asked rather plaintively where today's heroes are. It's hard to think of one in any field. Mine, 30 years ago, were Duke Ellington, A.J. Muste, I.F. Stone and Dorothy Day. There was also, in the 1960s, a federal judge in Alabama, Frank Johnson. He was one of the few jurists in the South who scorned threats, hate mail and ostracism as he kept doing the right thing under the Constitution.

In 1956 Johnson was one of two judges on a three-judge panel that struck down bus segregation in Montgomery, Ala., as unconstitutional. In the 1960s, he sentenced the murderers of civil rights worker, Viola Liuzzo, to 10 years. It was all he could do, for that was the maximum. Year after year, Frank Johnson made consistently fair rulings in the face of opposition or silence from organized religion, the bar and, of course, the indignant racists.

Then and now, Frank Johnson had no taste for euphemism. In his valuable history of the civil rights movement, "Free at Last?" (Little, Brown), Fred Powledge quotes the judge years later: "Most people who talked about state's rights were equating the term with racial discrimination. . . . That's what states' rights meant in Alabama at that time. . . . And that's what states' rights, to some extent, still means." As a civil rights worker said, "Frank Johnson was one who ruled against the mores of his own surroundings and survived."

But last fall, Frank Johnson retired from active service on the 11th Circuit Court of Appeals. In his place, the president of United States, on the recommendation of his Justice Department—which is now more ideological than ever—made what the Atlanta Constitution accurately describes as "a shameful judicial nomination." The replacement for Frank Johnson is Edward E. Carnes. He has had no judicial experience, but Carnes is an expert at sending people to their deaths in Alabama's yellow electric chair, affectionately known by some as "Yellow Mama."

Since 1981, Carnes has been head of the Capital Litigation Unit for the attorney general's office in Alabama, and has been responsible for eight executions. Six of the doomed have been black. Stephen Bright, director of the Southern Center for Human Rights in Atlanta, notes that one of those executed was "Horace Dunkins, a mentally retarded African American who was represented by a lawyer so incompetent that the jury was never told that Dunkins was mentally retarded. Another execution was that of Herbert Richardson, an African-American veteran of the Vietnam War. Edward Carnes sent glossy color pictures of the victim in the case's bloodied body and head wounds to [all 12 judges on] the U.S. Court of Appeals before any appeal was even pending in that court in his successful effort to bring about Richardson's execution in 1989."

Carnes thoroughly enjoys his work. He told the Birmingham News: "Sometimes I can't believe I'm paid to do this. . . . It's interesting, challenging work." And he sees the whole picture. The Atlanta Constitution pointed out that as head of the capital prosecution unit, Carnes "has blocked Alabama from contributing to support the federally funded resource center that gives legal help to indigent murder defendants in Alabama. Alabama is the only state in the 11th circuit not to provide such funding." But Barnes is pushing for federal funds for his own capital prosecution unit.

A man of prodigious energy, Carnes has also been active before congressional committees and elsewhere in Washington as an ardent advocate of habeas corpus "reform"—a crusade that did him no harm within the Bush Justice Department. This "reform" would mean the virtual abolition of federal habeas corpus review of criminal cases. In the Fulton County Daily Report, a newspaper about the law, reported Liza Kaufman recently interviewed a former Frank Johnson law clerk for an article titled, "Carnes: Alabama's Mr. Death Penalty." The former colleague said that Johnson is personally opposed to the death penalty but does not believe it is invariably unconstitutional, and he is particularly concerned that it be applied fairly—defendants should be given the financial resources to get competent attorneys.

Carnes, on the other hand, has not only blocked such funds for Alabama's prospects for "Yellow Mama" but has pridefully written the state's death penalty law, which George Kendall of the NAACP Legal Defense Fund says is one of the worst in the nation. It allows a judge to overrule a jury's sentence of life imprisonment and impose death. Nearly a fourth of the 115 people on Alabama's death row initially received life sentences, but, under the Carnes law, their judges proceeded to give them the Black Spot.

"I find it to be an interesting commentary on the times," says Stephen Bright, "that what brings a person to the attention of the Justice Department is someone whose entire professional life is devoted to the execution of poor people."

[From Fulton County Daily Report, Apr. 29, 1992]

CLASHING OVER THE CARNES NOMINATION

(By Brent E. Newton)

In a single episode, I have lost the two heroes of my youth: Frank M. Johnson and Morris Dees. Both hail from Montgomery, Ala., as do I. Over the past three decades both have been instrumental in bringing about positive change in Alabama through their chosen profession, the law.

Judge Frank M. Johnson was recently lost to retirement. After three decades of reforming Southern schools, prisons, and mental asylums and otherwise spreading enlightenment in a place sorely in need of it, Johnson retired to senior status on the 11th Circuit. In doing so, he afforded George Bush yet another judicial nomination. Morris Dees, perhaps the best-known Southern civil rights lawyer alive today, is the founder of the Southern Poverty Law Center, an organization that over the years has served as a clearinghouse for death penalty defense and civil rights cases. He has been lost in connection with Bush's nomination of a replacement for Johnson.

What has caused my sorrow and disillusionment is the fact that Dees has unexpectedly and inexplicably spent the last two months shepherding Bush's 41-year-old nominee, Judge Edward E. Carnes, through the confirmation process. The principal mission of Carnes' career has been to advocate sending inmates to Alabama's electric chair. His zealous advocacy as head of the Alabama attorney general's capital litigation division for more than a decade has earned him a variety of unsavory nicknames: "Dr. Death," "Mr. Death Penalty" and "the Prince of Death." My reasons for opposing Carnes, however, are not limited to his religious devotion to capital punishment.

Before I proceed any further, perhaps I should reveal the perspective from which I am writing. I am an aspiring civil rights lawyer and, as noted a native Alabamian.

Throughout my childhood, Dees and Johnson were household words in my liberal Alabama home. Dees even successfully represented my father in a controversial civil liberties action in the '60s in front of Johnson, then a federal district court judge. In an impassioned essay on my role models that I wrote in college for the Harry S Truman Scholarship, I told of the profound influence that Dees and Johnson had on my life. After my first semester of law school, my father took me by the Southern Poverty Law Center to meet my idol, Dees, in the flesh. While I've all along known of Dees' reputation as being somewhat quixotic. I never could have imagined that he would make Ed Carnes one of his causes.

In my view, Ed Carnes is everything Frank M. Johnson is not. First, and foremost in distinguishing Carnes is his record on civil rights. In recent congressional testimony, Carnes successfully argued against the proposed 1991 Racial Justice Act, which sought to overturn the highly criticized Supreme Court decision in McCleskey v. Kemp, 481 U.S. 279 (1987). In McCleskey, the court-ignoring Johnson's powerful appeals court dissent—affirmed the 11th Circuit's refusal to allow the use of compelling statistical evidence of gross racial discrimination in a disparate impact challenge to Georgia's death penalty.

That well over half of Alabama's death row is black and that two-thirds of those actually executed in Alabama during Mr. Carnes' tenure have been black—while the state is only one-quarter black—explain Carnes' opposition. An even more telling figure is that during Carnes's tenure, almost half of the executions were for black-on-white murders, while annually only 4 percent of all murders in Alabama are black-on-white. As the president of the Alabama NAACP recently argued in her testimony before the Senate Judiciary Committee. Carnes has been at the helm of an institution that has severely devalued the worth of black life in Alabama.

In his autobiography, A Season for Justice, Dees devotes substantial attention to the death penalty, which he refers to as "state-sanctioned murder." He noted with alarm the statistical disparities between the races in the implementation of capital punishment between 1930 and 1970. Surely Dees, a man who has handled more than 50 death penalty cases since Gregg v. Georgia, is today not unaware of racial inequities that have continued unabated in the last fifteen years.

Dees is also familiar with the racism endemic in the jury selection process in the South, particularly in capital cases—an issue he specifically discusses in his autobiography. In coming out so strongly for Carnes, Dees must have been unaware that Carnes is directly implicated in the extremely widespread practice by Alabama capital prosecutors of using peremptory strikes as a means of excluding potential black jurors, particularly in black-on-white murder cases. The Supreme Court in Batson v. Kentucky, 476 U.S. 79 (1986), squarely held that the discriminatory use of peremptories by a prosecutor was a violation of the 14th Amendment. Either as an attorney-of-record or through lawyers in his capital litigation division, Carnes has fought defendants' Batson challenges on appeal in well over 20 cases where district attorneys at trial used peremptories in a blatantly racist fashion.

A representative case is Jefferson v. State, CC-81-77 (Chambers Sup. Ct., pending), which Carnes has been personally handling. At trial, the prosecutor used peremptories to remove 26 of 26 potential black jurors, after dividing jurors into four groups; "strong," "medium," "weak" and "black." The division has lost many similarly egregious Batson cases on the merits. In the cases he has won, Carnes has typically prevailed by raising legal technicalities such as procedural default bars so that courts cannot even reach the merits of racism claims. Tellingly, in at least two cases where Batson violations were found, the judge who rejected Carnes' division's claims that no racism existed was John Patterson, the man who "outniggered" George Wallace (to quote the latter.)

Carnes, feeling the heat, has attempted to wash his hands of responsibility for the racism so evident in the administration of the death penalty in Alabama. It's simply his job zealously to defend on appeal all death penalty convictions, he argues. This facile argument papers over a critical issue that directly speaks to Carnes' fitness to sit as a federal judge. Carnes ignores the cardinal principle that a government prosecutor—much like a judge—is charged with doing justice rather than merely securing convictions, as the Supreme Court held in Berger v. United States, 295 U.S. 78 (1935). Especially in view of what was at stake in these cases, Carnes should have settled obvious Batson violations on appeal rather than fighting them. Indeed, regarding another matter discussed below, Morris Dees has praised Carnes for his willingness on appeal to disagree with the positions taken at trial by county prosecutors.

Carnes and his supporters have tried to head this criticism off at the pass by claiming that Carnes is not only not a racist, but is actually "good" on civil rights. Dees in particular has been indispensable in persuading Democrats on the Judiciary Committee. He has repeatedly stated that Carnes has an "outstanding record on civil rights." Dees wrote in a piece in The Washington Post on April 4, "Carnes has been particularly sensitive to minority concerns."

Dees makes much ado about the fact that Carnes prosecuted two racist state judges for ethical violations. Indeed, he did this, but that was Carnes' job. The only other significant area of work that Carnes has handled while in the Alabama AG's office (besides death penalty work) has involved his position as counsel to Alabama's judicial disciplinary commission. In addition to his prosecution of the two judges for ethical violations, Carnes has also prosecuted sixteen other disciplinary cases that have had nothing to do with racism.

Dees also cites the fact that Carnes helped prosecute the murder case of one of those responsible for the horrible 1964 Birmingham church bombing. Once again, Carnes did nothing supererogatory. While I am well aware as a native Alabamian that the standard for what qualifies as racially-enlightened in Alabama is considerably lower than other parts of the country, the appropriate benchmark in this particular case is immensely higher. It is Frank M. Johnson.

Similarly, Dees and Carnes have also repeatedly made a point of arguing that the latter is qualified because he does not belong to the segregated Montgomery Country Club and because he has never made any "racially insensitive remarks." Again, praise for such things mandated by any objective standard of decency seems to be grasping at straws. Moreover, my cursory research in Carnes' press coverage has revealed at least one "racially insensitive" statement he made. In his Dec. 31 1990, interview with the National Law Journal about a portrayal of noted attorney Alan Dershowitz's defense of an Alabama capital defendant, Carnes had this to say: "They're trying to make Dershowitz seem as if he only takes money to help poor blacks in the South. We've got 110 on death row. We'll give him somebody to represent. We'll even give him a black."

Carnes has also manipulated the race issue in statements made in his hard-fought efforts to have Batson applied to criminal defense lawyers as well as prosecutors. In this very term the Supreme Court is deciding the issue. Carnes has been the leading advocate of this extension; in an unprecedented move, he even rallied 45 states' attorneys general to sign a joint certiorari petition. In numerous press interviews since 1988, Carnes has stated that he has "all along [supported] the principle . . . that blacks have a right to participate in the [jury] process" (National Law Journal, June 5, 1989). In a Dec. 31, 1988, interview with the New York Times about applying Batson to defense attorneys, Carnes stated that "[i]t simply adds insult to injury, to say that our justice system can discriminate against blacks on the same basis as the Klan has all these years." This is the same Ed Carnes whose capital litigation division has on appeal been an apologist for countless racist prosecutors who have blatantly violated Batson.

Nor is Carnes objectionable only on account of his record on race, which has led the NAACP and SCLC to come out adamantly against him. Carnes also has a questionable ethical record. Professor Monroe Freedman, one of the nation's leading ethicists, in an April 20 Legal Times article has raised grave ethical concerns about Carnes' overreaching as a capital prosecutor. Dees, on the other hand, has repeatedly lauded Carnes' "fairness" and "integrity" as a death penalty prosecutor.

In particular, Dees points to Carnes' recent request—quite unpopular among Alabama district attorneys—that prosecutors at capital trials fully comply with the spirit of Brady v. Maryland, 373 U.S. 83 (1963). In that case, the court required that prosecutors should upon request make available exculpatory evidence to the defense. Dees is apparently unaware that Carnes' policy has nothing to do with any ethical imperative. In Ex Parte Mont 557 So.2d 832 (Ala.Crim.App. 1989), a case that offers extensive discussion of Carnes' Brady policy, the court repeatedly recognized that Carnes' recommendation "was for the purpose of reducing the likelihood of post-conviction litigation and reversals on Brady grounds." Thus, the desire to expedite executions, not ethics, motivated Carnes.

Another objection is the integral role Carnes has played in keeping Alabama's funding of indigent capital defense in the very dregs among the 50 States. Frequently, Alabama court-appointed lawyers make little better than the minimum wage. Carnes' response, as quoted in USA Today, June 4, 1990: "If a guy gets effective representation, what does it matter whether the attorney got $10 per hour or $100 per hour?" His cavalier attitude and assumption of constitutionally "effective" representation in Alabama capital cases are deeply troubling. Horror stories about the incompetent representation provided by Alabama court-appointed capital defense attorneys abound. (See "Fatal Defense," National Law Journal, June 11, 1990.)

In a recent case the judge during the trial sent a drunken defense lawyer to jail to sober up. The lawyer returned the next day; defying no one's expectations, his client was

sentenced to death. In another case, Carnes fought successfully in the execution of a mentally retarded black capital defendant, whose trial lawyer never even mentioned his client's retardation to the jury. A juror who discovered this fact only after trial pleaded that the retarded man be spared, but to no avail.

Carnes has frequently dismissed such criticism. Of the 80-plus witnesses who testified in front of a ABA hearing in 1989 on the crisis state of indigent defense, Carnes sharply broke with the otherwise overwhelming consensus that some reform was necessary. With a straight face, he assured an ABA committee that in his opinion, Alabama capital defendants received "excellent legal representation" from their court appointed lawyers. "I would take strong exception to anyone who contends to the contrary," he added.

Similarly, Carnes has been a strong proponent of the totally unrealistic and highly criticized Sixth Amendment ineffective assistance standard set forth in Strickland v. Washington, 466 U.S. 668 1984), even writing an amicus curiae brief when Strickland was in the lower courts. Again in opposition to Carnes, Judge Johnson in the appeals court learned that the position eventually taken by the courts would be, "[p]articularly in death penalty cases[.] . . . to abandon our duty as judges to assure that all defendants . . . receive full due process protections and effective assistance of counsel". (693 F.2d at 1284.) Exploiting the incredibly high legal hurdle defendants must jump in ineffective assistance cases, Carnes points out the fact that there have been relatively few Alabama capital cases in which courts have found trial lawyers ineffective under the Sixth Amendment. That tells me that people are getting constitutionally effective counsel" (National Law Journal, June 11, 1990).

Interestingly, in his autobiography, Dees noted a talk he had given to then President Carter about the death penalty: "I explained that minorities, mainly blacks, bore the brunt of this penalty, and that states were not willing to provide adequate counsel to poor people." Moreover, Dees' Southern Poverty Law Center has since 1981 been involved in litigation challenging Alabama's system of funding indigent defense. A statewide class-action suit has been seriously considered as recently as 1990 (National Law Journal, June 11, 1990).

Suddenly, in 1992, Dees comes to Carnes' defense. Dees points to the fact that Carnes, after nearly a decade since Dees first filed suit challenging indigent funding, finally capitulated and allowed the state Legislature to increase the antiquated $1,000 cap on what the state would pay its court-appointed capital lawyers for pre-trial work. Out-of-court preparation, of course, is 90 percent of any effective capital defense. What Dees ignores is that today's $2,000 cap, which has merely kept pace with inflation since the early '80s, remains grossly inadequate by any objective standard. Dees also apparently forgets that it was Carnes himself who successfully opposed Dees' motion for state funds to pay for psychiatric expert testimony for an indigent capital defendant whom Dees represented in the '80s. Whisenhant v. State, 482 So.2d 1225 (Ala. Crim. App. 1983).

Dees also ignores that Carnes has shown an inhumane view about the execution of the insane, the mentally retarded and juveniles. In an interview about the stay of an execution of an inmate who alleged insanity, Carnes made this statement, "Under Alabama law you can't execute someone who is insane. *You have to send him to an asylum, cure him up real good, then execute him*" (emphasis added). Evincing a total lack of understanding of the inherent inhumanity of executing the mentally retarded, Carnes defended the 1989 execution of a retarded man by arguing that "there is no indication [that the retardation of the inmate] played any role in his crime" (New York Times, July 13, 1989).

Carnes' callous attitude toward the mentally disabled stands in stark contrast to Judge Johnson, who is credited with single-handedly reforming the primitive mental health system that existed in Alabama before Johnson's landmark decision in Wyatt v. Stickney, 334 F. Supp. 1341 (M.D. Ala. 1971). Carnes' supporters, including Dees, have argued that Carnes' decency shone through when he agreed that Alabama courts should comply with a 1989 Supreme Court decision that held that it was unconstitutional to sentence to death a child under 16. Yet they ignore an earlier case that Carnes personally handled on appeal in which a 15-year-old (with an I.Q. of 76) was sentenced to death. Potts v. Siuk, 426 So.2d 886 (Ala. Crim. 1982).

Carnes and his supporters have until quite recently been successful in packaging the nominee as an ethical, fair-minded, racially-enlightened prosecutor who would be an ideal replacement for Frank M. Johnson. The local Alabama press has described Carnes as a "man of integrity" and a born-again Christian whose real love (just like judge Johnson) is growing roses. Dees, who fought Alabama's death penalty as hard as anyone a few years ago, portrayed Carnes' detractors as a small coterie of "single-issue" anti-death penalty lawyers whose opposition to Carnes is entirely animated by their "visceral" opposition to the death penalty. While Carnes is now recognized as a "controversial nominee," according to Sen. Biden, the Judiciary Committee chairman also says that he is quite impressed that Morris Dees has come out so strongly in favor of Ed Carnes. The vote is scheduled for the end of April. As things stand—amazingly—Carnes will likely secure a majority of the Senate.

When I first heard that Morris Dees had not only praised Ed Carnes, but also intensively lobbied leading Alabama black civil rights leaders, published his unequivocal support in the Atlanta Constitution and The Washington Post, and even flew to Washington to lobby and testify on behalf of Ed Carnes, I was absolutely stunned. Ironically, I am reminded of the title of a book written about Frank M. Johnson and other liberal Southern judges appointed by Republican President Eisenhower, Unlikely Heroes, by Jack Bass. The title makes reference to the fact that men such as Johnson confounded conservatives expectations and, in doing so, emerged as heroes. In my eyes, Morris Dees has in this instance similarly belied all preconceptions and, in an equally unlikely manager, emerged unheroic.

Mr. BIDEN. Mr. President, I yield 4 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in opposition to the nomination of Ed Carnes, but I want my colleagues to understand that we think that every Member of this body ought to vote to proceed forward. We will debate this confirmation issue at full length when we return after the recess.

So I hope that every Member of this body will see fit to move forward so we can get into the real substance of the debate when we come back.

I am opposed to the nomination of Ed Carnes. He has been nominated, as has already been stated, for a seat on court of last resort for virtually all Federal cases filed in Alabama, Georgia, and Florida.

Mr. Carnes has been nominated to fill the seat occupied by Judge Frank Johnson, a man whose courage, fairness, and commitment to equal justice has been unsurpassed among Federal judges. He stood up for racial equality when it was unpopular, and even dangerous, to do so. He respected—and protected the rights of African-Americans when it was unpopular, and even dangerous to do so.

A few months ago, an article in an Alabama newspaper contained a brief quote from Judge Johnson on this nomination. Supporters of Mr. Carnes construed that quote as indicating Judge Johnson's support for the nominee. I called Judge Johnson about this nomination as did other members of the Judiciary Committee. He indicated that he does not support this nomination; nor does he oppose it. Judge Johnson stated that he does not believe it is appropriate for a member of the bench to comment upon a pending judicial nomination. I respect that viewpoint.

It is my hope that this clarification of Judge Johnson's position—the fact that he neither supports nor opposes this nominee—will prompt my colleagues to take a close look at the nominee's record.

Mr. President, no one can replace Frank Johnson. But it was my hope that the President would send up a person whose life and legal career demonstrated a commitment to equal justice similar to Judge Johnson's. It was my hope that the President would recognize the important historical role that this seat on the court has played in vindicating the rights of African-Americans. Indeed, it was my hope that the President would fill Frank Johnson's seat with a nominee whose career displayed a deep respect for the spirit of the Constitution and a zeal to protect the rights of all Americans, even those who are unpopular or despised by the majority.

The President has nominated a man who has spent most of his career doing what?—Working vigorously to make it easier for the Government to execute its citizens.

The President has nominated a man whose record and statements suggests that he simply does not grasp the fundamental importance of ensuring that the criminal justice system is impartial and untainted by racial bias.

There are at least a half-dozen instances in which Mr. Carnes' office defended death sentences imposed by all-white juries against African-American defendants even though there was con-

siderable evidence that the prosecutors in those cases had intentionally and improperly excluded blacks from the jury.

Ed Carnes also has stated repeatedly in the face of ample evidence to the contrary that there is no racial discrimination in the administration for the death penalty in this country.

This is the man who was just quoted recently in the Washington Post as saying, "The problem defendants have is 99.9 percent of them are guilty as hell * * *. The jury that hears the facts is going to give a death sentence."

Is that a man who belongs on the circuit court of appeals?

Ed Carnes has led the fight against congressional efforts to address and alleviate racial discrimination in the capital sentencing process.

Mr. President, This is a controversial nomination. Mr. Carnes is opposed by the NAACP, the NAACP Legal Defense Fund, the Congressional Black Caucus, the Southern Christian Leadership Conference, Coretta Scott King, as well as other groups and individuals that have been at the forefront of the fight for equal justice.

At this point, Mr. President, I ask unanimous consent that two editorials from the Atlanta Journal, "Stop Carnes Nomination," and another one, "Hold up the Carnes Nomination," be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. METZENBAUM. Mr. President, Mr. Carnes' opponents are particularly concerned about the nominee's willingness to defend death sentences imposed upon African-American defendants by all-white juries whose selection was stained by racial bias.

Mr. Carnes' supporters will say that in those cases the nominee was simply doing his job as the head of Alabama's capital litigation unit. Some will say that Mr. Carnes was simply fulfilling his obligation to act as a zealous advocate on behalf of the State's interest in carrying out executions imposed by Alabama juries. I cannot accept that, Mr. President.

Nor can I see how Mr. Carnes' narrow experience as a zealous advocate for the death penalty renders him suitable for a seat on the Eleventh Circuit Court of Appeals. It is not the role of a Federal judge to be a zealous advocate for the death penalty—or for any other legal issue. It is, instead, the role of Federal judge to uphold the Constitution and dispense justice fairly and even-handedly.

It is also the role of a Federal judge to strengthen and reinforce the confidence and the impartiality of our system of justice.

Mr. President, I ask unanimous consent that in addition to the other items which have been included in the RECORD an editorial from the National Law Journal, "Carnes Is No Champion of Racial Justice," another article from Colman McCarthy, "Less Than Thorough Search for Justice," and another article, "A Worthy Successor He is Not," and that from the National Law Journal article by Jack Bass.

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

EXHIBIT I

[From The Atlantic Constitution, July 31, 1992]

STOP CARNES NOMINATION

Earlier this week, Senate Majority Leader George Mitchell (D-Maine) announced he would call for a vote on the nomination of Alabama assistant attorney general Ed Carnes to the 11th circuit court of appeals. Mr. Carnes does not deserve this seat, nor is there any good reason for Mr. Mitchell to put this nomination to a vote now.

The 13 U.S. courts of appeals are effectively courts of last appeal for 99 percent of federal litigants. While the Supreme Court heard some 100 cases last term, the appeals courts decided 41,000.

Having spent his entire career prosecuting death-penalty cases for the state of Alabama, Mr. Carnes possesses an extremely limited range of experience for so important a job. He has also turned a singularly blind eye toward evidence of racial bias and constitutional violations in the criminal justice system.

In defending capital cases on appeal, Mr. Carnes has steadfastly ignored manifest evidence of bias by local prosecutors. Worse, he has taken a leading role in the contemptible national campaign to eviscerate federal habeas corpus, the means by which defendants can bring alleged violations of their constitutional rights to federal court.

A united front of civil rights organizations is opposing Mr. Carnes's nomination. So why has Mr. Mitchell decided to push it forward?

The only apparent explanation is deference to Alabama's senior senator, Howell Heflin. But Mr. Heflin and the rest of Alabama's mostly white Democratic establishment cannot be permitted to prevail.

Of 32 appointments to courts of appeals, George Bush has managed to find but a single African-American worthy of nomination—Clarence Thomas, who was appointed to the D.C. circuit shortly before being elevated to the Supreme Court. But consider, in the present case, the chief judge of the U.S. District Court for the middle district of Alabama.

Appointed by President Jimmy Carter, Judge Myron Thompson has performed brilliantly on the bench. He would be a truly worthy successor to Frank Johnson, the giant whose seat on the 11th court is being filled.

Critical to stopping the Carnes nomination is Sen. Wyche Fowler, who sits high in the Senate leadership and represents one of the states of the 11th circuit. But despite his longstanding support from black voters, Mr. Fowler has lain low.

Here's a senator who is supposed to stand for the South at its racially most progressive, and there hasn't been a peep from him on the Carnes nomination.

With Democratic presidential nominee Bill Clinton's campaign on its currently promising course, Mr. Fowler should recognize that the cause of justice in the United States is not served by the Senate continuing to approve dubious Bush nominees to the federal bench. And in his own campaign for re-election, Mr. Fowler should recognize that Georgians expect their senators to stand up and be counted.

[From The Atlanta Journal, May 3, 1992]

HOLD UP THE CARNES NOMINATION

If the Rodney King verdict has demonstrated anything, it is that black Americans have good reason to distrust the workings of our criminal justice system. For that reason, special care needs to be taken to ensure that judges be as vigilant as possible against racially discriminatory justice.

This brings us to the case of Alabama Assistant Attorney General Ed Carnes, whom President Bush has nominated to a seat on the 11th U.S. Circuit Court of Appeals. Mr. Carnes, who has no prior judicial experience, has spent his career prosecuting death penalty cases for the state of Alabama.

Mr. Carnes has attempted to portray himself as a staunch defender of racial justice. To that end, he cites his prosecution of two state judges for racist behavior. Be it noted, however, that he did this simply at the behest of the state Judicial Inquiry Commission.

Meanwhile, Mr. Carnes has turned the blindest of eyes to the kind of racial discrimination that gets black defendants sentenced to death in Alabama. He has, for example, personally defended many cases in which Alabama prosecutors systematically excluded African-Americans from juries in capital cases.

Yet, at his April 1 confirmation hearings before the Senate Judiciary Committee, Mr. Carnes blandly asserted that racial discrimination does not exist in Alabama's criminal justice system. He also said that, in defending the prosecutors, he was just following orders.

Indigent black defendants are very often convicted of capital crimes as a result of violations of their constitutional rights to counsel, due process and a fair trial. Mr. Carnes's special claim to fame has been in devising technical reasons for courts to throw out appeals of death sentences. Indeed, no one deserves more credit than he for rationalizing the current evisceration of the federal writ of habeas corpus, under which such appeals are filed.

At the urging of Sen. Howell Heflin (D-Ala.), Mr. Carnes's nomination has been pushed ahead of other judicial nominees. There is reason to suspect that Mr. Heflin acted in the face of mounting opposition to Mr. Carnes's nomination.

The National Association for the Advancement of Colored People has asked that additional hearings be scheduled to allow for a further examination of Mr. Carnes's record. That is the least the Senate Judiciary Committee should do.

[From the National Law Journal, Aug. 3, 1992]

CARNES IS NO CHAMPION OF RACIAL JUSTICE

The portrayal of Ed Carnes, the Alabama assistant attorney general nominated to replace Judge Frank Johnson on the 11th U.S. Circuit Court of Appeals, as a foe of racial discrimination by Morris Dees (Letters, NLJ, July 27) is preposterous. It is based on a selective and distorted rendition of the facts.

Mr. Carnes has repeatedly defended the pervasive practice of Alabama prosecutors using their peremptory jury strikes to exclude blacks from case after case involving black defendants. In his last brief to the

court to which he has been nominated, he asked it to overturn a finding of racial discrimination in the case of a black woman sentenced to death by an all-white jury after the prosecutor had struck all 12 black citizens from the venire panel.

Through his actions, Ed Carnes has sent a message to Alabama prosecutors that their racial discrimination would be defended, no matter how blatant. Even where a prosecutor divided jurors into lists of "strong," "medium," "weak," and "black," and used 26 strikes against black citizens to obtain all-white juries, Mr. Carnes' Capital Litigation Division argued to uphold the death sentence. Even though racial discrimination in jury selection long has been illegal, not once did Mr. Carnes question the routine defense of such practices.

Mr. Carnes' support for applying the *Batson* rule to defense strikes proves nothing. Virtually every prosecutor in the country urged the same thing.

Despite his personal involvement in defending racial discrimination, Mr. Carnes told the Judiciary Committee that there was no racial discrimination in the imposition of the death penalty in Alabama and that racial exclusion from juries did not necessarily deny fundamental fairness.

It is because of his support for racial discrimination that the Carnes nomination has been opposed by both the leaders and membership of the Alabama National Association for the Advancement of Colored People, the Birmingham chapter of the Southern Christian Leadership Conference, the Alabama New South Coalition and the Magic City Bar (the minority association) of Birmingham as well as national NAACP, the Congressional Black Caucus, the Rev. Jesse Jackson, Dr. Joseph Lowery and other civil rights leaders in Alabama and the nation.

Finally, it is disingenuous of Mr. Dees to suggest that Carnes is "not a Republican hack" because he has been supported by some Alabama Democratic officeholders, a group that is often 10 degrees to the right of the national Republican party. Alabama's Democratic senators would deny Bill Clinton, if elected President, the possibility of appointing a worthy successor to Judge Johnson, such as Chief Judge Myron Thompson of the U.S. District Court in Montgomery, a black jurist who attended Yale Law School with Mr. Clinton.

As stated by Sen. Bill Bradley, D-NJ: "The confirmation of Ed Carnes would send a disturbing message to African-Americans and others that our government has learned nothing from the Rodney King verdict. It would signal that racial exclusion in the justice system is not only tolerated but also rewarded."—Stephen B. Bright, Southern Center for Human Rights, Atlanta.

[From the Washington Post]

LESS THAN THOROUGH SEARCH FOR JUSTICE

(By Colman McCarthy)

Atmore, Ala. A weather-beaten sign to the left of the double-door entrance to Holman State Prison announces: "All persons entering this prison will be subject to a thorough search." Further down: "The staff of Holman Prison hopes you enjoy your visit."

For the thoroughly searched coming to see their loved ones on death row, the hopes aren't likely to be fulfilled. Alabama's condemned prisoners number 117, most awaiting death here in Atmore, a rural town near the Florida line. The maximum security prison, far back in some scrublands dissected by a shoulderless country road, houses a death row with a disproportionate number of black inmates.

Since 1980, less than 5 percent of Alabama's murders involved blacks who killed whites, while four out of the nine post-1976 executions resulted from convictions for black-on-white homicides. More than 60 percent of Alabama's murder victims are black, while the overwhelming number of death row prisoners killed whites. This racially applied standard prevails in other southern death houses—including Texas, Florida and Louisiana—where most executions have occurred.

Holman prison—part of a state system rated the worst in the country in 1976 when it was declared unconstitutional—cages a large number of prisoners who had the ill fortune of crossing paths with Edward Carnes, Alabama's assistant attorney general in charge of death penalty litigation since 1980. Carnes, who has overseen eight of the nine executions is the state's leading specialist in killing killers. His unrivaled zeal for electrocuting people who are poor, mostly black and usually uneducated put him in fine favor with the Bush administration. In January, its judicial talent scouts nominated Carnes to serve on the U.S. Court of Appeals for the 11th Circuit, which includes Alabama.

Earlier this month, the Senate Judiciary Committee, after hearing civil rights and human rights groups argue that Carnes was dismally unqualified, postponed what might have been a routine vote until at least April 30.

The delay allows the committee, as well as the full Senate, to go beyond a mere spot-check hearing that takes the word of Alabama's Sen. Howell T. Heflin (D) that Carnes, 41, is a fine young fella. It also allows opposition to Carnes to be seen as much broader than only the arguments advanced by anti-death-penalty groups that would speak out against any nominee who favors executions.

The issue is how Carnes favors killing prisoners, not why. His legal passion for securing capital convictions is traceable to Alabama's death penalty law. He wrote it, in 1981 when 30 years old. One feature of that law is allowing trial judges to demand an execution by overriding a jury sentence of life imprisonment. One-fourth of Alabama's death row inmates are override cases.

Another part of Carnes's law—the Alabama "legislature did not change one word in it," he bragged to the Senate Judiciary Committee in 1990—is that it does not prevent prosecutors from trying to select juries based on race. Julius Chambers of the NAACP Legal Defense and Educational Fund, who opposes Carnes' nomination, told the committee of a homicide case now being appealed. At the trial stage in Chambers County, Ala., "the prosecutor divided the jury list into four categories. Three categories were reserved for white jurors, and they were divided under the headings of 'strong,' 'medium' and 'weak.' The fourth category was for the black jurors, and their names were separately typed under the heading of 'black.' "

To Julius Chambers, this defendant was owed a fair trial, but the state "instead deliberately gave him a crooked one."

A judicial philosophy favoring capital punishment can be, and is, held by conscientious judges and prosecutors. Carnes is different. He has less a philosophy than a record of smart-mouth statements that reveal both his arrogance and his biases.

"Under Alabama law, you can't execute someone who is insane. You have to send him to an asylum, cure him up real good, then execute him."

"The problem defendants have is that 99.9 percent are guilty as hell."

On whether courts favor prosecutors in capital trials: "Hell no. The system is titled in favor of the damn defendant."

Carnes has one other large minus on his record. He is being nominated to the federal appeals court without a day's toil as a judge. Total inexperience aside, he is a specialist on only death row law. Why that should distinguish him has yet to be explained.

[From the National Law Journal, July 20, 1992]

A WORTHY SUCCESSOR HE IS NOT

(By Jack Bass)

In the downtown federal courthouse in Montgomery, Ala., the Rev. Martin Luther King Jr. once commented that Judge Frank M. Johnson is "the man who gave true meaning to the word 'justice.'" The U.S. Senate is now considering a successor to Judge Johnson, for whom that courthouse was named in ceremonies last May. He took "senior status" last fall.

To replace Judge Johnson on the 11th U.S. Circuit Court of Appeals, President Bush has nominated Edward Carnes, 42-year-old head of the capital litigation unit in the Alabama attorney general's office, a nomination that has run into trouble. ("Carnes to 11th Circuit?" NLJ, May 4.) Mr. Carnes' legal experience is limited almost entirely to death penalty issues, a field in which he has established a record as a skilled and zealous advocate.

The current Alabama death penalty law, which Mr. Carnes drafted, allows elected judges to overrule juries and impose the death penalty. He organized the national support of state attorneys general for an unsuccessful White House effort to cut back on federal habeas corpus protection. He is backed by a committee composed of Alabama's three most prominent elected Republican officials—Gov. Guy Hunt, U.S. Rep. William Dickinson and Montgomery Mayor Emory Folmar—all of whom he has supported politically.

In contrast to Mr. Carnes, Judge Johnson was an experienced trial lawyer who had distinguished himself as an outstanding U.S. attorney in Birmingham, Ala., before going on the bench at age 37, then the youngest federal judge in the nation. Among other distinctive cases, he prosecuted the only peonage conviction in Alabama this century and got convictions for tax evasion against prominent citizens in Birmingham in cases that had been dormant for several years. He already had established himself in private practice.

The naming ceremony for the courthouse in Montgomery epitomized the change that Judge Johnson has wrought in Alabama. A quarter century ago, with only one dissenting vote, the Alabama House of Representatives passed a resolution calling for his impeachment. At the naming ceremony, veteran black Democratic State Rep. Alvin Holmes read a unanimous House resolution commending Congress for naming the courthouse for Judge Johnson. Turning toward him, Holmes said, "We will never forget your contribution to this nation."

Yale University Law Prof. Owen Fiss, a leading scholar on the development of civil rights law and its impact on the legal process, considers Frank Johnson "the John Marshall of the federal district courts."

INNOVATIVE RULINGS

Judge Johnson, who was appointed in 1955 by President Eisenhower, displayed a creativity that responded to the force of historic circumstances to make the rule of law

prevail during a period of upheaval. His innovative rulings on matters of voting rights, discrimination in public accommodations and employment, and rights of women, helped transform the South and the nation. The judge virtually created the structural injunction, using it first to reconstruct an entire state school system that the Supreme Court had declared unconstitutional, then expanding its use to protect rights of other politically powerless groups.

The Senate Judiciary Committee voted 10-4 in favor of Mr. Carnes. However, despite a glowing letter of support from Morris Dees, director of the Southern Poverty Law Center in Montgomery, chairman Joseph Biden, D-Del., voted against Mr. Carnes. It was only Senator Biden's 10th vote against more than 650 Reagan and Bush judicial nominees.

Although the senator supports capital punishment, his negative vote was a reaction to Mr. Carnes' insensitivity to the systematic removal of black jurors in death penalty cases by prosecutorial use of peremptory strikes. He cited Mr. Carnes' failure to state to the committee "that such a practice is fundamentally unfair" to a defendant "whose life, quite literally, is on the line."

As head of the capital litigation unit in Alabama, Mr. Carnes had testified before an American Bar Association committee that death penalty defendants in his state generally are more than adequately represented. An Alabama Bar Association committee reached the opposite conclusion.

Mr. Carnes also displayed a disingenuous quality in response to written questions from Senator Biden. He stated that he did not believe that the death penalty is applied in a racially discriminatory manner. When asked if he had considered statistical evidence in a significant number of capital cases, he said he had.

In his response to the final question on the subject—whether he would believe the death penalty is meted out in a discriminatory manner if he believed that the race of the victim affected the decision to bring capital charges or to impose the death penalty—he answered, "Yes."

INFLUENTIAL STUDY IGNORED

With the exception of one reference, he chose to ignore the findings of the comprehensive and sophisticated study of the death penalty in Georgia by Prof. David Baldus—a study that has had a profound influence on an issue in which Mr. Carnes is a recognized authority.

Although supporters of Mr. Carnes make much of a newspaper quote from Judge Johnson that Mr. Carnes would be a "good choice," the article was published in November 1991, long before the Senate Judiciary Committee delved into his record.

The congressional Black Caucus and numerous civil rights groups are opposing him. At the head of the opposition is Democratic Rep. John Lewis of Atlanta, who helped shepherd the bill naming the courthouse through the House and who attended the Montgomery ceremony.

Mr. Lewis was no stranger to the Alabama state capital. In 1962, as a Freedom Rider, he first sat inside Judge Johnson's courtroom. And he was present again in 1965, when Judge Johnson ruled that the second Selma-to-Montgomery march should be allowed to go forward, saying: "It seems basic to our constitutional principles that the extent of the right to assemble, demonstrate and march peaceably along the highways and streets in an orderly manner should be commensurate with the enormity of the wrongs that are being protested and petitioned against. In this case, the wrongs are enormous." His application of the basic legal principle of proportionality to a constitutional injury set a precedent that expanded the role of law.

Judge Johnson's judicial career has also been notable for acts of personal courage. After enjoining the Klan in the Freedom Rider case, he for years received round-the-clock protection from federal marshals. He also received unrestrained and vituperative attacks from Gov. George Wallace, who said the judge needed "a barbed-wire enema."

Before giving its consent to a successor to Judge Johnson, the Senate would do well to wait a few months until after the voters decide who they want to lead the nation—and appoint their judges. Worthy successors can be found.

Mr. BIDEN. Parliamentary inquiry, Mr. President. How much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. BIDEN. I yield 1 minute to my colleague from New Jersey, Senator BRADLEY.

Mr. BRADLEY. Mr. President, there have been serious questions raised in the Judiciary Committee hearings about Ed Carnes' ability to function as an impartial judge on the eleventh circuit. There are also questions raised about his sensitivity to civil rights. For me, the most disturbing charge is that he knowingly let operate a system of excluding black jurors in capital cases in Alabama.

These are serious charges. They deserve long discussion when we return in September to debate the nomination in full. I hope to be able to explore them all at that time.

I thank the chairman for yielding.

Mr. BIDEN. Mr. President, I yield 2 minutes to the distinguished Senator from Michigan.

Mr. LEVIN. Mr. President, after we proceed to this nomination—and I presume we will—I will oppose the nomination of Ed Carnes. It is not his view favoring capital punishment which causes me to oppose him, although I do oppose capital punishment.

What troubles me is his unbalanced statements on the relationship between capital punishment and race. What troubles me are his unbalanced statements on the relationship between capital punishment and poverty.

Race and poverty go to the heart of capital punishment in our judicial system, and a poor person and a minority person has a right to be treated, in this system, as though they were a member of the majority race, or as though they had money. Ed Carnes thinks they now are, and thinks that anyone who disagrees with that statement is absolutely wrong.

Race is a real issue in America, and we have to be sensitive to the issue of race. His statements outside of the courtroom on the subject of race and capital punishment, and poverty and capital punishment, as well as his advocacy in the courtoom in a number of cases which were not worthy of being advocated, are what troubles me.

For those reasons, when we return to this matter in September, I will oppose the nomination of Mr. Carnes; although, again, it is my decision to vote to proceed to that nomination, so that we have that debate.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself 1 minute.

Mr. President, I want to make it clear that I urge everyone, even those of us opposed to Mr. Carnes, to vote for the motion to proceed. There has been a unanimous-consent agreement entered into whereby we are going to have a cloture vote on this nomination the second day after we return from the recess; I believe it is Wednesday, the 9th or 10th of September.

And, at that time, those of us who oppose Mr. Carnes are going to urge all of our colleagues to vote against cloture. But we are voting to allow the nomination to proceed.

Mr. THURMOND. Mr. President, I yield 2½ minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, Senators have brought up the issue here of discriminatory jury striking by which blacks were excluded from the jury. The decision of the U.S. Supreme Court in Batson versus Kentucky was decided in 1986. I will submit for the RECORD two letters from district attorneys—honorable district attorneys and men—in Alabama. Here is Robert Rumsey:

> Long before the Batson v. Kentucky decision ever came down, Mr. Carnes urged Alabama district attorneys, including me, not to strike blacks off the jury. Before the Batson decision, Mr. Carnes admonished us not to use such strikes in a racially discriminatory manner, and he felt it was wrong.

And essentially the same statement is made in a letter from David Barber, who is district attorney in Jefferson County, which is where Birmingham is located.

I ask unanimous consent that these letters be printed in the RECORD.

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

OFFICE OF THE DISTRICT ATTORNEY,
TENTH JUDICIAL CIRCUIT,
Birmingham, Alabama, May 8, 1992.

Chairman JOSEPH R. BIDEN, JR.,
Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am District Attorney of Jefferson County, the most populous judicial circuit in Alabama, and I have been a prosecutor for twenty years. I have known Ed Carnes for over fifteen years. I know his attitudes about many subjects, including racial discrimination. He is adamantly opposed to it.

I have been told that his nomination to the federal appeals court is being opposed because some people say he did not do enough to stop racial discrimination in jury selection. That is not true.

At least as early as the early to mid-1980's, Mr. Carnes, in talking with district attorneys, including me, spoke out against the

use of peremptory strikes in a racially discriminatory way. In that pre-*Batson* era, there were very few practical restrictions on the way a prosecutor could use his peremptory strikes, and as a practical matter, there was no effective remedy for a defendant if a prosecutor removed blacks from the jury because they were black. Still, Mr. Carnes, on more than one occasion, told Alabama district attorneys not to do that. I personally heard him say that. It was before the 1986 *Batson* decision.

Those opposing Mr. Carnes' nomination seem to be concerned only with the possibility of racially discriminatory strikes by prosecutors. I can tell you that defense attorneys, particularly those representing white defendants charged with crimes against black victims, often strike all the blacks off a jury just because of their race. That is wrong, and no one in this entire country has done as much to stop that pernicious practice as Ed Carnes has.

Mr. Carnes drafted legislation to extend the prohibition against racial discrimination in jury selection that already applies to prosecutors to defense counsel as well. The purpose of that legislation was to ensure that neither side removed black citizens from jury service because of race. Mr. Carnes' bill, which was supported by the Alabama Black Legislative Caucus, did not pass the Alabama Legislature. Mr. Carnes did succeed in getting the Alabama appellate courts to adopt the rule of law that criminal defense attorneys, like prosecutors, could not strike black jurors because of their race. That success came only after Mr. Carnes had raised and argued the issue on a number of different occasions. Once he took the issue all the way to the Supreme Court in a case involving the Ku Klux Klan lynching of a black man. So tenacious was Mr. Carnes in his fight against racial discrimination in jury selection that he convinced forty-five other states to join his effort in that case. The Southern Christian Leadership Conference and the Southern Poverty Law Center also joined him.

The Rodney King case, and its aftermath, shows the wisdom of Mr. Carnes' years of efforts to ensure that white defendants accused of crimes against blacks are not permitted to arrange an all-white jury. What Mr. Carnes has spent much effort doing is obtaining a rule of law to prevent any white defendants, including white policemen, from striking all the blacks off their jury because of race. That rule, which he has almost single-handedly established as the law of Alabama, will help reduce the number of all-white juries like those in the Rodney King case. That case vindicates Mr. Carnes' efforts. It is evidence that his nomination should be confirmed.

I do not know anyone else who has done nearly as much as Ed Carnes to fight racial discrimination in jury selection. To say that Ed Carnes has not done enough to end racial discrimination in jury selection does a grave injustice not only to Mr. Carnes but also to the truth.

Very truly yours,

DAVID BARBER,
District Attorney.

ROBERT L. RUMSEY, DISTRICT ATTORNEY, 29TH JUDICIAL CIRCUIT OF ALABAMA,

Talladega, AL, May 7, 1992.

Re: Nomination of Ed Carnes.

Senator JOSEPH R. BIDEN, JR.,
Chairman, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in response to what I understand to be some accusations that Ed Carnes has been insensitive to the problem of black prospective jurors being struck from juries for racially discriminatory reasons. Let me tell you why such accusations are completely unfair.

Long before the Batson v. Kentucky decision ever came down, Mr. Carnes urged Alabama district attorneys, including me, not to strike blacks off juries unless there were race-neutral reasons to do so. He told us not to strike a black juror unless we would strike a white juror in the same situation. Before the Baton decision came down in 1986, Mr. Carnes admonished us not to use such strikes in a racially discriminatory manner and he felt it was wrong.

I, for one, followed Mr. Carnes' advice. I also ordered every assistant district attorney in my office to follow a strictly race-neutral jury strike policy even before the Batson decision came out.

It is simply unfair to accuse Mr. Carnes of being insensitive to the problem of race discrimination in jury selection when he did his very best to end racial discrimination in jury selection long before the Batson decision forced an end to it.

Please see that Mr. Carnes gets credit for the extraordinary action he took in trying to end racial discrimination in jury selection.

With every good wish, I am

Yours very truly,

ROBERT L. RUMSEY.

Mr. HEFLIN. Mr. President, I suppose when people want to try to find reasons to do it, they will pick up stones and try to find something under the stone that they can talk about. This case is involving where there are four categories—strong, medium, weak, and black—that you are going to hear about; they are raising the issue about that.

Mr. Carnes has not participated in that case. He handles appeals, and it had not gone up on an appeal. It shows how things have been so distorted relative to this matter. I think he went to one little hearing, or something, along with someone else. But he has not really participated in that case whatsoever, which shows a distortion of what is occurring here.

So I think when we get to it, we can find that when you get into the facts, the facts are on his side, and they are such that we ought to go ahead and support him.

I yield the remainder of my time.

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

Mr. SANFORD. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I have not yielded back my time.

I yield 1 minute to the Senator from Georgia.

Mr. FOWLER. Mr. President, one of the problems of judicial nominees is that it is very difficult for the Senate to make informed judgments when there is no record or experience on the bench from which to form that judgment.

I want to associate myself with the remarks of the Senator from New Jersey [Mr. BRADLEY] and the remarks of the Senator from Michigan [Mr. LEVIN].

I, too, will oppose Mr. Carnes when we go to full debate, and I will try to set out at that time the reasons for that decision.

I thank the Chair.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Ed Carnes to the Eleventh Circuit Court of Appeals.

Mr. Carnes has spent 17 years as an assistant attorney general for the State of Alabama. He has a distinguished record of public service in the area of law.

The attorneys general, all Democrats, of Alabama, Georgia, and Florida—the three States comprising the eleventh circuit—have written that Mr. Carnes not only has a reputation for ethical propriety that is unsurpassed, but also that he has earned a reputation as one of the finest attorneys in the eleventh circuit.

One of the finest attorneys in the eleventh circuit, that's not me saying that, that's from the attorneys general of the eleventh circuit States. So, why then has this nomination been the target of a vicious opposition campaign by certain, and very specific, very special interest groups? The answer is that during the last half of his distinguished career—and a distinguished career he has had, there is no denying that—Mr. Carnes has been assigned to represent the State of Alabama in postconviction cases and appeals involving capital punishment. That has been his assignment, and, as he has done everything else in his career, he has done it well, extremely well.

Capital punishment is the law of much of this land, and the U.S. Supreme Court has held repeatedly that it is constitutional. The groups that oppose Ed Carnes, oppose capital punishment, and they want to defeat his nomination as part of a mean-spirited attempt to punish him for having represented his client. That is what he has done, he has represented his client, the State of Alabama, whose capital punishment law offends the groups' own beliefs. How often we have seen that.

What would the Founding Fathers think now? The groups out there, I bet, would certainly cause their collective brow to raise with disdain. The groups working so hard against this nomination, and my colleagues speaking out against it, will deny that the opposition is motivated by the capital punishment issue, but it is true, the truth will win out. The opponents will deny it, but let me give you four reasons you

can tell that the opposition to this fine nomination is based solely upon opposition to capital punishment.

First, every person who showed up to testify against this nomination at the confirmation hearing was opposed to capital punishment. I was there, not one single person who testified against Mr. Carnes favored capital punishment. All four of the opposing witnesses were feverishly opposed to capital punishment, and two of them make their living opposing it. What a coincidence.

Second, every group that has ganged up to oppose this nomination is also opposed to capital punishment. There is not one single group opposed to this nomination that is not fundamentally opposed to capital punishment. What a coincidence.

Third, the foremost expert in the Senate on this nomination has concluded that the opposition to this nomination is based upon opposition to capital punishment, and his opinion deserves great deference. No Senator knows more about this nominee than the senior Senator from Alabama.

The senior Senator from Alabama, my friend HOWELL HEFLIN, who came here when I did, presided over every minute of the long confirmation hearing, and he listened to every word spoken by every witness. He has conducted his own independent investigation of the issues, he has sources in his home State of Alabama about this nominee that no other Senator has, and he knows every document and record of this nomination—has it down cold.

The senior Senator from Alabama has said that he is convinced that those opposing this nomination view it as a referendum on capital punishment. He is correct.

Fourth, you can tell the opposition to this nomination is really based upon an opposition to capital punishment, because the cover story the opponents put forward to explain their opposition is clearly false, it is just plain false. The opponents' cover is their claim that this nominee has been insensitive to racial discrimination. How absurd and ugly that is.

Ed Carnes has one of the strongest records on civil rights of any judicial nominee to come before this Senate in many years. He has fought the Ku Klux Klan. He worked on a legal action to stop importation of South African coal because it was mined by exploited black labor. That action resulted in South African Government changing its laws concerning use of indentured black laborers in mines.

Ed Carnes also personally prosecuted disciplinary charges against two State court judges who made racist comments. And he was successful in having them removed from the bench. He was the lawyer who convinced the appellate courts to uphold the conviction of that Klansman who blew up the 16th Street Baptist Church in Birmingham killing four young black girls.

Ed Carnes was also the foremost champion of the movement to extend the Batson case rule so that no one, including defendants and their attorneys, could discriminate against blacks in selecting a jury. He convinced Alabama's appellate courts to adopt a rule of law prohibiting racial discrimination in jury selection by anyone in criminal cases. He went to the U.S. Supreme court in another case and argued that the Constitution prohibited all racial discrimination in jury selection. Does that sound like a man who is insensitive to racial discrimination? Of course it doesn't—what dramatic drive.

The opponents' are using the Carnes nomination only as a cover. The true basis of their opposition is that Ed Carnes' work in recent years has been in the capital punishment area. The opposition here looks like a duck, walks like a duck, and quacks like a duck. It is a duck, even if it claims to be an eagle. They ought to duck as we throw it back in their faces.

An interesting question is why the opposition groups would go to such extreme lengths to disguise the true basis of their opposition. The answer is that if the opponents revealed the truth, the game is over. The overwhelming majority of the American people support capital punishment as an available sentence in cases of aggravated murder. The same is true of the Members of the Senate.

Last year, about three-fourths of this body—73 of the 98 who voted—went on record in favor of capital punishment with the crime bill. So, those opposing this nomination know that their only hope of defeating it is to disguise the true basis of their opposition. They have fooled some of my colleagues, but not the majority. The opposing groups will lose, because deceit is a bad strategy, and the truth will out.

Mr. President, I want to make one further comment and broader point. So often I think of my own father and I am thinking of him now. Milward L. Simpson. He served as Governor of Wyoming and he also served here in the U.S. Senate. He lives in Cody, WY, as he has for most of his remarkable life. He is a great father, a great man. Never have I had a better friend, a better adviser, a more honest critic.

We have had many discussions, we have covered the whole spectrum of issues, discussed each and every one thoroughly. And how we have covered the death penalty. He opposes it, and he always has. He is deeply opposed to it. When told that his opposition to the death penalty would cause him his reelection as Governor of Wyoming, he said so be it. And it was. He lost. He knows where I stand on it. But never has he dismissed my views on other issues due to my position on the one.

The death penalty is 1 in 101 issues, or 1,001 issues, that a politician, that a judge, will confront.

Let's not discount this obviously exceptional man, let's not waste his nomination and punish him for work well done. Let's not discard this nominee for his work on one issue, especially when his work on that issue is in representation of his client—the State. Let's not discard his nomination when his work displays thoughtfulness, great intelligence and fairness.

The great civil rights lawyer, Morris Dees, calls Ed Carnes "A highly ethical, principled person." Look at his record. Ed Carnes is an excellent nominee. He has not one blemish on his impressive record. He has served the State of Alabama with admirable distinction.

Let us move on. I urge you to join me in rejecting the attempt to punish—yes, that's the word—this nominee because of his work in the Alabama attorney general's office. He is an excellent nominee. I urge you to join me in voting to confirm this nomination.

The PRESIDING OFFICER. The question is on the motion to proceed. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS], the Senator from Utah [Mr. GARN], and the Senator from Wisconsin [Mr. KASTEN] are necessarily absent.

I also announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. HELMS], and the Senator from Wisconsin [Mr. KASTEN] would each vote "yea."

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 183 Ex.]

YEAS—91

Adams	Cochran	Fowler
Akaka	Cohen	Glenn
Baucus	Conrad	Gorton
Bentsen	Craig	Graham
Biden	Cranston	Gramm
Bingaman	D'Amato	Grassley
Bond	Danforth	Harkin
Boren	Daschle	Hatfield
Bradley	DeConcini	Heflin
Breaux	Dixon	Hollings
Brown	Dodd	Inouye
Bryan	Dole	Jeffords
Bumpers	Domenici	Johnston
Burns	Durenberger	Kassebaum
Byrd	Exon	Kennedy
Chafee	Ford	Kerrey

Kerry	Murkowski	Sasser
Kohl	Nickles	Seymour
Lautenberg	Nunn	Shelby
Leahy	Packwood	Simon
Levin	Pell	Simpson
Lieberman	Pressler	Smith
Lott	Pryor	Specter
Lugar	Reid	Stevens
Mack	Riegle	Symms
McCain	Robb	Thurmond
McConnell	Rockefeller	Wallop
Metzenbaum	Roth	Warner
Mikulski	Rudman	Wofford
Mitchell	Sanford	
Moynihan	Sarbanes	

NOT VOTING—9

Burdick	Gore	Kasten
Coats	Hatch	Wellstone
Garn	Helms	Wirth

So the motion to proceed was agreed to.

The PRESIDING OFFICER (Mr. HARKIN). The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President as in executive session I ask unanimous consent that on Tuesday, September, 8, at a time to be determined by the majority leader after consultation with the Republican leader, the Senate to go into executive session to resume consideration of the Carnes nomination; that there then be 3 hours equally divided between the proponents and opponents for debate on the nomination; at the conclusion or yielding back of such time the Senate return to legislative session; that on Wednesday, September 9, at 9 a.m. the Senate proceed to executive session to consider the Carnes nomination; that there then be 1 hour for debate equally divided in the usual form prior to a vote on the motion to invoke cloture on the nomination; that it be in order to file that cloture motion at any time prior to the cloture vote; that if cloture is invoked there be an immediate vote on confirmation of the nomination, without any intervening action or debate; and that the preceding all occur notwithstanding the provisions of rule XXII.

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

Mr. MITCHELL. Mr. President, I thank my colleagues, and 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. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, since we are already in executive session, I ask unanimous consent that the Senate proceed to consider the following nominations from the executive calendar: 728, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762; and nominations placed on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be confirmed, en bloc; that any statements appear in the RECORD as read; that the motions to reconsider be laid upon the table, en bloc; that the President be notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed, en bloc, are as follows:

DEPARTMENT OF STATE

Richard H. Solomon, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Philippines.

Robert F. Goodwin, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Henry Lee Clarke, of California, 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 Republic of Uzbekistan.

Donald Burnham Ensenat, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

Edward Hurwitz, 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 Kyrgyzstan.

Jon M. Huntsman, Jr., of Utah, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

Richard Monroe Miles, of South Carolina, 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 Azerbaijan.

Joseph S. Hulings III, of Virginia, 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 Turkmenistan.

John Stern Wolf, of Maryland, 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 Malaysia.

William Harrison Courtney, of West Virginia, 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 Kazakhstan.

Nancy M. Dowdy, of the District of Columbia, to be Special Representative for Arms Control and Disarmament Negotiations, vice Edward L. Rowny, resigned.

David Heywood Swartz, of Virginia, 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 Byelarus.

Mary C. Pendleton, of Virginia, 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 Moldova.

Stanley Tuemler Escudero, of Florida, 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 Tajikistan.

Kent N. Brown, of Virginia, 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 Georgia.

Genta Hawkins Holmes, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Director General of the Foreign Service, vice Edward Joseph Perkins.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Gene Ernest Bigler, II, and ending Charles B. Woodward, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 27, 1992.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

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

DEATH OF ANNIE GARRICK HANBERRY

Mr. THURMOND. Mr. President, South Carolina recently lost an outstanding lady who spent most of her life educating the children of northern Richland County, SC. Mrs. Annie Garrick Hanberry, who passed away on July 12, was a woman of character, dedication, and compassion, and she will be sorely missed.

I would like to extend my deepest condolences to Mrs. Hanberry's family and friends, and I ask unanimous consent that an article on Mrs. Hanberry from the State newspaper in Columbia be inserted in the RECORD following my remarks.

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

[From the State, Aug. 15, 1992]

CELEBRATED EDUCATOR HANBERRY DIES AT 89

(By Warren Bolton)

Annie Garrick Hanberry's dedicated leadership enabled many northern Richland County students to overcome a lack of money and supplies to gain a valuable education.

Hanberry, who spent 50 years teaching and caring for students, many at the old Bethel High and Elementary schools in Blythewood, died Sunday. She was 89.

"Teaching must inspire in young people a thirst for truth and knowledge," she once said. "It must keep them asking, searching and learning all of their lives. If a teacher can do this, education is on a sound foundation, and students will be able to cope with the problems they meet in life."

Hanberry often siphoned off materials for her students from her husband, the late T.J. Hanberry, who taught at Benedict College. She even managed to get laboratory materials such as microscopes and bought clothing for students.

Hanberry, whose career was featured on NBA's "Today" show in 1972, placed more of the responsibility for what students learned upon herself and fellow educators than the youths themselves.

Joe E. Kelly, a former student of hers who returned to teach under her in 1960 when she was principal of the old Bethel High and Elementary schools, said Hanberry wanted the best of everything for students and encouraged faculty members to obtain advanced degrees.

"That's why she wanted the faculty members to be well-prepared to expose students to as much information as they could possibly grasp," Kelly said.

Rachel Griffin, a longtime friend and neighbor who also taught at Bethel for 15 years, and others described Hanberry as a tireless advocate for students who loved and cared for everyone.

Ethel Bolden, who knew Hanberry through their work for the YWCA and other organizations, was impressed by Hanberry's "undaunted personality." When you meet a person, and they always smile regardless of what the situation is, it's sort of uplifting," Bolden said.

Born in 1903, Hanberry grew up near the Wheeler Hill section of Columbia and attended city schools.

She was graduated from Benedict and in 1921 began teaching science at Finley High School in Chester County, a job she held for 15 years.

After marrying in 1934 Hanberry moved to New York City, where she earned a master's degree in education from Columbia University.

In 1936, the Hanberrys moved to Columbia, where she began teaching in a two-room, two-teacher school in Blythewood because married women weren't allowed to teach in city schools.

Hanberry later became principal of the two schools. Two more rooms and teachers were added in the early 1940s. A high school building was constructed in 1949, and another in 1953 to accommodate consolidation.

"There was always a school there, but she did so much to make it an accredited high school. She worked untiringly until she had that school accredited by the Southern Association of Secondary Schools," Griffin said.

She said that under Hanberry's leadership the school became the focal point of the community.

In 1954, the Palmetto Education Association was organized for secondary principals, and Hanberry became the only women member among 96 men.

In 1967, Bethel High was renamed Annie E. Hanberry High. It later became Bethel-Hanberry Middle School and now is Bethel-Hanberry Elementary School.

Hanberry received numerous honors and has been listed in "Personalities of the South," "Who's Who of American Women" and "Who's Who in Black America." In 1987, she became the first recipient of the Alex English Humanitarian Award.

Services will be announced by Leevy's Funeral Home.

Mr. THURMOND. Mr. President, illiteracy is one of the greatest problems facing our Nation, adversely affecting America's productivity and progress in more ways than I have time to enumerate. However, it is also a very personal cross which far too many Americans have to bear. I rise today to pay tribute to Mrs. Lynn Futrell, a young woman from my State who has been able to surmount this tremendous obstacle and succeed in the face of great personal hardship.

Mrs. Futrell spent most of her life frustrated by her lack of reading skills. With her reading ability rated below the fifth grade level, she did not have the practical reading skills which most of us take for granted. School seemed like an exercise in futility to her; and when she reached the 10th grade and still could not read, she dropped out, vowing never to return again.

Years later, Mrs. Futrell visited an adult literacy center, where she was eventually teamed up with a compatible and dedicated tutor. In spite of her doubts about her learning ability, Mrs. Futrell persevered. With her tutor's encouragement, she not only learned to read, but went on to earn a high school equivalency diploma.

Mrs. Futrell is currently enrolled in college, where she hopes to attain a bachelors degree and become a reading specialist. At this point, I would like to read a portion of a letter Mrs. Futrell recently wrote to me:

It seemed like the first day I walked into that college that I had made up my mind that I was going to get a degree before I stopped. It has not been easy but that does not matter. I am determined to become a reading specialist. I have failed a few classes along the way. I have to admit that this is the hardest thing I have even done, but the harder the trial the greater the victory. I feel that God has called me to do this . . . my final goal of becoming a reading specialist is so that I can help prevent the same thing happening to other children that happened to me. I hope to help stop illiteracy where it starts—in childhood.

Mr. President, this young woman's talent and idealism would probably have gone to waste if not for her own courage and commitment and the help of some concerned volunteers. Lynn Futrell is an inspiration to other Americans who are struggling with illiteracy, and we are proud of her.

AN ESSAY BY ALLISON JOANNA MELOY

Mr. THURMOND. Mr. President, I recently had the pleasure of attending a reception for the recipients of the 1992 public service scholarships awarded by the public employees roundtable, a worthy organization which represents the interest of Federal employees. I was very proud to discover that 1 of the 10 honorees was a constituent of mine Ms. Allison Joanna Meloy of Myrtle Beach, SC.

Ms. Meloy is a bright, intelligent young woman, and I was most impressed by her commitment to public service. America needs more young people like Ms. Meloy, and she is to be commended for her interest in the welfare of others.

As part of the scholarship competition, she wrote an essay on public service which I thought was excellent. I ask unanimous consent that this essay be included in the CONGRESSIONAL RECORD following my remarks.

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

PUBLIC SERVICE

(By Allison Joanna Meloy)

Having discovered that I was absorbing everything I could about politics and policy making, I knew by my junior year without making a conscious choice that I was going to point my talents toward working for government. I believed that the process of American government provided a rational way to resolve conflict: therefore, I decided to prepare a good record and ready myself for a future in the public sector. In order to see the process improve I knew that I had to be actively involved.

Public service is a calling in addition to being a profession family's long tradition of public service is ingrained in me. The most important influence that calls me to serve are values. I am a progressive. I have values to consumer protection, a clean environment, and clean government, As a good government guru I feel I have an obligation to be involved within the system. So at the age of sixteen I got my first public sector job as a U.S. House page.

I have done a great deal since then, and my hands-on experience has taught me much. Although in all the bureaucratic shuffle the goals are easy to lose sight of. I know that I am in public service for good reasons. I am already too familiar with all the inadequacies of government, but I am relieved that I still find more things about public service that I can admire than things that I can criticize. Leaders I respect stress public responsibility and civic duty. An increased sense of public responsibility is the first step toward a better government.

I have also learned that I am suited to this work. I enjoy the details of policy making and constituent service. Politics is like breathing in me. Amazingly, I am still hopeful that our democracy can become more representative and efficient. Having an interest and aptitude for social sciences and environmental policy, I am studying the American political system in both theory and practice. I want to spend a career protecting the interest of the American public in preserving our planet.

I have chosen a career in public service for some of the same reasons that people choose other careers. I think that I am good at it. Challenged by this competitive field, I also think that public service is good for me. There is not another field where there is as clear an opportunity to influence peoples lives in a positive way. I want responsibility, but more importantly I want to be able to use it wisely. I will make mistakes—I have already made a few—but I feel that I will be a responsible public servant. Although already well on my way, I still have much to

do and learn. I reflect on all that my internships have taught me, and I am trying to get a strong liberal arts and political science background. I am also continually looking forward to my graduate work and doing more in my community to improve the public's perceptions of government and how they can be part of the process.

TRIBUTE TO JESSE HATCH

Mr. THURMOND. Mr. President, I rise today to mourn the passing of Mr. Jesse Hatch, the father of my esteemed colleague and good friend, ORRIN HATCH. Mr. Hatch was a man of character, courage and compassion, and he will be deeply missed by a large circle of family and friends.

Mr. Hatch was a deeply religious man, and he devoted a great deal of time and energy to serving others. He was very active in the Church of Jesus Christ of Latter-Day Saints, and he instilled strong love of family and American values in his children. He was also active in the community, and he was a respected building tradesman.

Mr. President, Jesse Hatch was a man of integrity; a loving husband and father; and a patriotic, public-spirited citizen. I would like to extend my deepest condolences to his lovely wife, Helen; his children: Senator ORRIN HATCH, Mrs. Nancy Scott, Mrs. Norman Cluff; Mrs. Marilyn Kuch, Mrs. Frances Merrill, his 34 grandchildren, 73 great grandchildren, and two great-great-grandchildren. Our prayers will be with them as they remember the life of this good man with love and affection.

Although I did not have the pleasure of knowing any of the children of Mr. and Mrs. Jesse Hatch except Senator ORRIN HATCH. I have served in the Senate for a number of years with Senator HATCH, and I am sure that both of his parents were exceedingly proud of him as he is a man of great integrity, ability, and dedication. He has brought credit and honor to the Hatch name.

IRISH-AMERICAN HERITAGE MONTH

Mr. KENNEDY. Mr. President, yesterday 29 of my colleagues joined me in introducing Senate Joint Resolution 330, a Senate Joint Resolution designating March 1993, as "Irish American Heritage Month." Any other Senators wishing to join as original cosponsors may do so before we adjourn next Wednesday. I ask unanimous consent that the text of the joint resolution may be printed in the RECORD.

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

S.J. RES. 330

Whereas by 1776 nearly 300,000 natives of Ireland had emigrated to the colonies that would become the United States;

Whereas following the victory at Yorktown over the English, a French Major General reported that the Congress owed its existence, and America possibly owed its preservation, to the fidelity of the Irish;

Whereas at least eight signers of the Declaration of Independence were of Irish origin;

Whereas 18 Presidents have proudly proclaimed their Irish-American heritage;

Whereas 200 years ago, Irish-born James Hoban and Irish immigrants assisted in the construction of the United States Capitol;

Whereas 190 years ago, Irish-born John Barry was the first naval hero of the American Revolution and became known as the "Father of the United States Navy";

Whereas 180 years ago, Commodore Oliver Perry, an Irish-American, achieved his major naval victory in the Battle of Lake Erie;

Whereas 50 years ago, the USS Sullivan was commissioned as a naval memorial to the famed Irish-American Sullivan brothers who made the ultimate sacrifice for democracy and freedom in the world; and

Whereas the Governors and mayors of 37 states and cities have designated March 1992 as "Irish-American Heritage Month": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1993 is designated as "Irish-American Heritage Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

RETIREMENT OF DR. JERROLD MICHAEL

Mr. INOUYE. Mr. President, a longtime friend of mine, Dr. Jerrold Michael, recently retired as dean of the School of Public Health at the University of Hawaii after 20 years of service to the University, the citizens of the State of Hawaii, and our Nation.

Dr. Michael is a former assistant Surgeon General of the Department of Health and Human Services and under his leadership, not only has our Nation's schools of public health flourished, but Hawaii has also begun to really understand its potential international role throughout the Pacific basin region and all of Southeast Asia.

Mr. Bud Smyser, former editor of the Honolulu Star-Bulletin, wrote an article on Dr. Michael's retirement which appeared in the July 29, 1992 edition of the Star-Bulletin. As my colleague indicated, we are both very pleased that "we'll still have Jerry Michael to kick around, I'm glad to say."

I ask unanimous consent that the full text of the Honolulu Star-Bulletin article be included in the RECORD.

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

[From the Honolulu Star-Bulletin, July 29, 1992]

MICHAEL RETIRING AS UH PUBLIC HEALTH DEAN

(By A.A. Smyser)

Dr. Jerrold Michael steps aside Friday after 20 years as the University of Hawaii's dean of public health and as the nation's senior public health dean.

He is notable for many things. I'll focus on just a few:

He has shown that the university can be a major force in outreach to Asian and Pacific nations. He has institutionalized this work so that it should continue after him.

From the beginning he has worked for greater cooperation among the university's schools of medicine, nursing, social work and public health to achieve better training through "cross pollination."

UH provides most of the health personnel here. This must be part of the reason Hawaii residents are among the nation's healthiest.

He has helped elevate public health concern in Asia-Pacific Third World areas and presumably promoted healthier lives.

No shrinking violet he. That is key to his success. He has some of the flare for showmanship/leadership of his famous friend, former U.S. Surgeon General Everett C. Koop.

As a former assistant surgeon general, Michael, too, may wear the rear admiral-rank uniforms Koop promoted, and occasionally does. The old ones still fit him 21 years after he came to UH from the Public Health Service.

Michael's UH colleague, Dr. John Hayakawa, marvels that he had the insight to found an Asia-Pacific Academic Consortium for Public Health with five nation members and then go right to the top, often to chief ministers, to expand it to 22 colleges and universities in 15 countries, even into remote places like Nepal and our former enemy capital, Hanoi.

Michael and his APACPH colleagues boost public health visibility in Third World nations by holding conferences there, meeting with top officials and endorsing the local public health officials. Colleagues from Japan and Thailand join in promoting Third World public health.

Public health and medicine overlap but have significant differences.

The traditional emphasis of medicine is on healing. Public health personnel try to keep illnesses from happening in the first place.

The U.S. Public Health Service has been key in the near-elimination of leprosy and tuberculosis in the U.S. and in the victory over polio.

In the Third World the first public health emphasis is on such things as transportation to places where medical care can be given, on potable water supplies, and waste disposal.

Only later does the emphasis shift to building facilities. Only much later does it come to the sophisticated environmental concern seen at the recent Rio de Janeiro conference and the Democratic National Convention.

In Honolulu in 1899–1900 public health meant setting 41 fires to burn out bubonic plague.

One accidentally led to a 17-day Chinatown fire that destroyed 38 acres and the homes of over 4,000 people, mostly Orientals.

The intent was to destroy infected rats. Now it is known that rat-borne plague-infected fleas may "jump ship" in the fires and move to human hosts.

Today's public health workers emphasize better lifestyles—cleanliness, low-cholesterol diet, no smoking, exercise.

They also spread the word about sensible dying, as with hospice care.

An overlap with medicine is developing as health maintenance organizations like Kaiser also put more emphasis on wellness.

Public health employs fewer physicians and more technicians and nurses than traditional medicine. Doctors may be a downright rarity in the Third World.

By working together, the UH medicine, nursing, social work and public health

schools have been able to get grants in common such as $2.5 million from the Kellogg Foundation for community-based education and $10 million over several years for Pacific islands projects.

Hawaii is a major source of Pacific island health training.

At the outset I said Michael, who turns 65 Monday, is stepping "aside," not "down."

He has a new suite of offices across a court from his dean's office. There he will exercise his roles as director of the World Health Organization's center for leadership development, secretary-treasurer of APACPH and professor of public health.

He also will direct a new environmental health research center.

He likely will maintain the relations stretching west to Thailand and east to Washington and Israel that cause Senator Inouye to call him "truly the political consummate" who is willing to do both the scut work and high-level work.

He will continue to promote the cause of Israel. He will indulge his hobby of better recording the history of the U.S. Public Health Service in Hawaii.

We'll still have Jerry Michael to kick around, I'm glad to say.

TODAY'S BOXSCORE OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the congressional irresponsibility boxscore.

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $4,000,451,569,305.92, as of the close of business on Wednesday, August 5, 1992.

On a per capita basis, every man, woman, and child owes $15,574.50—thanks to the big-spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

IN RECOGNITION OF THE SERVICE TO THE UNITED STATES OF DR. MANFRED EIMER

Mr. WARNER. Mr. President, I rise today to recognize Dr. Manfred Eimer who retires today from more than 20 years of distinguished Government service in the area of arms control and national security.

Dr. Eimer currently is Assistant Director of the U.S. Arms Control and Disarmament [ACDA] in the Bureau of Verification and Implementation. He has served in this position since 1983.

Dr. Eimer has long been the executive branch's prime authority on arms control verification issues ranging from treaty requirements to compliance decisions. He pioneered the President's annual report assessing compliance with arms control agreements. In addition, during the negotiation process for all major arms control agreements, particularly during the last decade, he has contributed greatly to the formulation of U.S. proposals aimed at ensuring effective verification.

Before becoming Assistant Director, Dr. Eimer served at ACDA in a variety of positions related to verification. From 1973 to 1983, he held positions as Executive Secretary of the ACDA verification panel, Deputy to ACDA's Senior Military Adviser, Deputy Chief Scientist for Verification, and Deputy Assistant Director of the Bureau for Verification and Analysis.

From 1970 to 1973, Dr. Eimer served in 2 positions at the Defense Department: as Assistant Director of Intelligence and as Assistant Director of Electronic Warfare and Reconnaissance in the office of Defense Research and Engineering.

Before coming to Government service, Dr. Eimer was vice president for engineering at Space General Corp./Aerojet General Corp. from 1963 to 1970, and deputy chief, division of space sciences at the Jet Propulsion Laboratory of the California Institute of Technology. He received a Ph.D. (cum laude) in aeronautics and mathematics in 1953, and M.S. in aeronautical engineering in 1948, and a B.S. in engineering in 1947, all at Cal Tech.

Dr. Eimer's expertise in the technical aspects of arms control and verification has earned him the highest respect in the national security community. He is also known for his skill in recognizing significant developments in the intelligence arena and for determining their implications for U.S. national security. He has promoted independent and innovative thinking in government by asking hard questions about both the outcomes and methodology of analytical work. His leadership has helped make ACDA a key player in the arms control decision-making process.

Dr. Eimer has played a significant role in assisting the Congress in its understanding and oversight of verification systems for arms control treaties. He has demonstrated for a generation of legislators and other policymakers that arms control would be meaningless without effective verification.

In conclusion, Dr. Eimer has been in large part responsible for the success of Reagan and Bush administration arms control efforts in achieving extensive and intrusive verification provisions aimed at detecting and discouraging noncompliance. Without his untiring efforts, Presidents Reagan and Bush may have been less able to assure that arms control agreements would be effectively verifiable and, therefore, in the interest of the United States. In the past few years alone, the INF Treaty, the Threshold Test Ban Treaty, the CFE Treaty, and the START Treaty have been negotiated to include unprecedented verification provisions. In addition, Dr. Eimer's efforts have allowed the United States to lead the West in efforts to press the former Soviet Union to account for noncompliant behavior in the arms control area.

Those efforts have been enhanced by his success in dealing with the national security bureaucracy, by his unflagging dedication, and by his personal integrity. His career in Government has materially improved the national security of the United States. His consistent pursuit of excellence in the development of U.S. arms control policies, especially those related to verification, have set a standard which will be difficult to meet by those who will follow.

JON GAILMOR, FOLK SINGER

Mr. LEAHY. Mr. President, Marcelle and I have been blessed with the friendship we share with Jon and Cathy Gailmor. John and Cathy, and their children, Aaron and Maya, live in Vermont where Jon is the most beloved folk singer our State has.

He is a man of tremendous talent who has given great pleasure to people in all walks of life, including those who visit Vermont, as well as those who live there. I was very pleased to see an article about him recently in the Vermont Press, which I want to share with my colleagues and I ask unanimous consent that it be included in the RECORD at this point.

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

GIVING UP FORTUNE FOR FAMILY

(By Amy Killinger)

Singer/songwriter Jon Gailmor has made a living with his voice and an acoustic guitar in Vermont for 15 years, and he's never been happier.

It's not something everyone can say.

"I made a commitment to myself to try this because the world is a miserable place," Gailmor says in his Lake Elmore studio. "Most people hate their work. I decided that life is too short. I want to make sure I'm happy."

And he clearly is, with his job, his marriage and his home near Lake Elmore. Even on a gray, coolish summer day he radiates satisfaction.

No mid-life crisis for this 43-year-old.

But he's not so snug in his life that he won't break—or at least fool with—the mold. Saturday night Gailmor joins the Vermont Symphony Orchestra for a concert of pops music at Shelburne Farms. Gailmor will sing two of his own songs—the Vermont tribute, "Long Ago Lady," and "Jacob and Eva," a song about Gailmor's grandparents. He'll also croon "Penny Lane," "On Broadway," "The Battle Hymn of the Republic" and the spiritual "Deep River."

"In my wildest dreams I never thought I'd do this," he says. "It's hard to believe it's happening. I'm overwhelmed by the honor of playing with so many musicians."

This is not the first time the VSO and Gailmor have teamed up. The two musical forces joined together for First Night at the behest of the festival's former director, Gordon MacFarland. The combo was a hit.

"People gave us notes saying good work," says VSO manager Tom Philion, "Kate (Tamarkin, VSO conductor) and Jon got along so well. It's hard to pass that opportunity up. We are always on the lookout for something that will appeal to a broader base. . . . He's just got a fantastic stage presence."

That stage presence has made Gailmor an instant draw, especially for families. He is one of the most requested performers on the Vermont Council for the Arts artists' register. Whenever Burlington City Arts includes Gailmor in any of its concert series, the place is packed, says director Susan Green.

"I think he really is Mr. Entertainment," Green says. "He's very spontaneous and funny. . . . He's very familiar. People know the words to his songs, so they sing along. He's really Vermont's Pete Seeger."

The concert stage is a long way from the classrooms, coffeehouses, offices and resort bars in which Gailmor has spent most of his career. No matter, He perfers flannel, but he doesn't have anything against tails.

"It is the other side of the moon, but I want to cover the whole moon," he says.

Gailmor's base is his small, orderly studio, where he writes songs about his former dogs, his kids, chiropractors and love, to name a few subjects.

Recording equipment covers the desk under the window. Copies of his recordings line a shelf. Two guitars in cases sit on the floor. Sometimes, he explains, you have to get away from your loved ones.

Still, the studio is only a short walk from his house, set deep in the trees of the Worcester Mountains. Through the picture window he can see his wife, Cathy, and two children, Aaron and Maya, as they work and play in the yard.

This picture of domestic bliss is what keeps him close to home. Gailmor doesn't tour. Basically, he performs only in Vermont. That, he knows, has greatly limited his career and his income.

"It's hard because I know I'm never going to be famous, but I don't want to be famous."

He decided that in 1974 after he and his former singing partner Rob Carlson made a record for Polydor. They were being groomed as the next Hall and Oates, Gailmor says. It was the big time. It wasn't what Gailmor wanted.

"I felt like a prostitute," he says.

Gailmor, who grew up outside of Philadelphia has renegade blood in his veins. His father was an orthodox rabbi who became an atheist and an outspoken newspaper columnist, who was blacklisted.

"He taught me that it's important to speak your mind," Gailmor says. "It's all right to be true to yourself."

So Gailmor left the music biz and fled to Europe, where he spent two years wandering, picking grapes in France, waiting on tables in London and making "authentic" Greek jewelry in Athens. When immigration laws prevented him from settling in London, he came back to the States. Then he headed to Vermont, where he performed with his old partner, and began playing wherever he could for whatever it would pay.

"I wasn't eating a lot," he says. "I was scared and insecure. It's a pretty hard way to make a living."

It still is a hard way to make a living. There are three or four times a year when his booking calendar gets very thin and Gailmor starts to panic.

"I'm not very aggressive in promoting myself," he says. "If I were I wouldn't live here. I let the music promote itself. I never feel comfortable selling myself."

Gailmor admits that when he sees the new wave of folk musicians—like Suzanne Vega and the Indigo Girl—making it big, he feels a twinge of envy.

"Part of me wishes I was one of them," he says. "It's an ego gratification. I would love to sing my music in California and reach people."

But that would mean touring, which would mean leaving his family.

"Now that I have a family I won't go away," he says. "I'm committed to staying small and personal."

SADIE WHITE

Mr. LEAHY. Mr. President, Vermont has some remarkable people in private and in public life. We have had some tremendous republicans and democrats, but it is hard to find anybody as substantial and unique as Sadie White.

Sadie has been a close, personal friend and ally for all of my years in public life, but her involvement with others goes back before I was even born. Recently a Vermont newspaper did a well deserved profile of Sadie and I want to share it with those in the Senate who have not had a chance to meet this extraordinary woman. I ask unanimous consent that it be included in the RECORD at this point.

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

[From the Vermont Times]

SADIE WHITE—AT 91, SHE'S SEEN IT ALL IN BURLINGTON POLITICS

(By Paula Routly)

Vermont has changed a lot since 1934, the year Sadie White went on strike at Winooski's Woolen Mill, where she worked as a weaver from the age of 15.

White, at 91, hasn't changed so much in the seven decades since. She's charming. She's ornery. She's always blunt. And she retains the same unflagging spirit that saw her through 34 years working the looms, and later, 20 years in state and local politics.

"I get around, but not as good as I used to," White says after a morning of strawberry picking. But with local meetings on television, and with elected officials of all persuasions making regular pilgrimages to her tidy house on Blodgett Street, this seasoned political junkie doesn't need to go far. Those who can't visit—Sen. Patrick Leahy, former Gov. Madeleine Kunin, Gov. Howard Dean—call or write.

"This is a woman of very great courage, who speaks her mind and is prepared to fight for what she believes in," says Congressman Bernie Sanders, who calls White "one of my favorite people."

Says David Clavelle, Sanders' former campaign organizer, "Everybody goes to her for support because she carries political weight. In many ways she's a bell-wether for a certain segment of the population."

White is also good at getting results. Last month, after she put a hole through her $35 elastic stockings, the canny community organizer focused her attention, and considerable influence, on getting her toenails cut.

"I gave 'em hell," White says of the Agency on Aging, and the other organizations she called in search of a free clipping. "I said, 'The elderly want something besides stuffing their gut.' I told them, 'I don't need to eat every 15 minutes, but I do need my toenails cut.'"

"And I got it," the tall, slightly stooped nonagenarian adds over a serving of strawberry shortcake. "People know me, honey. Don't you worry about that."

A WEAVER'S TALE

White was born in Bolton in 1901. She grew up on a dairy farm in Stevensville, four or five miles from Underhill, where the family went for church and supplies. White remembers walking through snow—"up to the top of our buttoned leggings"—to get to a one-room schoolhouse. At 15, she left home to work full time, and board, in Winooski.

The weaving room at the Woolen Mill was loud, hot and bustling. White started on one loom, and by the time the mill closed, in 1954, was running six. There were few frills in the 38 intervening years—no running water, no paid vacations, no time to eat lunch. "You never stopped your looms. You ate a bite here, a bite there," White recalls. She got paid, once a week, in cash.

At least two good things came out of White's years in the mill: her husband, Bill, who worked on the opposite end of the weaving room. And the workers' union he helped organize.

By the time the mill closed, White had already made a name for herself among the city's Democrats as a labor organizer, VFW volunteer, and inspector of elections. When Burlington's representation in the Statehouse increased tenfold in the early 1960s, former Senator Jack O'Brien encouraged White to run for the Legislature. "He had a big mouth," she recalls, "just like I did."

From 1956 to 1984, White was "a voice for Burlington" in the Legislature. She fought hard against the Burlington Beltline, and kept it from claiming more property in the Old North End.

"She went in there with boxing gloves," recalls Lorraine Graham, who served in the Statehouse with White. "When she believes in something, she goes all out. She doesn't care whose toes she steps on."

Only once, in 1989, did White lose a legislative race. But rather than drop out of politics, she ran successfully for Burlington's Board of Alders. Her term coincided with Bernie Sanders' first two years as mayor—perhaps the most contentious period in the history of Burlington city government. "I've never seen such a bunch of wrangling fools as we had on that alderman thing," she recalls. "Of course they didn't like me because I supported Bernie."

At eighty-something, White was the first Democrat on the Board of Alders to support Sanders. Her party excommunicated her for it. Says Sanders, "It was one of the greatest acts of political courage I have ever seen."

"I wanted a change," says White, who gets just as riled up about issues from that period as she does about property tax increases, the waterfront tent, and anything to do with Blue Cross/Blue Shield. "Mayor Paquette was a crook, and I told him myself," she says. "I ain't bashful, you know."

Politically, White isn't easy to pin down. She still calls herself a Democrat and has documentation—mostly thank-you letters from party luminaries—to prove it. However, when she talks about welfare and work

ethic—she objects strongly to "people who sit on their ass, and eat, and sleep, and let me pay their bills"—she sounds a bit like Barry Goldwater. To add to the confusion, Progressives like former alder Gary Decarolis call her a "mentor."

Her presidential preference?

"I don't know. Perot looks good," she offers.

"She's not a follow-the-party-line person. You can't label her liberal or conservative," says Decarolis, who calls White an "astute political scientist" at the local level.

White—a master of the one-liner—has her own way of describing her political orientation. "I vote as I damn well please."

A GOOD NEIGHBOR

White's political weight has a lot to do with her independence—along with her courage, straightforwardness and fiscal conservatism. For years, she has advised Old North End residents on political issues, and urged them to vote. When they can't, she brings them absentee ballots—turning in up to 200 at a time.

"People trust me, oh Lord yes, they trust me, because I tell it like it is, and I'm honest," says White. "I ain't a crook. I ain't a drunk. I pay my bills. I'm just what I am. I don't try to pretend to be something I'm not."

That influence meant a lot to Sanders, and to every other politician interested in the Old North End vote. Local City Council candidates still compete for White's support. It can mean the difference between winning and losing in Ward 3.

Further, White embodies everything Old Burlington is about: strong opinions, neighborly concern, a house with meticulous gardens and the occasional dessert sent over from across the street.

"Sadie may seem gruff at times, but she's really a loving person when you get to know her," says Clavelle. She still gets emotional speaking of her parents, who died more than 45 years ago; and about her husband, Bill, who died of a stroke in 1975.

There is a price for being old and wise; White pays it every day when she scans the obituaries "It's not easy watching your friends die," says White, who has written hers up in advance. Sometimes she attends up to three funerals a week.

She counters her losses by serving as a justice of the peace (she's done it for 20 years, and is up for reelection in November) and by accumulating young friends who like to talk politics. Her nieces and nephews provide all the familial drama she would have gotten from her own children. "I always said, I didn't have 'em to make me laugh; so I didn't have 'em to make me cry."

White attributes her long life to sobriety and hard work. But her longevity, and her youthful spirit, have more to do with an approach to life that prevents her from looking back, or slowing down.

That's what sends her out into the strawberry fields at 6 o'clock on a June morning when she can't bend over to cut her own toenails. "You better get 'em while they're good," she says, admiring the harvest of ripe red berries, "because they're going to be gone."

DEATH OF HAROLD GROUT

Mr. LEAHY. Mr. President, Harold Grout—Cousin Harold as he was known to my family and a vast audience of early risers who listened faithfully to WDEV radio in Waterbury—was killed in an automobile accident on June 22.

Harold was a unique radio personality who survived the transition of radio from a medium of information and entertainment to the present day drone of talk shows or constant music. Radio changed. Harold did not.

For almost 50 years, Harold helped farmers sell or swap everything from tractors to cream separators, and he would announce birthdays and anniversaries sent him by a very faithful audience. He kept the same hours as our Vermont dairy farmers—and his soft, gentle voice was often the first thing they heard as they set about their early morning chores in the cow barn.

For Harold's family and his hundreds of friends, I ask that the editorial in the June 23, 1992, issue of the Times Argus of Barre-Montpelier be reprinted in its entirety in the CONGRESSIONAL RECORD.

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

RURAL RADIO

The difference between radio and TV—particularly the earlier days of radio—was that radio seemed to include the listener, to accompany him or her during the routine chores of the day, while TV asks its audience to drop everything and pay attention to it.

Radio is the friendly voice; TV is talking heads. Radio, without the visual image, requires a response of imagination from the listener; TV, providing everything with its characteristic tinsel and false excitement, hypnotizes and lures but requires nothing real of its audience. Sad to think that that may be why it is so popular.

Radio has always seemed the more apt medium for rural America; its magic was implied in a song popular in the early years of this century called "Turn Your Radio On." Radio delivered the world to the farmer's door, melting away the isolation of the countryside.

Sure, the city airwaves now crackle with the electrically charged musical formats of the '90s, but in the spacious parts of the country radio is still the friend that goes to the barn for the morning milking; TV sits in the living room, switched on, perhaps, and waiting to nab the people passing through and distract them from their work.

Radio, of course, has also changed over the years, from its earlier, more personal days. Announcers have incorporated some of the "happy talk," as Walter Cronkite derisively called the chatter of television news programs, and mindless jingles increasingly have displaced the spoken, more personal advertisements and public messages delivered in the olden days by the familiar voices of the radio.

But because—in Vermont, at least—radio retains some of its ties to its earlier ambience and role in a rural lifestyle, it is especially sad to see elements of that era slip away.

This happened a month ago when the familiar voice of WDEV's "Cousin Harold" closed off the "Trading Post" program for the last time, after a nearly 50-year reign.

And Harold Grout's departure from the airwaves was tragically compounded Monday when he died in an automobile accident not far from the Waterbury station that was his professional home for all those decades.

The Trading Post was a quintessential Vermont radio program, offering people a chance to buy and sell their goods and equipment, each item receiving Cousin Harold's extended and personal attention. From the opening sound effects—livestock lowing in the background and "Cuz," in his radio baritone, intoning "soo-boss, soo-boss"—through to its end, when its emcee invited listeners to send in their cards and letters for things to buy, sell, and trade, The Trading Post retained the rural, personal, and friendly characteristics that stations elsewhere in this country long since would have discarded as relics.

The program continues on WDEV, the chores capably handled by Mike Carey, another central Vermont radio veteran.

And without doubt the loss of Harold Grout as a human being is a greater blow to his friends and listeners than the loss of Cousin Harold the radio personality—a loss already a month old.

But the two are inseparable, and it can't help seeming that an era has passed with the passing of Harold Grout, a link to the Vermont of decades ago when the neighborly voices on the radio filtered through the rural air and greeted farm families around their breakfast tables in the dark country mornings of long ago.

"Soo-boss, soo-boss."

BILL READ FOR FIRST TIME—H.R. 2782

Mr. FORD. Mr. President, I understand the Senate received from the House H.R. 2782, regarding ERISA preemption rule. On behalf of Senator KENNEDY, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first.

The bill clerk read as follows:

A bill (H.R. 2782) to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain State laws.

Mr. FORD. Mr. President, I now ask for the second reading.

Mr. SIMPSON. Mr. President, I object to that request.

The PRESIDING OFFICER. Objection is heard.

NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 527, S. 2681, relating to Native Hawaiian health care; that the substitute amendment be agreed to; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relative to the passage of this item be placed at the appropriate place in the RECORD.

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

So the bill (S. 2681), as amended, was deemed read the third time and passed, as follows:

SECTION 1. AMENDMENT.

The Native Hawaiian Health Care Act of 1988 (42 U.S.C. 11701 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Native Hawaiian Health Care Improvement Act'.

"SEC. 2. FINDINGS.

"The Congress finds that:

"(1) Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a Nation prior to the arrival of the first non-indigenous people in 1778.

"(2) The Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(3) The constitution and statutes of the State of Hawaii:

"(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

"(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language.

"(4) At the time of the arrival of the first non-indigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion.

"(5) A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

"(6) Throughout the 19th century and until 1893, the United States: (A) recognized the independence of the Hawaiian Nation; (B) extended full and complete diplomatic recognition to the Hawaiian Government; and (C) entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875 and 1887.

"(7) In the year 1893, the United States Minister assigned to the sovereign and independent Kingdom of Hawaii, John L. Stevens, conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawaii.

"(8) In pursuance of that conspiracy, the United States Minister and the naval representative of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawaii and the United States Minister thereupon extended diplomatic recognition of a provisional government formed by the conspirators without the consent of the native people of Hawaii or the lawful Government of Hawaii in violation of treaties between the two nations and of international law.

"(9) In a message to Congress on December 18, 1893, then President Grover Cleveland reported fully and accurately on these illegal actions, and acknowledged that by these acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown, and the President concluded that a 'substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people required that we should endeavor to repair'.

"(10) Queen Lili'uokalani, the lawful monarch of Hawaii, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawaii, promptly petitioned the United States for redress of these wrongs and for restoration of the indigenous government of the Hawaiian nation, but this petition was not acted upon.

"(11) In 1898, the United States annexed Hawaii through the Newlands Resolution without the consent of or compensation to the indigenous people of Hawaii or their sovereign government who were thereby denied the mechanism for expression of their inherent sovereignty through self-government and self-determination, their lands and ocean resources.

"(12) Through the Newlands Resolution and the 1900 Organic Act, the United States Congress received 1.75 million acres of lands formerly owned by the Crown and Government of the Hawaiian Kingdom and exempted the lands from then existing public land laws of the United States by mandating that the revenue and proceeds from these lands be 'used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes', thereby establishing a special trust relationship between the United States and the inhabitants of Hawaii.

"(13) In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 which designated 200,000 acres of the ceded public lands for exclusive homesteading by Native Hawaiians, thereby affirming the trust relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane who was cited in the Committee Report of the United States House of Representatives Committee on Territories as stating, 'One thing that impressed me . . . was the fact that the natives of the islands who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

"(14) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the extension to Native Hawaiians and to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance'.

"(15) Under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges, and legislative amendments affecting the rights of beneficiaries under such Act.

"(16) Under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4, 6).

"(17) The authority of the Congress under the United States Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawaii.

"(18) In furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people.

"(19) This historical and unique legal relationship has been consistently recognized and affirmed by the Congress through the enactment of Federal laws which extend to the Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities, including the Native American Programs Act of 1974; the American Indian Religious Freedom Act; the National Museum of the American Indian Act; and the Native American Graves Protection and Repatriation Act.

"(20) The United States has also recognized and reaffirmed the trust relationship to the Hawaiian people through legislation which authorizes the provision of services to Native Hawaiians, specifically, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Veterans' Benefits and Services Act of 1988, the Rehabilitation Act of 1973, the Native Hawaiian Health Care Act of 1988, the Health Professions Reauthorization Act of 1988, the Nursing Shortage Reduction and Education Extension Act of 1988, the Handicapped Programs Technical Amendments Act of 1988, the Indian Health Care Amendments of 1988, and the Disadvantaged Minority Health Improvement Act of 1990.

"(21) The United States has also affirmed the historical and unique legal relationship to the Hawaiian people by authorizing the provision of services to Native Hawaiians to address problems of alcohol and drug abuse under the Anti-Drug Abuse Act of 1986.

"(22) Despite such services, the unmet health needs of the Native Hawaiian people are severe and the health status of Native Hawaiians continues to be far below that of the general population of the United States.

"SEC. 3. DECLARATION OF POLICY.

"(a) CONGRESS.—The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the Government of the indigenous people of Hawaii—

"(1) to raise the health status of Native Hawaiians to the highest possible health level; and

"(2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.

"(b) INTENT OF CONGRESS.—It is the intent of the Congress that the Nation meet the following health objectives with respect to Native Hawaiians by the year 2000:

"(1) Reduce coronary heart disease deaths to no more than 100 per 100,000.

"(2) Reduce stroke deaths to no more than 20 per 100,000.

"(3) Increase control of high blood pressure to at least 50 percent of people with high blood pressure.

"(4) Reduce blood cholesterol to an average of no more than 200 mg/dl.

"(5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.

"(6) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(7) Increase Pap tests every 1 to 3 years to at least 85 percent of women age 18 and older.

"(8) Increase fecal occult blood testing every 1 to 2 years to at least 50 percent of people age 50 and older.

"(9) Reduce diabetes-related deaths to no more than 34 per 100,000.

"(10) Reduce the most severe complications of diabetes as follows:

"(A) end-stage renal disease to no more than 1.4 in 1,000;

"(B) blindness to no more than 1.4 in 1,000;

"(C) lower extremity amputation to no more than 4.9 in 1,000;

"(D) perinatal mortality to no more than 2 percent; and

"(E) major congenital malformations to no more than 4 percent.

"(11) Reduce infant mortality to no more than 7 deaths per 1,000 live births.

"(12) Reduce low birth weight to no more than 5 percent of live births.

"(13) Increase first trimester prenatal care to at least 90 percent of live births.

"(14) Reduce teenage pregnancies to no more than 50 per 1,000 girls age 17 and younger.

"(15) Reduce unintended pregnancies to no more than 30 percent of pregnancies.

"(16) Increase to at least 60 percent the proportion of primary care providers who provide age-appropriate preconception care and counseling.

"(17) Increase years of healthy life to at least 65 years.

"(18) Eliminate financial barriers to clinical preventive services.

"(19) Increase childhood immunization levels to at least 90 percent of 2-year-olds.

"(20) Reduce the prevalence of dental caries to no more than 35 percent of children by age 8.

"(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children age 6 through 8 and no more than 15 percent among adolescents age 15.

"(22) Reduce edentulism to no more than 20 percent in people age 65 and older.

"(23) Increase moderate daily physical activity to at least 30 percent of the population.

"(24) Reduce sedentary lifestyles to no more than 15 percent of the population.

"(25) Reduce overweight to a prevalence of no more than 20 percent of the population.

"(26) Reduce dietary fat intake to an average of 30 percent of calories or less.

"(27) Increase to at least 75 percent the proportion of primary care providers who provide nutrition assessment and counseling or referral to qualified nutritionists or dieticians.

"(28) Reduce cigarette smoking prevalence to no more than 15 percent of adults.

"(29) Reduce initiation of smoking to no more than 15 percent by age 20.

"(30) Reduce alcohol-related motor vehicle crash deaths to no more than 8.5 per 100,000 adjusted for age.

"(31) Reduce alcohol use by school children age 12 to 17 to less than 13 percent.

"(32) Reduce marijuana use by youth age 18 to 25 to less than 8 percent.

"(33) Reduce cocaine use by youth aged 18 to 25 to less than 3 percent.

"(34) Confine HIV infection to no more than 800 per 100,000.

"(35) Reduce gonorrhea infections to no more than 225 per 100,000.

"(36) Reduce syphilis infections to no more that 10 per 100,000.

"(37) Reduce significant hearing impairment to a prevalance of no more than 82 per 1,000.

"(38) Reduce acute middle ear infections among children age 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(39) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals age 25 and younger to 0;

"(B) Tetanus among individuals age 25 and younger to 0;

"(C) Polio (wild-type virus) to 0;

"(D) Measles to 0;

"(E) Rubella to 0;

"(F) Congenital Rubella Syndrome to 0;

"(G) Mumps to 500; and

"(H) Pertussis to 1,000; and

"(40) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(c) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 11, a report on the progress made in each area toward meeting each of the objectives described in subsection (b).

"SEC. 4. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.

"(a) DEVELOPMENT.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordinating, implementing and updating a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to maintain and improve the health status of Native Hawaiians. The master plan shall be based upon an assessment of the health care status and health care needs of Native Hawaiians. To the extent practicable, assessments made as of the date of such grant or contract shall be used by Papa Ola Lokahi, except that any such assessment shall be updated as appropriate.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

"SEC. 5. FUNCTIONS OF PAPA OLA LOKAHI.

"(a) RESPONSIBILITY.—Papa Ola Lokahi shall be responsible for the—

"(1) coordination, implementation, and updating, as appropriate, of the comprehensive health care master plan developed pursuant to section 4;

"(2) training for the persons described in section 6(c)(1)(B);

"(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services; and

"(4) the development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this Act.

"(b) SPECIAL PROJECT FUNDS.—Papa Ola Lokahi is authorized to receive special project funds that may be appropriated for the purpose of research on the health status of Native Hawaiians or for the purpose of addressing the health care needs of Native Hawaiians.

"(c) CLEARINGHOUSE.—Papa Ola Lokahi shall serve as a clearinghouse for:

"(1) the collection and maintenance of data associated with the health status of Native Hawaiians;

"(2) the identification and research into diseases affecting Native Hawaiians;

"(3) the availability of Native Hawaiian project funds, research projects and publications;

"(4) the collaboration of research in the area of Native Hawaiian health; and

"(5) the timely dissemination of information pertinent to the Native Hawaiian health care systems.

"(d) COORDINATION OF PROGRAMS AND SERVICES.—Papa Ola Lokahi shall, to the maximum extent possible, coordinate and assist the health care programs and services provided to Native Hawaiians.

"(e) TECHNICAL SUPPORT.—Papa Ola Lokahi shall act as a statewide infrastructure to provide technical support and coordination of training and technical assistance to the Native Hawaiian health care systems.

"(f) RELATIONSHIPS WITH OTHER AGENCIES.—Papa Ola Lokahi is authorized to enter into agreements or memoranda of understanding with relevant agencies or organizations that are capable of providing resources or services to the Native Hawaiian health care systems.

"SEC. 6. NATIVE HAWAIIAN HEALTH CARE SYSTEMS.

"(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND PRIMARY HEALTH SERVICES.—(1)(A) The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians.

"(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to Native Hawaiian health care systems and Native Hawaiian organizations and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health care systems.

"(2) In addition to paragraph (1), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii.

"(b) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of subsection (a)(1) if the entity is a Native Hawaiian health care system.

"(c) SERVICES TO BE PROVIDED.—(1) Each recipient of funds under subsection (a)(1) shall provide the following services:

"(A) outreach services to inform Native Hawaiians of the availability of health services;

"(B) education in health promotion and disease prevention of the Native Hawaiian population by, wherever possible, Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators;

"(C) services of physicians, physicians' assistants, nurse practitioners or other health professionals;

"(D) immunizations;

"(E) prevention and control of diabetes, high blood pressure, and otitis media;

"(F) pregnancy and infant care; and

"(G) improvement of nutrition.

"(2) In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1):

"(A) identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians;

"(B) collection of data related to the prevention of diseases and illnesses among Native Hawaiians; and

"(C) services within the meaning of the terms 'health promotion', 'disease prevention', and 'primary health services', as such terms are defined in section 12, which are not specifically referred to in paragraph (1) of this subsection.

"(3) The health care services referred to in paragraphs (1) and (2) which are provided under grants or contracts under subsection (a)(1) may be provided by traditional Native Hawaiian healers.

"(d) LIMITATION OF NUMBER OF ENTITIES.—During a fiscal year, the Secretary under this Act may make a grant to, or hold a contract with, not more than 5 Native Hawaiian health care systems.

"(e) MATCHING FUNDS.—(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) to a Native Hawaiian health care system—

"(A) in an amount exceeding 83.3 percent of the costs of providing health services under the grant or contract; and

"(B) unless the Native Hawaiian health care system agrees that the Native Hawaiian health care system or the State of Hawaii will make available, directly or through donations to the Native Hawaiian health care system, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under paragraph (2)) for each $5 of Federal funds provided in such grant or contract.

"(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly

evaluated, including plant, equipment, or services. Amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.

"(3) The Secretary may waive the requirement established in paragraph (1) if—

"(A) the Native Hawaiian health care system involved is a nonprofit private entity described in subsection (b); and

"(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the Native Hawaiian health care system to comply with such requirement.

"(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary may not make a grant to, or enter into a contract with, any entity under subsection (a)(1) unless the entity agrees that, amounts received pursuant to such subsection will not, directly or through contract, be expended—

"(1) for any purpose other than the purposes described in subsection (c);

"(2) to provide inpatient services;

"(3) to make cash payments to intended recipients of health services; or

"(4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

"(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant, or enter into a contract with, any entity under subsection (a)(1) unless the entity agrees that, whether health services are provided directly or through contract—

"(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

"(2) the entity will impose a charge for the delivery of health services, and such charge—

"(A) will be made according to a schedule of charges that is made available to the public, and

"(B) will be adjusted to reflect the income of the individual involved.

"(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 to carry out subsection (a)(1).

"(2) There are authorized to be appropriated such sums as may be necessary to carry out subsection (a)(2).

"SEC. 7. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.

"(a) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

"(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section 4;

"(2) training for the persons described in section 6(c)(1)(B);

"(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services;

"(4) the development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this Act;

"(5) a clearinghouse function for—

"(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

"(B) the identification and research into diseases affecting Native Hawaiians; and

"(C) the availability of Native Hawaiian project funds, research projects and publications;

"(6) the coordination of the health care programs and services provided to Native Hawaiians; and

"(7) the administration of special project funds.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 to carry out subsection (a).

"SEC. 8. ADMINISTRATION OF GRANTS AND CONTRACTS.

"(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

"(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

"(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this Act with an entity unless the entity—

"(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

"(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

"(3) with respect to providing health services to any population of Native Hawaiians, a substantial portion of which has a limited ability to speak the English language—

"(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

"(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

"(4) with respect to health services that are covered in the plan of the State of Hawaii approved under title XIX of the Social Security Act—

"(A) if the entity will provide under the grant or contract any such health services directly—

"(i) the entity has entered into a participation agreement under such plans; and

"(ii) the entity is qualified to receive payments under such plan; and

"(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

"(i) the organization has entered into a participation agreement under such plan; and

"(ii) the organization is qualified to receive payments under such plan; and

"(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the utilization and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

"(d) CONTRACT EVALUATION.—(1) If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 6, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such entity and is authorized to enter into a contract under section 6 with another entity referred to in section 6(b) that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this subsection.

"(2) In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of the evaluation under this section.

"(3) All contracts entered into by the Secretary under this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

"(4) Payments made under any contract entered into under this Act may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this Act.

"(e) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Except for grants and contracts under section 7, the Secretary may not grant to, or enter into a contract with, an entity under this Act unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this Act for the purpose of administering the grant or contract.

"(f) REPORT.—(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this Act, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

"(A) activities conducted by the entity under the grant or contract;

"(B) the amounts and purposes for which Federal funds were expended; and

"(C) such other information as the Secretary may request.

"(2) The reports and records of any entity which concern any grant or contract under this Act shall be subject to audit by the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States.

"(g) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant.

"SEC. 9. ASSIGNMENT OF PERSONNEL.

"(a) IN GENERAL.—The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

"(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under the authority of subsection (a) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

"SEC. 10. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

"(a) ELIGIBILITY.—Subject to the availability of funds appropriated under the authority of subsection (c) of this section, the Secretary shall provide funds through a direct grant or a cooperative agreement to Kamehameha School/Bishop Estate for the purpose of providing scholarship assistance to students who—

"(1) meet the requirements of section 329 of the Public Health Service Act (42 U.S.C. 254b), and

"(2) are Native Hawaiians.

"(b) TERMS AND CONDITIONS.—(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same

terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 254l), provided that—

"(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve the Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

"(B) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Kamehameha Schools/Bishop Estate;

"(C) the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in (i) any one of the five Native Hawaiian health care systems, or (ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii; and

"(D) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs.

"(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

"SEC. 11. REPORT.

"The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Native Hawaiians, and ensure a health status for Native Hawaiians, which are at a parity with the health services available to, and the health status of, the general population.

"SEC. 12. DEFINITIONS.

"For purposes of this Act:

"(1) DISEASE PREVENTION.—The term 'disease prevention' includes—

"(A) immunizations,

"(B) control of high blood pressure,

"(C) control of sexually transmittable diseases,

"(D) prevention and control of diabetes,

"(E) control of toxic agents,

"(F) occupational safety and health,

"(G) accident prevention,

"(H) fluoridation of water,

"(I) control of infectious agents, and

"(J) provision of mental health care.

"(2) HEALTH PROMOTION.—The term 'health promotion' includes—

"(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,

"(B) cessation of tobacco smoking,

"(C) reduction in the misuse of alcohol and drugs,

"(D) improvement of nutrition,

"(E) improvement in physical fitness,

"(F) family planning, and

"(G) control of stress.

"(3) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States, and

"(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records,

"(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

"(iii) birth records of the State of Hawaii.

"(4) NATIVE HAWAIIAN HEALTH CENTER.—The term 'Native Hawaiian health center' means an entity—

"(A) which is organized under the laws of the State of Hawaii,

"(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,

"(C) which is a public or nonprofit private entity, and

"(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

"(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' means any organization—

"(A) which serves the interests of Native Hawaiians,

"(B) which is—

"(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this Act for the benefit of Native Hawaiians, and

"(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this Act,

"(C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and

"(D) which is a public or nonprofit private entity.

"(6) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—The term 'Native Hawaiian health care system' means an entity—

"(A) which is organized under the laws of the State of Hawaii,

"(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,

"(C) which is a public or nonprofit private entity,

"(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health care services,

"(E) which may be composed of as many Native Hawaiian health centers as necessary to meet the health care needs of each island's Native Hawaiians, and

"(F) which is—

"(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this Act for the benefit of Native Hawaiians, and

"(ii) certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services and meet the requirements under the contract the Native Hawaiian health care system enters into with the Secretary or the grant the Native Hawaiian health care system receives from the Secretary pursuant to this Act.

"(7) PAPA OLA LOKAHI.—(A) The term 'Papa Ola Lokahi' means an organization composed of—

"(i) E Ola Mau;

"(ii) the Office of Hawaiian Affairs of the State of Hawaii;

"(iii) Alu Like Inc.;

"(iv) the University of Hawaii;

"(v) the Office of Hawaiian Health of the Hawaii State Department of Health;

"(vi) Ho'ola Lahui Hawaii, or a health care system serving the islands of Kaua'i and Ni'ihau, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

"(vii) Ke Ola Mamo, or a health care system serving the island of O'ahu, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

"(viii) Na Pu'uwai or a health care system serving the islands of Moloka'i and Lana'i, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

"(ix) Hui No Ke Ola Pono, or a health care system serving the island of Maui, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

"(x) Hui Malama Ola Ha'Oiwi or a health care system serving the island of Hawaii, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island; and

"(xi) such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians, and upon satisfactory development of a mission statement in relation to this Act, including clearly defined goals and objectives, a 5-year action plan outlining the contributions that each organization will make in carrying out the policy of this Act, and an estimated budget.

"(B) Such term does not include any such organization identified in subparagraph (A) if the Secretary determines that such organization has not developed a mission statement with clearly defined goals and objectives for the contributions the organization will make to the Native Hawaiian health care systems, and an action plan for carrying out those goals and objectives.

"(8) PRIMARY HEALTH SERVICES.—The term 'primary health services' means—

"(A) services of physicians, physicians' assistants, nurse practitioners, and other health professionals;

"(B) diagnostic laboratory and radiologic services;

"(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well-child services, and family planning services);

"(D) emergency medical services;

"(E) transportation services as required for adequate patient care;

"(F) preventive dental services; and

"(G) pharmaceutical services, as may be appropriate for particular health centers.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term 'traditional Native Hawaiian healer' means a practitioner—

"(A) who—

"(i) is of Hawaiian ancestry, and

"(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

"(B) whose knowledge, skills, and experience are based on demonstrated learning of Native Hawaiian healing practices acquired by—

"(i) direct practical association with Native Hawaiian elders, and

"(ii) oral traditions transmitted from generation to generation.

"SEC. 13. RULE OF CONSTRUCTION.

"Nothing in this Act shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

"SEC. 14. REPEAL OF DEMONSTRATION PROJECT.

"Section 205 of the Indian Health Care Improvement Act is repealed.

"SEC. 15. COMPLIANCE WITH BUDGET ACT.

"Any new spending authority (described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"SEC. 16. SEVERABILITY.

"If any provision of this Act, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.".

NATIONAL COMMISSION ON TIME AND LEARNING

Mr. FORD. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 5560, a bill to provide for a 1-year extension of the National Commission on Time and Learning; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times and passed; that the motion to reconsider be laid upon the table; further, that any statements appear in the RECORD at the appropriate place.

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

So the bill (H.R. 5560) was deemed read the third time and passed.

NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 574, S. 1607, relating to the water rights claims of the Northern Cheyenne Tribe.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1607) to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992".

SEC. 2. PURPOSES OF ACT.

(a) PURPOSES.—The purposes of this Act are:

(1) to achieve a fair, equitable, and final settlement of all claims to Federal reserved water rights in the State of Montana of—

(A) the Northern Cheyenne Tribe and its members and allottees; and

(B) the United States on behalf of the Northern Cheyenne Tribe and its members and allottees;

(2) to approve, ratify and confirm the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana on June 11, 1991;

(3) to direct the Secretary of the Interior to enter into a cooperative agreement with the State of Montana for the planning, environmental compliance, design, and construction of the Tongue River Dam Project in order to—

(A) implement the Compact's settlement of the Tribe's reserved water rights claims in the Tongue River Basin;

(B) protect existing tribal contract water rights in the Tongue River Basin;

(C) provide 20,000 acre-feet per year of additional storage water for allocation to the Tribe and to allow the State to implement its responsibilities to correct identified Tongue River Dam safety inadequacies; and

(D) provide for the conservation and development of fish and wildlife resources in the Tongue River Basin;

(4) to provide for the enhancement of fish and wildlife habitat in the Tongue River Basin;

(5) to authorize certain modifications to the purposes and operation of the Big Horn Reservoir in order to implement the Compact's settlement of the Tribe's reserved water rights claims; and

(6) to authorize the Secretary of the Interior to take such other actions as are necessary to implement the Compact.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ALLOTTEE.—The term "allottee" means any person who owns land in trust on the Northern Cheyenne Reservation.

(2) COMPACT.—The term "Compact" means the Water Rights Compact entered into on June 11, 1991, by the Northern Cheyenne Tribe and the State of Montana.

(3) NORTHERN CHEYENNE FUND.—The term "Northern Cheyenne Fund" means the Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund established by section 6.

(4) RESERVATION.—The term "Reservation" means the Northern Cheyenne Reservation as established by Executive orders of November 26, 1884 and March 19, 1900.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Montana.

(7) STATE WATER CONTRACTS.—The term "State water contracts" means contracts with the Montana Department of Natural Resources and Conservation (DNRC), or its successor State agency, to receive stored water from the National Resources and Conservation's storage rights in the Tongue River Reservoir.

(8) TONGUE RIVER DAM PROJECT.—The term "Tongue River Dam Project" means the project, conducted pursuant to the cooperative agreements between the Bureau of Reclamation and the State of Montana authorized by this Act and subject to conditions contained in the Compact and in the record of decision after completion of environmental review, to repair and enlarge the Tongue River Dam.

(9) TRIBAL WATER RIGHT.—The term "tribal water right" means the tribal water right as defined in the Compact.

(10) TRIBE.—The term "Tribe" means the Northern Cheyenne Tribe.

SEC. 4. RATIFICATION OF COMPACT.

(a) IN GENERAL.—Except as modified by this Act, the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana is hereby approved, ratified, and confirmed.

(b) IMPLEMENTATION.—The Secretary shall implement the Compact as provided in this Act.

(c) ENTRY OF DECREE.—Except for the authorizations contained in subsections 7(b)(1) and 7(b)(2), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section. Notwithstanding the provisions of Article V. 2. of the Compact, for the purposes of the proceeding involving such a decree, the effective date of the Compact shall be the date of the enactment of this Act.

(d) FORM OF DECREE.—No later than 180 days after the date of the enactment of this Act, the United States, the Tribe, and the State of Montana shall jointly petition the Montana water court to enter and approve the "Proposed Decree" agreed to by the United States, the Tribe, and the State of Montana on May 5, 1992, or any amended version thereof.

SEC. 5. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) ADMINISTRATION AND ENFORCEMENT.—As provided in the Compact, until the adoption and approval of a tribal water code, the Secretary shall administer and enforce the tribal water right.

(b) MEMBERS AND ALLOTTEES.—Any entitlement to reserved water of any tribal member or allottee shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions thereof. Such entitlement shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article III.A. of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) TRANSFER OF THE TRIBAL WATER RIGHT.—

(1) IN GENERAL.—Subject to paragraph (2), the Northern Cheyenne Tribe, or persons or entities authorized by the Tribe, may enter into a service contract, lease, exchange, or other agreement providing for the delivery, use, or transfer of the tribal water right confirmed to the Tribe in the Compact.

(2) LIMITATIONS.—Any service contract, lease, exchange, or other agreement entered into under subsection (c)(1) shall be subject to approval by the Secretary, and the limitations and conditions set forth in the Compact, and may not permanently alienate any portion of the tribal water right.

SEC. 6. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund".

(b) EXPENDITURES FROM NORTHERN CHEYENNE FUND.—Amounts in the Northern Cheyenne Fund shall be available, without fiscal year limitations, to the Secretary for expenditure by the Secretary or by the Tribe in accordance with the provisions of this Act.

(c) CONTENTS OF NORTHERN CHEYENNE FUND.—The Northern Cheyenne Fund shall consist of such amounts as are appropriated to it in accordance with the authorization provided by this Act, together with such amounts credited to it in accordance with section 7(e).

(d) USE OF NORTHERN CHEYENNE FUND.—The Tribe shall make $11,500,000 available from the Northern Cheyenne Fund to the State of Montana as a loan to assist financing Tongue River Dam Project costs, and such loan shall be repaid by the State to the Tribe. All other moneys appropriated to the Northern Cheyenne Fund pursuant to section 7(a), together with interest credited thereto, may be used by the Tribe for—

(1) land and natural resources administration, planning, and development within the Reservation;

(2) land acquisition by the Tribe within the Reservation; or

(3) any other purpose determined by the Tribe.

(e) PER CAPITA PAYMENTS.—Funds within the Northern Cheyenne Fund shall not be distributed on a per capita basis to members of the Tribe.

(f) CONGRESSIONAL INTENT.—Nothing in this Act is intended—

(1) to alter the trust responsibility of the United States to the Tribe; or

(2) to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) TRIBAL FUNDS.—There are authorized to be appropriated to the Northern Cheyenne Fund for use by the Tribe $7,400,000 in fiscal year 1995, $9,000,000 in fiscal year 1996, and $5,100,000 in fiscal year 1997.

(b) TONGUE RIVER DAM PROJECT.—(1) There are authorized to be appropriated to the Northern Cheyenne Fund for use, in accordance with paragraph (2), for the Tongue River Dam Project:

(A) $700,000 in fiscal year 1993;

(B) $700,000 in fiscal year 1994;

(C) $15,300,000 in fiscal year 1995;

(D) $11,400,000 in fiscal year 1996; and

(E) $3,400,000 in fiscal year 1997.

(2) Moneys appropriated pursuant to paragraph (1) shall be available for use by the State of Montana and the Secretary for the planning, design, and construction of the Tongue River Dam Project in accordance with provisions of April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribal Federal Negotiation Team and Montana Department of Natural Resources and Conservation. The Federal contribution is provided for development of additional capacity in the Tongue River Dam for storage of water secured to the Tribe in satisfaction of the Tribe's claims to water under the Compact.

(c) INDEXING OF AUTHORIZATION FOR CONSTRUCTION COSTS.—For the purposes of this section, the total estimated costs of construction of the Tongue River Dam Project, inclusive of noncontract costs, shall be $52,200,000 at the January 1991 price level. The project's annual authorization provided in subsection (b) and the Federal and State shares shall be adjusted up or down as may be required by reason of ordinary fluctuations in construction costs, as indicated by engineering cost indices applicable to the type of construction involved in the Tongue River Dam Project.

(d) FISH AND WILDLIFE ENHANCEMENT.—

(1) IN GENERAL.—The Secretary shall identify and develop features of the Tongue River Dam Project that provide for the enhancement of fish and wildlife habitats, in accordance with the Federal Water Project Recreation Act (16 U.S.C. 4601–12 et seq.).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for expenditure by the Secretary, $1,800,000 in fiscal year 1996, and $1,700,000 in fiscal year 1997 for Fish and Wildlife Enhancement, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering costs indices after January 1991. The Tribe shall not be required to reimburse amounts expended pursuant to this section.

(e) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Northern Cheyenne Fund for fiscal year 1993, and each fiscal year thereafter, such sums as are necessary to carry out all necessary environmental compliance associated with the Compact, including mitigation measures adopted by the Secretary.

(f) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for fiscal year 1993, and each fiscal year thereafter, on a nonreimbursable basis, such sums as are necessary to pay the annual operation, maintenance, and replacement costs provided for in section 10(f).

(g) WITHOUT FISCAL YEAR DEFINITIONS.—All moneys appropriated pursuant to authorizations under this Act shall be available without fiscal year limitation.

SEC. 8. STATE CONTRIBUTIONS TO SETTLEMENT.

(a) The provisions of section 6(d) shall be subject to the State of Montana contributing the following amounts to the settlement:

(1) $5,000,000 for contract costs associated with repair of the Tongue River Dam Project;

(2) $11,500,000 to be contributed to the Northern Cheyenne Fund as repayment of the loan provided for in section 6(d);

(3) $4,200,000 of noncontract costs assumed by the State of Montana according to the terms of the letter of agreement on cost-sharing between the State of Montana and the United States dated April 17, 1991; and

(4) $1,100,000 for the Fish and Wildlife enhancement measures identified in section 7(d).

SEC. 9. BIG HORN RESERVOIR STORAGE.

(a) ALLOCATION FOR TRIBE.—

(1) IN GENERAL.—As provided in the Compact, the Secretary shall allocate 30,000 acre-feet per year of stored water in Big Horn Reservoir, Yellowtail Unit, Lower Bighorn Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the Reservoir, for use or disposition by the Tribe for any purpose.

(2) PRIOR RESERVED RIGHTS.—This allocation shall be subject to the prior reserved water rights, if any, of any Indian tribe, or of persons claiming water through that tribe, to the water allocated in paragraph (1).

(b) PAYMENTS BY TRIBE.—

(1) IN GENERAL.—The Tribe shall not be required to make payments to the United States for the portion of the tribal water right stored in or used from the Big Horn Reservoir except for each acre-foot of stored water used or sold for municipal or industrial purposes. The Tribe shall pay annually to the United States an amount to cover the proportionate share of the—

(A) annual operation, maintenance and replacement costs for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe; and

(B) capital costs with appropriate interest for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe.

(2) ADJUSTMENT OF PAYMENTS.—The annual payments shall be reviewed and adjusted, as appropriate, to reflect the actual operation, maintenance, and replacement costs, and the actual capital costs, for the Yellowtail Unit.

(c) USE AND SALE OF WATER.—

(1) IN GENERAL.—Except for payments required to be made to the United States pursuant to subsection (b), the Tribe shall—

(A) set such rates as it considers proper for its use or sale of stored water; and

(B) retain all revenues from its use or sale of the stored water.

(2) HYDROPOWER GENERATION.—The United States shall retain the right to use any and all water stored in the Big Horn Reservoir for hydropower generation.

(d) AGREEMENT WITH TRIBE.—The Secretary shall enter into an agreement with the Tribe providing—

(1) for the Tribe's use or sale of water stored in the Big Horn Reservoir subject to the terms and conditions of the Compact; and

(2) for the collection and disposition of revenues in connection with water stored in the Big Horn Reservoir that is made available to the Tribe.

(e) MORATORIUM ON WATER MARKETING.—Notwithstanding any provision of this Act or the Compact, no portion of the allocation described in paragraph (1) of subsection (a) shall be sold or leased by the Tribe for a period of 10 years following the date on which the Compact becomes effective pursuant to Article V(A)(1) of the Compact or for a period of 10 years following any earlier date on which the allocation may become available to the Tribe, unless the Crow Tribe and the Northern Cheyenne Tribe agree otherwise.

(f) LIMITATION ON WATER MARKETING.—The Secretary may enter into contracts for the sale or lease of water to which the United States holds legal title and which is stored in the Big Horn Reservoir, except that with respect to any such contract—

(1) the Secretary provides notice to the Northern Cheyenne Tribe and the Crow Tribe of his intent to enter into a contract at least 120 days in advance of entering into such contract;

(2) the terms of the contract for sale or lease of water provide that the contract will not exceed a 2-year term, with a right of renewal following a 120-day notice period to the Northern Cheyenne Tribe and Crow Tribe; and

(3) the terms of the contract for sale or lease of water contain a provision that makes clear that the contract is subject to alteration or termination by the United States pending the resolution of claims to water by the Crow Tribe.

SEC. 10. TONGUE RIVER DAM PROJECT.

(a) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the State of Montana for the planning, design, and construction of the Tongue River Dam Project in accordance with the provisions of the April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribe Federal Negotiating Team and the Montana Department of Natural Resources and Conservation. The Secretary shall also enter into a cooperative agreement with the State of Montana for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on the Tongue River Dam Project.

(b) OWNERSHIP.—Notwithstanding Federal participation in the Tongue River Dam Project, the Tongue River Dam shall remain in the ownership of the State of Montana.

(c) STATE OPERATION OF RESERVOIR.—Except as otherwise provided in the Compact, nothing in this Act shall affect the State's operation of the Tongue River Reservoir to fulfill State water contracts.

(d) CONGRESSIONAL INTENT.—Nothing in this Act is intended to subject holders of State water contracts from the Tongue River Reservoir who do not have a contract for Federal reclamation storage to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.).

(e) LAND TRANSFER.—

(1) Notwithstanding any other provisions of law, the Bureau of Land Management shall transfer to the Bureau of Indian Affairs in trust for the Northern Cheyenne Tribe the following described land:

T. 8 S., R. 40 E., P.M.M.

Sec. 26, N½SW¼

Sec. 27, N½SE¼

T. 8 S., R. 40 E., P.M.M.

Sec. 23, SW¼NE¼, N½SE¼

Sec. 24, NW¼SW¼.

(2) Nothing in this section is intended to address the jurisdiction of the Tribe or the State of Montana over the property being transferred.

(3) This transfer shall not be construed as creating a Federal reserved water right.

(f) PAYMENT OF THE TRIBE'S SHARE.—The Secretary, acting through the Bureau of Indian Affairs, shall continue to pay annually to the State of Montana on a nonreimbursable basis an amount to cover the proportionate share of the

annual operation, maintenance and replacement costs for the Tongue River Dam allocable to the Tribe's stored water in the reservoir.

(g) EMPLOYMENT PREFERENCE.—Notwithstanding any other provision of law, the State shall require in all contracts and subcontracts relating to construction of the Tongue River Dam Project, a provision that the contractor and its subcontractors shall provide a hiring preference to Northern Cheyenne tribal members. The State and the Tribe shall enter into an agreement setting forth the manner in which the preference will be implemented and enforced.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—Notwithstanding the provisions of Article IV, Section G. of the Compact, the United States shall not be deemed to have waived its immunity from suit except to the extent provided in subsections (a), (b), and (c) of section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

(b) EFFECT ON YELLOWSTONE RIVER COMPACT.—Nothing in this Act shall be construed to alter or amend any provision of the Yellowstone River Compact, as consented to in the Act entitled "An Act granting the consent of Congress to a Compact entered into by the States of Montana, North Dakota, and Wyoming relating to the waters of the Yellowstone River", approved October 30, 1951 (65 Stat. 663).

(c) EFFECT ON RIGHTS OF OTHER TRIBES.—Nothing in this Act is intended to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water, of an Indian Tribe other than the Northern Cheyenne Tribe.

(d) ENVIRONMENTAL COMPLIANCE.—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 433–4335), and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable environmental Acts and regulations.

(e) EXECUTION OF COMPACT.—Execution of the Compact by the Secretary as provided for in section 4 shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance during the implementation phase of this settlement.

(f) BUREAU OF RECLAMATION DESIGNATED AS THE LEAD AGENCY.—With respect to the Tongue River Dam Project and uses of the Tribe's Big Horn Reservoir storage allocation, the Bureau of Reclamation is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(g) BUREAU OF INDIAN AFFAIRS DESIGNATED AS THE LEAD AGENCY.—With respect to all other provisions of the Compact, the Bureau of Indian Affairs is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

SEC. 12. EFFECTIVE DATE OF SETTLEMENT.

The settlement contained in this Act shall not become effective if a tribal referendum on the settlement is requested pursuant to the Northern Cheyenne Constitution within 60 days following the date of enactment of this Act, and the settlement fails to be approved in such referendum held within 120 days following the date of enactment of this Act. If the settlement does not become effective pursuant to this section, the United States (including the Secretary and all other officers), the State of Montana, and the Tribe are relieved of all rights, entitlements, duties, responsibilities and authorities conferred, imposed or created by this Act. If a referendum is not requested within such 60-day period, the settlement shall take effect upon the date next following the expiration of such 60-day period. If a referendum is requested within such 60-day period, and the settlement is approved in a referendum held within 120 days following the date of enactment of this Act, the settlement shall take effect on the date next following the date of such approval.

Mr. BAUCUS. Mr. President, I rise today in support of S. 1607. Passage of this bill by the Senate tonight is an event that I have been anticipating for some time. This bill introduced by Senators BURNS, MCCAIN and myself, will ratify the reserved water rights compact that has been negotiated between the State of Montana, the Northern Cheyenne Indian Tribe and the Federal Government.

This bill represents an end and a beginning. It represents an end to decades of Federal neglect of its Indian trust responsibility. Federal responsibilities to the Northern Cheyenne to adequately protect the tribe's water resources have—until now—been honored in the breach. Enactment of this bill will bring an end to that sorry record.

Additionally, implementation of this bill will bring to an end, the real and imminent threat of a catastrophic dam failure. The structure in question—the Tongue River Dam—is the lynch-pin that holds the negotiated compact together. This dam has deteriorated to the point that its collapse is just a question of time. This bill will rehabilitate and slightly enlarge that structure, turning a potential catastrophe into an asset.

While this bill represents an end to a long period of neglect and danger faced by the Northern Cheyenne, it likewise represents a new beginning for the tribe and the State. The negotiated compact that this bill will ratify will for the first time, provide the tribe with a steady and quantified source of water. The Northern Cheyenne Reservation is situated in a semiarid part of my State. There, water is life. Water is growth. Water is the future. Without the guarantees provided by the compact, there will be no growth for the Northern Cheyenne.

This bill also holds the promise of providing the tribe with an additional water supply and enhanced fish and wildlife resources that could provide a solid base for tourism and recreation. The compact provides for a modest enlargement of the dam, thus increasing the size of the reservoir. The fisheries resources of this reservoir are already first rate. A slightly larger reservoir with enhanced water fowl habitat will mean a steady flow of recreational and tourist dollars into the reservation. In cooperation with the U.S. Fish and Wildlife Service and Duck's Unlimited, the tribe plans to develop blue ribbon recreational opportunities.

Additionally, this bill represents the beginning of a new chapter in the relationship between the Northern Cheyenne and the State of Montana. It signifies a new period of trust, cooperation and mutual respect. These two parties have successfully negotiated their claims and have reached an accord that is fair to both. They came together and applied themselves in good faith negotiations. The product before you was achieved—not out of years of litigation, as is so often the case—but, out of mutual respect and hard work. That spirit will continue to pervade this government-to-government relationship.

Mr. President, this bill represents a new beginning for both the State of Montana and the Northern Cheyenne. They have produced an agreement that that does great credit to both. In fact, the new spirit of trust and mutual respect reflected by this compact might be one of its lasting achievements.

As we pass S. 1607, I would ask the Senate to contemplate what the consequences will be if this water compact is not passed and signed this year. If we do not pass this bill, only a few possibilities might happen and they are all bad.

The longer we delay, the greater the likelihood that nature will conspire against us, and we could lose the Tongue River Dam. The resulting loss of life and property would be devastating.

Additionally, if the House requires a major rewriting of this bill, that would require the assent of the Montana Legislature. The State legislature will not reconvene for more than a year. I have very real doubts that the financial situation of the State will permit it to accept additional delay.

Mr. President, in conclusion, I would like to thank Senators BURNS and MCCAIN for helping the Northern Cheyenne to reach out and secure their future. This compact can lead to economic promise and stability. Now is the time. We should not and cannot delay any longer.

Mr. BURNS. Mr. President, S. 1607 the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1991, is an important bill. I appreciate the courtesy of the Senate in passing the measure. I want to thank the senior Senator from Montana [Mr. BAUCUS] for his efforts on behalf of this bill as well as Senator INOUYE, chairman of the Select Committee on Indian Affairs. I want to especially thank the ranking Republican member of this committee, Senator MCCAIN who is an original cosponsor of S. 1607.

My colleague, Senator BAUCUS, and I have been working on the Tongue River settlement since Gov. Stan Stevens identified it as the State of Montana's top water priority. I think that it would be fair to say that S. 1607, the bill before us today, represents a consensus agreement on the part of virtually everyone involved. And, reaching that consensus has been a rocky road for everyone involved.

The Federal Government was an intricate part of the water rights settlement that is embodied in S. 1607. In fact, several of the provisions of the bill are as a direct result of advice and guidance offered by the Federal negotiating team. The State, the Compact Commission, and the Northern Cheyenne Tribe jumped through every hoop put up by the Federal Government. In a very real sense, S. 1607 is in the form that it is because of the Federal Government.

On that point, Mr. President, there is one item in the committee report which I wish to clarify. On page 6 of the report, language of a memorandum exchanged between the State of Montana, the Northern Cheyenne Tribe, and the United States relating to the meaning of subsection 4(d) of the act is quoted. The report states that the quoted language was agreed to by the State and tribe, but inadvertently fails to state that the United States also agreed to the language. I want to make clear that all three of the parties agreed to the language in the memorandum.

This bill marks a significant step forward for both the Northern Cheyenne and the Crow Tribes that occupy adjacent lands in southeast Montana. S. 1607 represents the settlement of longstanding Federal water rights claims for the Northern Cheyenne. By raising an existing State dam some 4 feet—all of the additional water will be used to satisfy that claim. An additional allocation of water from unallocated water entrapped behind Yellowtail Dam will be used to satisfy Northern Cheyenne water rights along the Rosebud also within the reservation.

In addition to the hard work of Chairman Edwin Dahle of the Northern Cheyenne Tribe, recognition should be given to Clara Nomee, chairperson of the Crow Tribe. Disagreement between the two tribes would have effectively killed progress on this settlement. That did not happen. The two tribes are cooperating. And, as a result, progress can be made not only on this but on other matters of importance to Clara and the Crow people. She is an effective leader of her people and this agreement is evidence of that leadership.

Governor of Montana, Stan Stephens, the Montana Legislature and the Montana Reserved Water Rights Commission under the leadership of Jack Galt and now Joe Masurek, have also worked mightily to move this process forward. The State of Montana has contributed and will contribute more actual dollar funds—real dollars at a time when dollars are tight—than most other States have contributed to similar settlements. The State is doing all the things necessary to make this settlement work.

The obligation is not the State of Montana. The State does not owe the Northern Cheyenne its water. That obligation belongs to the Federal Government. The State does own the Tongue River Dam located near the Northern Cheyenne Reservation. By raising the level of the State-owned dam the Federal Government can meet its Federal obligation to the Northern Cheyenne people. The State is a facilitator in this process. What the State gains is a safer dam.

The Tongue River Dam is in danger of collapse. As an earthen dam the ground around the spillway has eroded and is in danger of giving way. The corps and the Bureau of Reclamation have identified the dam as structurally in need of repair. The State could do those repairs. And absent the provisions in S. 1607 would probably proceed with a more modest repair of shoring up around the spillway. Such repair would not entrap any additional water.

The Federal obligation on the Northern Cheyenne remains if the dam is repaired without raising its level. The water would have to come from somewhere and the alternative solution would in all probability be at a greater Federal cost than the solution proposed in S. 1607. There probably would not be the State's contribution as an offset to the Federal obligation.

We should seize the moment and settle the water claims of the Northern Cheyenne people with what could be a model for the Nation. And we should do it in partnership with the State of Montana.

Thank you, Mr. President. I yield the floor.

AMENDMENT NO. 2924

(Purpose: To clarify the application of provisions pertaining to allocation of water resources)

Mr. SIMPSON. Mr. President, on behalf of Senator DANFORTH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. DANFORTH, proposes an amendment numbered 2924.

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

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

The amendment is as follows:

On page 36, strike line 8 and insert the following:

SEC. 12. APPLICATION OF PROVISIONS REGARDING ALLOCATION OF WATER RESOURCES.

(a) FINDING.—Congress finds that the allocation of water resources to the Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

(b) APPLICATION.—The provisions of this Act regarding the allocation of water resources to the Tribe shall not be construed to be applied to nor be precedent for any other Indian water right claims.

SEC. 13. EFFECTIVE DATE OF SETTLEMENT.

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

The amendment (No. 2924) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. 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. 1607

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 "Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992".

SEC. 2. PURPOSES OF ACT.

(a) PURPOSES.—The purposes of this Act are:

(1) to achieve a fair, equitable, and final settlement of all claims to Federal reserved water rights in the State of Montana of—

(A) the Northern Cheyenne Tribe and its members and allottees; and

(B) the United States on behalf of the Northern Cheyenne Tribe and its members and allottees;

(2) to approve, ratify and confirm the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana on June 11, 1991;

(3) to direct the Secretary of the Interior to enter into a cooperative agreement with the State of Montana for the planning, environmental compliance, design, and construction of the Tongue River Dam Project in order to—

(A) implement the Compact's settlement of the Tribe's reserved water rights claims in the Tongue River Basin;

(B) protect existing tribal contract water rights in the Tongue River Basin;

(C) provide 20,000 acre-feet per year of additional storage water for allocation to the Tribe and to allow the State to implement its responsibilities to correct identified Tongue River Dam safety inadequacies; and

(D) provide for the conservation and development of fish and wildlife resources in the Tongue River Basin;

(4) to provide for the enhancement of fish and wildlife habitat in the Tongue River Basin;

(5) to authorize certain modifications to the purposes and operation of the Big Horn Reservoir in order to implement the Compact's settlement of the Tribe's reserved water rights claims; and

(6) to authorize the Secretary of the Interior to take such other actions as are necessary to implement the Compact.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ALLOTTEE.—The term "allottee" means any person who owns land in trust on the Northern Cheyenne Reservation.

(2) COMPACT.—The term "Compact" means the Water Rights Compact entered into on

June 11, 1991, by the Northern Cheyenne Tribe and the State of Montana.

(3) NORTHERN CHEYENNE FUND.—The term "Northern Cheyenne Fund" means the Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund established by section 6.

(4) RESERVATION.—The term "Reservation" means the Northern Cheyenne Reservation as established by Executive orders of November 26, 1884 and March 19, 1900.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Montana.

(7) STATE WATER CONTRACTS.—The term "State water contracts" means contracts with the Montana Department of Natural Resources and Conservation (DNRC), or its successor State agency, to receive stored water from the National Resources and Conservation's storage rights in the Tongue River Reservoir.

(8) TONGUE RIVER DAM PROJECT.—The term "Tongue River Dam Project" means the project, conducted pursuant to the cooperative agreements between the Bureau of Reclamation and the State of Montana authorized by this Act and subject to conditions contained in the Compact and in the record of decision after completion of environmental review, to repair and enlarge the Tongue River Dam.

(9) TRIBAL WATER RIGHT.—The term "tribal water right" means the tribal water right as defined in the Compact.

(10) TRIBE.—The term "Tribe" means the Northern Cheyenne Tribe.

SEC. 4. RATIFICATION OF COMPACT.

(a) IN GENERAL.—Except as modified by this Act, the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana is hereby approved, ratified, and confirmed.

(b) IMPLEMENTATION.—The Secretary shall implement the Compact as provided in this Act.

(c) ENTRY OF DECREE.—Except for the authorizations contained in subsections 7(b)(1) and 7(b)(2), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section. Notwithstanding the provisions of Article V. 2. of the Compact, for the purposes of the proceeding involving such a decree, the effective date of the Compact shall be the date of the enactment of this Act.

(d) FORM OF DECREE.—No later than 180 days after the date of the enactment of this Act, the United States, the Tribe, and the State of Montana shall jointly petition the Montana water court to enter and approve the "Proposed Decree" agreed to by the United States, the Tribe, and the State of Montana on May 5, 1992, or any amended version thereof.

SEC. 5. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) ADMINISTRATION AND ENFORCEMENT.—As provided in the Compact, until the adoption and approval of a tribal water code, the Secretary shall administer and enforce the tribal water right.

(b) MEMBERS AND ALLOTTEES.—Any entitlement to reserved water of any tribal member or allottee shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions thereof. Such entitlement shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article III.A. of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) TRANSFER OF THE TRIBAL WATER RIGHT.—

(1) IN GENERAL.—Subject to paragraph (2), the Northern Cheyenne Tribe, or persons or entities authorized by the Tribe, may enter into a service contract, lease, exchange, or other agreement providing for the delivery, use, or transfer of the tribal water right confirmed to the Tribe in the Compact.

(2) LIMITATIONS.—Any service contract, lease, exchange, or other agreement entered into under subsection (c)(1) shall be subject to approval by the Secretary, and the limitations and conditions set forth in the Compact, and may not permanently alienate any portion of the tribal water right.

SEC. 6. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund".

(b) EXPENDITURES FROM NORTHERN CHEYENNE FUND.—Amounts in the Northern Cheyenne Fund shall be available, without fiscal year limitations, to the Secretary for expenditure by the Secretary or by the Tribe in accordance with the provisions of this Act.

(c) CONTENTS OF NORTHERN CHEYENNE FUND.—The Northern Cheyenne Fund shall consist of such amounts as are appropriated to it in accordance with the authorization provided by this Act, together with such amounts credited to it in accordance with section 7(e).

(d) USE OF NORTHERN CHEYENNE FUND.—The Tribe shall make $11,500,000 available from the Northern Cheyenne Fund to the State of Montana as a loan to assist financing Tongue River Dam Project costs, and such loan shall be repaid by the State to the Tribe. All other moneys appropriated to the Northern Cheyenne Fund pursuant to section 7(a), together with interest credited thereto, may be used by the Tribe for—

(1) land and natural resources administration, planning, and development within the Reservation;

(2) land acquisition by the Tribe within the Reservation; or

(3) any other purpose determined by the Tribe.

(e) PER CAPITA PAYMENTS.—Funds within the Northern Cheyenne Fund shall not be distributed on a per capita basis to members of the Tribe.

(f) CONGRESSIONAL INTENT.—Nothing in this Act is intended—

(1) to alter the trust responsibility of the United States to the Tribe; or

(2) to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) TRIBAL FUNDS.—There are authorized to be appropriated to the Northern Cheyenne Fund for use by the Tribe $7,400,000 in fiscal year 1995, $9,000,000 in fiscal year 1996, and $5,100,000 in fiscal year 1997.

(b) TONGUE RIVER DAM PROJECT.—(1) There are authorized to be appropriated to the Northern Cheyenne Fund for use, in accordance with paragraph (2), for the Tongue River Dam Project:

(A) $700,000 in fiscal year 1993;

(B) $700,000 in fiscal year 1994;

(C) $15,300,000 in fiscal year 1995;

(D) $11,400,000 in fiscal year 1996; and

(E) $3,400,000 in fiscal year 1997.

(2) Moneys appropriated pursuant to paragraph (1) shall be available for use by the State of Montana and the Secretary for the planning, design, and construction of the Tongue River Dam Project in accordance with provisions of April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribal Federal Negotiation Team and Montana Department of Natural Resources and Conservation. The Federal contribution is provided for development of additional capacity in the Tongue River Dam for storage of water secured to the Tribe in satisfaction of the Tribe's claims to water under the Compact.

(c) INDEXING OF AUTHORIZATION FOR CONSTRUCTION COSTS.—For the purposes of this section, the total estimated costs of construction of the Tongue River Dam Project, inclusive of noncontract costs, shall be $52,200,000 at the January 1991 price level. The project's annual authorization provided in subsection (b) and the Federal and State shares shall be adjusted up or down as may be required by reason of ordinary fluctuations in construction costs, as indicated by engineering cost indices applicable to the type of construction involved in the Tongue River Dam Project.

(d) FISH AND WILDLIFE ENHANCEMENT.—

(1) IN GENERAL.—The Secretary shall identify and develop features of the Tongue River Dam Project that provide for the enhancement of fish and wildlife habitats, in accordance with the Federal Water Project Recreation Act (16 U.S.C. 4601–12 et seq.).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for expenditure by the Secretary, $1,800,000 in fiscal year 1996, and $1,700,000 in fiscal year 1997 for Fish and Wildlife Enhancement, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering costs indices after January 1991. The Tribe shall not be required to reimburse amounts expended pursuant to this section.

(e) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Northern Cheyenne Fund for fiscal year 1993, and each fiscal year thereafter, such sums as are necessary to carry out all necessary environmental compliance associated with the Compact, including mitigation measures adopted by the Secretary.

(f) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for fiscal year 1993, and each fiscal year thereafter, on a nonreimbursable basis, such sums as are necessary to pay the annual operation, maintenance, and replacement costs provided for in section 10(f).

(g) WITHOUT FISCAL YEAR DEFINITIONS.—All moneys appropriated pursuant to authorizations under this Act shall be available without fiscal year limitation.

SEC. 8. STATE CONTRIBUTIONS TO SETTLEMENT.

(a) The provisions of section 6(d) shall be subject to the State of Montana contributing the following amounts to the settlement:

(1) $5,000,000 for contract costs associated with repair of the Tongue River Dam Project;

(2) $11,500,000 to be contributed to the Northern Cheyenne Fund as repayment of the loan provided for in section 6(d);

(3) $4,200,000 of noncontract costs assumed by the State of Montana according to the terms of the letter of agreement on cost-sharing between the State of Montana and the United States dated April 17, 1991; and

(4) $1,100,000 for the Fish and Wildlife enhancement measures identified in section 7(d).

SEC. 9. BIG HORN RESERVOIR STORAGE.

(a) ALLOCATION FOR TRIBE.—

(1) IN GENERAL.—As provided in the Compact, the Secretary shall allocate 30,000 acre-feet per year of stored water in Big Horn Reservoir, Yellowtail Unit, Lower Bighorn Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the Reservoir, for use or disposition by the Tribe for any purpose.

(2) PRIOR RESERVED RIGHTS.—This allocation shall be subject to the prior reserved water rights, if any, of any Indian tribe, or of persons claiming water through that tribe, to the water allocated in paragraph (1).

(b) PAYMENTS BY TRIBE.—

(1) IN GENERAL.—The Tribe shall not be required to make payments to the United States for the portion of the tribal water right stored in or used from the Big Horn Reservoir except for each acre-foot of stored water used or sold for municipal or industrial purposes. The Tribe shall pay annually to the United States an amount to cover the proportionate share of the—

(A) annual operation, maintenance and replacement costs for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe; and

(B) capital costs with appropriate interest for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe.

(2) ADJUSTMENT OF PAYMENTS.—The annual payments shall be reviewed and adjusted, as appropriate, to reflect the actual operation, maintenance, and replacement costs, and the actual capital costs, for the Yellowtail Unit.

(c) USE AND SALE OF WATER.—

(1) IN GENERAL.—Except for payments required to be made to the United States pursuant to subsection (b), the Tribe shall—

(A) set such rates as it considers proper for its use or sale of stored water; and

(B) retain all revenues from its use or sale of the stored water.

(2) HYDROPOWER GENERATION.—The United States shall retain the right to use any and all water stored in the Big Horn Reservoir for hydropower generation.

(d) AGREEMENT WITH TRIBE.—The Secretary shall enter into an agreement with the Tribe providing—

(1) for the Tribe's use or sale of water stored in the Big Horn Reservoir subject to the terms and conditions of the Compact; and

(2) for the collection and disposition of revenues in connection with water stored in the Big Horn Reservoir that is made available to the Tribe.

(e) MORATORIUM ON WATER MARKETING.—Notwithstanding any provision of this Act or the Compact, no portion of the allocation described in paragraph (1) of subsection (a) shall be sold or leased by the Tribe for a period of 10 years following the date on which the Compact becomes effective pursuant to Article V(A)(1) of the Compact or for a period of 10 years following any earlier date on which the allocation may become available to the Tribe, unless the Crow Tribe and the Northern Cheyenne Tribe agree otherwise.

(f) LIMITATION ON WATER MARKETING.—The Secretary may enter into contracts for the sale or lease of water to which the United States holds legal title and which is stored in the Big Horn Reservoir, except that with respect to any such contract—

(1) the Secretary provides notice to the Northern Cheyenne Tribe and the Crow Tribe of his intent to enter into a contract at least 120 days in advance of entering into such contract;

(2) the terms of the contract for sale or lease of water provide that the contract will not exceed a 2-year term, with a right of renewal following a 120-day notice period to the Northern Cheyenne Tribe and Crow Tribe; and

(3) the terms of the contract for sale or lease of water contain a provision that makes clear that the contract is subject to alteration or termination by the United States pending the resolution of claims to water by the Crow Tribe.

SEC. 10. TONGUE RIVER DAM PROJECT.

(a) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the State of Montana for the planning, design, and construction of the Tongue River Dam Project in accordance with the provisions of the April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribe Federal Negotiating Team and the Montana Department of Natural Resources and Conservation. The Secretary shall also enter into a cooperative agreement with the State of Montana for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on the Tongue River Dam Project.

(b) OWNERSHIP.—Notwithstanding Federal participation in the Tongue River Dam Project, the Tongue River Dam shall remain in the ownership of the State of Montana.

(c) STATE OPERATION OF RESERVOIR.—Except as otherwise provided in the Compact, nothing in this Act shall affect the State's operation of the Tongue River Reservoir to fulfill State water contracts.

(d) CONGRESSIONAL INTENT.—Nothing in this Act is intended to subject holders of State water contracts from the Tongue River Reservoir who do not have a contract for Federal reclamation storage to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.).

(e) LAND TRANSFER.—

(1) Notwithstanding any other provisions of law, the Bureau of Land Management shall transfer to the Bureau of Indian Affairs in trust for the Northern Cheyenne Tribe the following described land:

T. 8 S., R. 40 E., P.M.M.
Sec. 26, N½SW¼
Sec. 27, N½SE¼
T. 8 S., R. 40 E., P.M.M.
Sec. 23, SW¼NE¼, N½SE¼
Sec. 24, NW¼SW¼.

(2) Nothing in this section is intended to address the jurisdiction of the Tribe or the State of Montana over the property being transferred.

(3) This transfer shall not be construed as creating a Federal reserved water right.

(f) PAYMENT OF THE TRIBE'S SHARE.—The Secretary, acting through the Bureau of Indian Affairs, shall continue to pay annually to the State of Montana on a nonreimbursable basis an amount to cover the proportionate share of the annual operation, maintenance and replacement costs for the Tongue River Dam allocable to the Tribe's stored water in the reservoir.

(g) EMPLOYMENT PREFERENCE.—Notwithstanding any other provision of law, the State shall require in all contracts and subcontracts relating to construction of the Tongue River Dam Project, a provision that the contractor and its subcontractors shall provide a hiring preference to Northern Cheyenne tribal members. The State and the Tribe shall enter into an agreement setting forth the manner in which the preference will be implemented and enforced.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—Notwithstanding the provisions of Article IV, Section G, of the Compact, the United States shall not be deemed to have waived its immunity from suit except to the extent provided in subsections (a), (b), and (c) of section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

(b) EFFECT ON YELLOWSTONE RIVER COMPACT.—Nothing in this Act shall be construed to alter or amend any provision of the Yellowstone River Compact, as consented to in the Act entitled "An Act granting the consent of Congress to a Compact entered into by the States of Montana, North Dakota, and Wyoming relating to the waters of the Yellowstone River", approved October 30, 1951 (65 Stat. 663).

(c) EFFECT ON RIGHTS OF OTHER TRIBES.—Nothing in this Act is intended to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water, of an Indian Tribe other than the Northern Cheyenne Tribe.

(d) ENVIRONMENTAL COMPLIANCE.—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 433-4335), and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable environmental Acts and regulations.

(e) EXECUTION OF COMPACT.—Execution of the Compact by the Secretary as provided for in section 4 shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance during the implementation phase of this settlement.

(f) BUREAU OF RECLAMATION DESIGNATED AS THE LEAD AGENCY.—With respect to the Tongue River Dam Project and uses of the Tribe's Big Horn Reservoir storage allocation, the Bureau of Reclamation is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(g) BUREAU OF INDIAN AFFAIRS DESIGNATED AS THE LEAD AGENCY.—With respect to all other provisions of the Compact, the Bureau of Indian Affairs is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

SEC. 12. APPLICATION OF PROVISIONS REGARDING ALLOCATION OF WATER RESOURCES..

(a) FINDING.—Congress finds that the allocation of water resources to the Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

(b) APPLICATION.—The provisions of this Act regarding the allocation of water resources to the Tribe shall not be construed to be applied to nor be precedent for any other Indian water right claims.

SEC. 13. EFFECTIVE DATE OF SETTLEMENT.

The settlement contained in this Act shall not become effective if a tribal referendum on the settlement is requested pursuant to the Northern Cheyenne Constitution within 60 days following the date of enactment of this Act, and the settlement fails to be approved in such referendum held within 120 days following the date of enactment of this Act. If the settlement does not become effective pursuant to this section, the United States (including the Secretary and all other officers), the State of Montana, and the Tribe are relieved of all rights, entitlements,

duties, responsibilities and authorities conferred, imposed or created by this Act. If a referendum is not requested within such 60-day period, the settlement shall take effect upon the date next following the expiration of such 60-day period. If a referendum is requested within such 60-day period, and the settlement is approved in a referendum held within 120 days following the date of enactment of this Act, the settlement shall take effect on the date next following the date of such approval.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ANIMAL ENTERPRISE PROTECTION ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 544.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 544) entitled "An Act to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal Acts, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Enterprise Protection Act of 1992".

SEC. 2. ANIMAL ENTERPRISE TERRORISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 42 the following:

"§43. Animal enterprise terrorism

"(a) OFFENSE.—Whoever—

"(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce, for the purpose of causing physical disruption to the functioning of an animal enterprises; and

"(2) intentionally causes physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of, any property (including animals or records) used by the animal enterprise, and thereby causes economic damage exceeding $10,000 to that enterprise, or conspires to do so; shall be fined under this title or imprisoned not more than one year, or both.

"(b) AGGRAVATED OFFENSE.—

"(1) SERIOUS BODILY INJURY.—Whoever in the course of a violation of subsection (a) causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) DEATH.—Whoever in the course of a violation of subsection (a) causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.

"(c) RESTITUTION.—An order of restitution under section 3663 of this title with respect to a violation of this section may also include restitution—

"(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense; and

"(2) the loss of food production or farm income reasonably attributable to the offense.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'animal enterprise' means—

"(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

"(B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

"(C) any fair or similar event intended to advance agricultural arts and sciences;

"(2) the term 'physical disruption' does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise;

"(3) the term 'economic damage' means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits; and

"(4) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.

"(e) NON-PREEMPTION.—Nothing in this section pre-empts any State law.".

"(b) CLERICAL AMENDMENT.—The item relating to section 43 in table of sections at the beginning of chapter 3 of title 18, United States Code, is amended to read as follows:

"43. Animal enterprise terrorism.".

SEC. 3. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL ENTERPRISES.

"(a) STUDY.—The Attorney General and the Secretary of Agriculture shall jointly conduct a study on the extent and effects of domestic and international terrorism on enterprises using animals for food or fiber production, agriculture, research, or testing.

"(b) SUBMISSION OF STUDY.—Not later than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Agriculture shall submit a report that describes the results of the study conducted under subsection (a) together with any appropriate recommendations and legislation to the Congress.

Mr. FORD. I move that the Senate concur in the House amendments.

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

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

TITLE AMENDMENT TO H.R. 4111

Mr. FORD. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendment to H.R. 4111, an act to amend the Small Business Act, the title be amended with the language I now send to the desk.

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

The title was amended so as to read:

"An Act to amend the Small Business Act and related Acts to provide loan assistance to small business concerns, to extend certain demonstration programs relating to small business participation in Federal procurement, to modify certain Small Business Administration programs, to assist small firms to adjust to reductions in Defense-related business, to improve the management of certain program activities of the Small Business Administration, to provide for the undertaking of certain studies, and for other purposes.".

JOB TRAINING REFORM AMENDMENTS OF 1992—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 3033 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3033) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 6, 1992.)

Mr. KENNEDY. Mr. President, I urge the Senate to approve the conference report on H.R. 3033, the Job Training Partnership Reform Amendments of 1992. I commend House Education and Labor Committee Chairman WILLIAM FORD, and Employment Opportunities Subcommittee Chairman CARL PERKINS for their work on this important legislation. Without their leadership, these important reforms would not be possible.

In addition, I commend our Senate conferees, Senators METZENBAUM, SIMON, HATCH, and THURMOND. They have provided leadership in the Senate, and we have reached bipartisan agreement with the administration on these reforms in time to implement them for the 1993 program year.

I also commend Secretary of Labor Lynn Martin and many other able persons in the Department of Labor who have helped us to shape these important reforms.

These amendments will improve the quality of services provided under the Job Training Partnership Act, which is currently the largest Federal program that educates and trains our work force. Services provided under the act are targeted to disadvantaged Americans who currently face the greatest barriers to successful participation in the work force. The act plays a central role in our efforts to help them acquire the skills, and jobs they need to attain self-sufficiency.

Preserving the best features of JTPA, these amendments build on the experience we have gained under the act to refine and sharpen program requirements and provide higher quality services. Public-private partnerships, which have formed the basic delivery system for JTPA, and the emphasis on the use of performance standards to evaluate programs, remain intact.

Although these virtues of the act are preserved, the conference report addresses several important needs.

It provides better targeting of services under the act, to ensure that the services actually reach those most in need.

It modifies performance standards to emphasize the actual acquisition of skills, rather than simple job placements, which may be short-term;

It separates services for adults and youth into two distinct programs, so that we can address the special needs of each group more effectively;

It requires individualized assessments of the education, skills and service needs of each participant, so that service strategies can be tailored to meet each of their particular needs;

It strengthens fiscal accountability by requiring better documentation and reporting of costs and stronger procurement and contracting procedures;

It reaches out to poor communities to enable them to provide comprehensive services to low-income youth through the newly created Youth Fair Chance Program; and

Revises the Jobs for Employable Dependent Individuals Incentive Bonus Program under title V in order to provide job training and placement to absent parents of children receiving AFDC. Under this program, absent parents can receive bonuses based on the amount of child support paid by the parent for up to 2 years after they complete JTPA training. At present, there are no job training programs targeted to absent parents of children receiving AFDC. By training these parents and placing them in productive employment, we can help them meet their child support obligations and thereby reduce their children's dependency on Federal assistance programs. JEDI incentives will encourage States and service delivery areas to provide services to these parents and reward them for successful efforts that reduce dependency on welfare.

This conference report reflects a broad consensus among groups involved in the delivery of JTPA services at the Federal, State, and local level on what needs to be done to improve the program. Through our action today, we are taking a positive step to strengthen a program that is an essential element of Federal job training policy. I urge my colleagues to support it.

Mr. THURMOND. Mr. President, as the ranking minority member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee, I am pleased to offer my strong support of the conference report on the Job Training Reform Amendments of 1992, legislation which strengthens the program of employment and training assistance provided under the Job Training Partnership Act [JTPA].

Since the enactment of JTPA in 1982, the core program of job training services for the economically disadvantaged has remained basically unchanged. In its 9 years of existence, this law has helped many economically disadvantaged Americans develop needed skills for entering the workforce as productive citizens. The conference report being considered today builds upon that established foundation.

Mr. President, in 1989 the administration submitted a JTPA proposal to the Congress. Many of the proposals set forth in that legislation were later incorporated into S. 543, a bipartisan bill reported from the Labor and Human Resources Committee in September 1989 by a vote of 15–1.

In October 1990, a variation of S. 543 passed the Senate as an amendment to the Departments of Labor, Health and Human Services, and Education and related agencies appropriations bill. However, the JTPA measure was dropped during conference.

In June of last year, I was pleased to introduce on behalf of the administration, S. 1404, the Job Training Partnership Act Amendments of 1991. That bill was designed to improve the targeting of JTPA funds to those facing serious barriers to employment. It would also strengthen program accountability, enhance existing job training services, and promote the coordination of a broad range of programs and resources.

The conference report before us today—the Job Training Reform Amendments of 1992—represents a consensus of the House and Senate conferees and the Department of Labor. It is a result of bipartisan negotiations, and it has been a pleasure to work with the chairman of the Labor and Human Resources Committee—Senator KENNEDY, the ranking member, Senator HATCH, the chairman of the Employment and Productivity Subcommittee, Senator SIMON, and other members of the conference committee. We have had the benefit of the views of the Department of Labor, the National Governors Association, the National Association of Counties, private industry council members, members of State job training councils, the vocational education community, and many others. It does not contain everything I would prefer to see in a bill, but it does represent a consensus, and important step forward.

I am particularly pleased that for the first time, we have agreement on language authorizing the creation of an optional State human resources investment council in each State. Such a council will permit States to better coordinate job training, vocational education, adult education, community service, unemployment compensation, food stamp, and other domestic programs.

Other provisions of the Conference report would:

Target services to persons facing serious and multiple barriers to employment;

Enhance program quality through individual assessments and service strategies;

Increase program accountability by enhancing performance standards; and

Continue the public-private partnership and local flexibility that make up the foundation of the current JTPA program.

Mr. President, in short, I am pleased to support this legislation which fine-tunes and refines the existing Job Training Partnership Act. I urge the prompt adoption of the conference report.

(At the request of Mr. DOLE, the following statement was printed in the RECORD.)

• Mr. HATCH. Mr. President, the Job Training Partnership Act [JTPA], enacted in 1982, is the largest system of Federal job training and retraining in the United States. The success of the JTPA programs has been due, in large part, to the State and local flexibility authorized by the act since its inception. The Senate amendments of 1992 continue to emphasize the partnership between the local administrators of JTPA programs and those who know about private sector job requirements.

The Senate and House amendments are designed to further target youth and adults who are economically disadvantaged and face serious barriers to employment. The result of the conference with the House has been, I think, a fair and workable set of compromises that should meet the goals originally intended by both bills.

I am honored to be involved with this part of JTPA's history. As future amendments are proposed, I hope Senators and Congressmen will remember that JTPA has succeeded due to the flexibility and responsibility given to State and local administration in partnership with the private sector.

These amendments follow this philosophy. I urge my colleagues to support this conference report.•

Mr. FORD. Mr. President, I ask unanimous consent that the conference report be agreed to and that the motion to reconsider be laid upon the table.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, 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 which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3743. A communication from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend section 1072 of title 10, United States Code, to authorize medical and dental care for certain unmarried children who become incapacitated and whose sponsor-parent provides more than 50 percent support; to the Committee on Armed Services.

EC-3744. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the results of an analysis on the Federal Deposit Insurance Corporation's estimated costs of assistance agreements entered into by the Federal Savings and Loan Insurance Corporation during 1988 and 1989; to the Committee on Banking, Housing and Urban Affairs.

EC-3745. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-3746. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3747. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the nondisclosure of Safeguards Information for the quarter ending June 30, 1992; to the Committee on Environment and Public Works.

EC-3748. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Merchant Marine Act, 1936, as amended, to establish a contingency retainer program and improve the United States-flag merchant marine; to the Committee on Finance.

EC-3749. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the monthly report of the General Accounting Office; to the Committee on Governmental Affairs.

EC-3750. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, the actuarial reports on the Judicial Retirement System, the Judicial Officers' Retirement Fund, the Judicial Survivors' Annuities System, and the Claims Court Judges' Retirement System for the calendar year ending December 31, 1991; to the Committee on Governmental Affairs.

EC-3751. A communication from the Vice President of the Farm Credit Bank (Human Resource Management), transmitting, pursuant to law, the annual report for the Pension Plan for the year ended December 31, 1991; to the Committee on Governmental Affairs.

EC-3752. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-282 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3753. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-283 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3754. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting a draft of proposed legislation entitled "The Consular Efficiency Act of 1992"; to the Committee on the Judiciary.

EC-3755. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report of the Department of Labor for calendar year 1991; to the Committee on the Judiciary.

EC-3756. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to provide that public and private sector employees shall not be excluded from the minimum wage and maximum hour exemption under section 13(a)(1) of the Fair Labor Standards Act of 1938 because the pay of the employee might be subject to reduction for partial day absences, and for other purposes; to the Committee on Labor and Human Resources.

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. LIEBERMAN (for himself and Mr. BAUCUS):

S. 3152. A bill to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; to the Committee on Foreign Relations.

By Mr. DECONCINI (for himself, Mr. HATCH, and Ms. MIKULSKI):

S. 3153. A bill to reform Customs Service operations, and for other purposes; to the Committee on Finance.

By Mr. SEYMOUR:

S. 3154. A bill to control and prevent criminal gang activity and violence, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. AKAKA, Mr. COCHRAN, Mr. MCCAIN, Mr. DASCHLE, and Mr. SIMON):

S. 3155. A bill to establish the National Indian Policy Research Institute; to the Select Committee on Indian Affairs.

By Mr. SEYMOUR:

S. 3156. A bill to amend the Internal Revenue Code of 1986 to provide for the designation of turbo enterprise zones to assist those areas of Los Angeles affected by recent rioting and to assist other areas of high unemployment; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. GORTON, Mr. AKAKA, Mr. DASCHLE, and Mr. SIMON):

S. 3157. A bill to provide for a National Native American Veterans' Memorial; to the Select Committee on Indian Affairs.

By Mr. SMITH:

S. 3158. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 387

At the request of Mr. MACK, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 387, a bill to amend title XVIII of the Social Security Act to provide an additional payment under part A of the Medicare program for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are Medicare beneficiaries.

S. 1622

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 2627

At the request of Mr. GRAMM, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2627, a bill to ensure the preservation of the Gulf of Mexico by establishing within the Environmental Protection Agency a Gulf of Mexico Program Office.

S. 2667

At the request of Mr. HEFLIN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2682

At the request of Mr. BUMPERS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2900

At the request of Mr. DOMENICI, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Alabama [Mr. HEFLIN], the Senator from Washington [Mr. GORTON], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known

as the Safe Drinking Water Act) until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2921

At the request of Mr. FOWLER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2921, a bill to reform the administrative decisionmaking and appeals processes of the Forest Service, and for other purposes.

S. 2922

At the request of Mr. COHEN, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2922, a bill to assist the States in the enactment of legislation to address the criminal act of stalking other persons.

S. 2958

At the request of Mr. AKAKA, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2958, a bill to amend chapter 37 of title 38, United States Code, to expand the housing loan program for veterans.

S. 2961

At the request of Mr. AKAKA, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2961, a bill to amend title 38, United States Code, to permit the burial in ceremonies of the National Cemetery System of certain deceased Reservists, to furnish a burial flag for such members, to furnish headstones and markers, and for other purposes.

S. 2970

At the request of Mr. SASSER, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2970, a bill to amend the Cash Management Improvement Act of 1990, and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the names of the Senator from Virginia [Mr. ROBB], the Senator from New York [Mr. D'AMATO], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3088

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 3088, a bill to amend the Public Health Service Act to establish a program to provide grants to improve the quality and availability of comprehensive education, health and social services for at-risk youth and their families, and for other purposes.

S. 3097

At the request of Mr. GORTON, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 3097, a bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes.

S. 3148

At the request of Mr. PRYOR, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 3148, a bill to amend title XI of the Social Security Act to establish an Intergovernmental Task Force on Health Care Fraud and Abuse.

SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the names of the Senator from Missouri [Mr. BOND], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 293, a joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week."

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. AKAKA, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Concurrent Resolution 133, a concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States.

SENATE RESOLUTION 109

At the request of Mr. RIEGLE, the names of the Senator from Tennessee [Mr. SASSER], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Resolution 109, a resolution exercising the right of the Senate to change the rules of the Senate with respect to the "fast track" procedures for trade implementation bills.

SENATE RESOLUTION 301

At the request of Mr. SIMON, the names of the Senator from Washington, [Mr. ADAMS], the Senator from Oklahoma [Mr. BOREN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 301, a resolution relating to ongoing violence connected with apartheid in South Africa.

MESSAGES FROM THE HOUSE

At 5:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82nd Airborne Division 50th Anniversary Recognition Day."

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 492. Joint resolution designating September 1992 as "Childhood Cancer Month."

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

A concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States.

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 492. Joint resolution designating September 1992 as "Childhood Cancer Month;" to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 246. A concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States; to the Committee on Finance.

MEASURES READ THE FIRST TIME

The following bill, previously received from the House of Representatives for concurrence, was read the first time:

H.R. 2782. An act to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain States laws.

ENROLLED BILLS PRESENTED

The President pro tempore (Mr. BYRD) announced that on today, August 7, 1992, he had signed the following enrolled bill, which has previously been signed by the Speaker of the House:

H.R. 4437. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself and Mr. BAUCUS):

S. 3152. A bill to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; to the Committee on Foreign Relations.

JOBS THROUGH EXPORTS ACT OF 1992

• Mr. LIEBERMAN. Mr. President, I am introducing today legislation that I believe will enhance our Nation's ability to compete overseas. This legislation, which was introduced in the House by my friend and colleague SAM GEJDENSON, creates a framework in which American companies can win overseas markets by enhancing the ability of the U.S. Government to fund capital projects through USAID; by reauthorizing the Overseas Private Investment Corporation [OPIC], which insures companies overseas investments; and by providing funding for feasibility studies for private sector overseas projects.

Specifically the legislation reauthorizes the Overseas Private Investment Corporation [OPIC], which, among other things, offers protection for U.S. overseas investment opportunities. OPIC is responsible for the creation of 13,000 jobs in 1991.

In addition, this bill doubles the size of the Trade and Development Program [TDP] and renames it the Trade and Development Agency. TDP is one of the best kept secrets in Washington. Along with the Eximbank and OPIC, TDP forms a trio of agencies dedicated to helping increase American exports, which creates new jobs here at home. Through its feasibility studies and other related activities, TDP gives American companies a beachhead in the markets of developing nations. For every dollar that TDP spends, it generates $70 in U.S. goods and services. The bill authorizes $55 million for fiscal year 1992 for TDP and doubles its present budget in fiscal year 1993 by authorizing $70 million for TDP.

This bill also establishes a Capital Projects Office in the Agency for International Development [AID], which would enable exporters to more adequately compete with other OECD nations in capturing new market shares in developing nations. This office will help U.S. businesses by supporting developmentally sound capital projects.

This provision builds on work that Senators BOREN, BENTSEN, BYRD, BAUCUS, and myself have been undertaken for the past several years. We had an amendment to last year's Foreign Assistance Act that created a Capital Projects Office at AID and increased AID funding for developmentally sound capital projects—$650 million for fiscal year 1992 and $700 million for fiscal year 1993. Capital projects are not only important commercially, they are also important for the development of a nation's infrastructure.

The final title in the bill involves a pilot program with the Department of Commerce, which calls on the International Trade Administration [ITA] to create Commercial Centers in Asia, Eastern Europe, Latin America. These centers will provide additional support for U.S. Exporters in country. In addition to the fine work already being done by the U.S. Commercial Service, the centers will provide some legal advice, translation services, clerical assistance and conference and exhibition space. The bill provides $22 million for these centers for fiscal year 1993 through fiscal year 1997.

The bill also calls on the Secretary of Commerce to fully implement the Market Development Cooperator Program established by the Trade Act of 1988. This program encourages the American private sector to subsidize the government by providing additional staff expertise on key industries to foreign commercial service offices abroad. This is similar to a highly successful Department of Agriculture program already in operation.

I believe this legislation is an important step forward in ensuring that American economic policy plays a more important role in the determination of our overall foreign policy. This bill is about making America more competitive and creating new jobs.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 3152

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 "Jobs Through Exports Act of 1992".

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Overseas Private Investment Corporation Amendments Act of 1992".

SEC. 102. REAUTHORIZATION OF CORPORATION.

(a) IN GENERAL.—Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 and following) is amended to read as follows:

"TITLE IV—OVERSEAS PRIVATE INVESTMENT CORPORATION

"SEC. 231. PURPOSE AND POLICY.

"(a) PURPOSE.—The Overseas Private Investment Corporation shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Corporation is to promote sustainable economic development in developing and other eligible countries by mobilizing and facilitating the participation of the United States private sector.

"(b) ELIGIBILITY CRITERIA FOR PARTICIPATING COUNTRIES AND AREAS.—

"(1) IN GENERAL.—Countries or areas within countries may be eligible to receive insurance, reinsurance, financing, or other financial support from the Corporation if—

"(A) that country has established diplomatic relations with the United States;

"(B) that country or area is a developing country or area, or a country in transition from a nonmarket to market economy; and

"(C) that country respects internationally recognized human rights.

"(2) PREFERENCE FOR CERTAIN COUNTRIES.—The Corporation shall, in conducting its activities, give preference to countries with per capita incomes of $1,146 or less in 1990 United States dollars; and restrict its activities in countries with per capita incomes of $4,974 or more in 1990 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act).

"(3) EXCEPTION.—In a case in which a country in which the Corporation is conducting activities no longer meets the criteria set forth in paragraph (1), the Corporation may continue to operate its programs in that country, but shall not extend any new insurance, reinsurance, or financing with respect to projects in which the government of that country is involved as a partner, shareholder, director, manager, or otherwise.

"(c) GUIDELINES FOR ACTIVITIES OF OPIC.—In carrying out its purpose, the Corporation shall undertake—

"(1) to conduct insurance, reinsurance, and financing operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

"(2) to utilize private credit and investment institutions and the Corporation's guarantee authority as the principal means of mobilizing capital investment funds;

"(3) to broaden private participation by selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

"(4) to conduct its insurance operations with due regard to principles of risk management, including efforts to share its insurance risks and reinsurance risks;

"(5) to consider in the conduct of its operations the extent to which the governments of eligible countries are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

"(6) to foster private initiative and competition and discourage monopolistic practices;

"(7) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

"(8) to consider in the conduct of its operations the extent to which the governments of eligible countries respect human rights, labor rights, and the need to support sound environmental practices and policies;

"(9) to conduct its activities in consonance with the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States; and

"(10) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in eligible countries and areas.

"SEC. 232. STOCK OF THE CORPORATION; ORGANIZATION AND MANAGEMENT.

"(a) STOCK.—The Secretary of the Treasury shall hold the capital stock of the Corporation.

"(b) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (herein-

after in this title referred to as 'the Board') which shall consist of 15 Directors (including the Chair, the Executive Vice Chair, and the Vice Chair), with 8 Directors constituting a quorum for the transaction of business.

"(2) COMPOSITION OF THE BOARD.—

"(A) CHAIR.—The Chair of the Board shall be the President of the Corporation, ex officio.

"(B) EXECUTIVE VICE CHAIR.—The Executive Vice Chair of the Board shall be the Administrator of the Agency for International Development, ex officio.

"(C) VICE CHAIR.—The Vice Chair of the Board shall be the United States Trade Representative, ex officio, or, if so designated by the United States Trade Representative, a Deputy United States Trade Representative.

"(D) PUBLIC SECTOR DIRECTORS.—(i) In addition to the directors provided for in subparagraphs (A), (B), and (C), four Directors who are officers or employees of the Government of the United States, including an officer or employee of the Department of Labor, shall be designated by and shall serve at the pleasure of the President of the United States.

"(ii) The Directors designated under this subparagraph shall receive no additional compensation by virtue of their service as such a Director.

"(E) PRIVATE SECTOR DIRECTORS.—(i) Eight Directors who are not officers or employees of the Government of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

Of these, at least—

"(I) one shall be experienced in small business,

"(II) one shall be experienced in organized labor,

"(III) one shall be experienced in cooperatives, and

"(IV) one shall be experienced in social and economic development issues.

"(ii) Each Director appointed under this subparagraph shall be appointed for a term of not more than 3 years. The terms of not more than 3 such Directors shall expire in any 1 year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed to subsequent terms.

"(iii) Each Director appointed under this subparagraph shall be compensated at the daily equivalent of the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Director is actually engaged in the business of the Corporation, and may be paid travel or transportation expenses to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code. Any such Director may waive any such compensation.

"(d) APPOINTMENT OF THE PRESIDENT.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account the private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and shall be responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

"(e) OFFICERS AND STAFF.—

"(1) EXECUTIVE VICE PRESIDENT.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

"(2) OTHER OFFICERS AND STAFF.—(A) The Corporation may appoint such other officers and such employees (including attorneys) and agents as the Corporation considers appropriate.

"(B) The officers, employees, and agents appointed under this subsection shall have such functions as the Corporation may determine.

"(C) Of the officers, employees, and agents appointed under this paragraph, 20 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title, and shall serve at the pleasure of the Corporation.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 233. INVESTMENT INSURANCE, FINANCING, AND OTHER PROGRAMS.

"(a) INVESTMENT INSURANCE.—

"(1) RISKS FOR WHICH INSURANCE ISSUED.—The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

"(A) Inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment in the project, in whole or in part, or as compensation for the sale or disposition of all or any part of the investment.

"(B) Loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government.

"(C) Loss due to war, revolution, insurrection, or civil strife.

"(D) Loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

"(2) RISK SHARING ARRANGEMENTS WITH FOREIGN GOVERNMENTS AND MULTILATERAL ORGANIZATIONS.—Recognizing that major private investments in eligible countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, and political subdivisions thereof) and with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may, in connection with such arrangements, issue insurance to investors not otherwise eligible for insurance under this title, except that—

"(A) liabilities assumed by the Corporation under the authority of this paragraph shall be consistent with the purposes of this title, and

"(B) the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

"(3) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 10 percent of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 235(a)(1) shall be issued to a single investor.

"(4) REPORTS ON INSURANCE ISSUED FOR BUSINESS INTERRUPTION OR CIVIL STRIFE.—(A) In each instance in which a significant expansion is proposed in the type of risk to be insured under the definition of 'civil strife' or 'business interruption', the Corporation shall, at least 60 days before such insurance is issued, submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report with respect to such insurance.

"(B) Each such report shall include a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered.

"(C) Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A.

"(b) INVESTMENT GUARANTEES.—

"(1) AUTHORITY.—The Corporation is authorized to issue to eligible investors guarantees of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, subject to paragraphs (2), (3), and (4).

"(2) GUARANTEES ON OTHER THAN LOAN INVESTMENTS.—A guarantee issued under paragraph (1) on other than a loan investment may not exceed 75 percent of such investment.

"(3) LIMIT ON AMOUNT OF INVESTMENT GUARANTEED.—Except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) for which guarantees are issued under paragraph (1) with respect to any project shall not exceed, at the time of issuance of any such guarantee, 75 percent of the total investment committed to any such project as determined by the Corporation. Such determination by the Corporation shall be conclusive for purposes of the Corporation's authority to issue any such guarantee.

"(4) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 15 percent of the maximum contingent liability of investment guarantees which the Corporation is permitted to have outstanding under section 235(a)(2) may be issued to a single investor.

"(c) DIRECT INVESTMENT.—

"(1) IN GENERAL.—The Corporation is authorized to make loans in United States dollars, repayable in dollars, and to make loans in foreign currencies, to firms privately owned or of mixed private and public ownership, upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

"(2) USE OF LOAN FOR NEW TECHNOLOGIES, PRODUCTS, OR SERVICES.—The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of eligible countries or areas.

"(d) INVESTMENT ENCOURAGEMENT.—The Corporation is authorized to initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying, and promotion of private investment opportunities, using wherever feasible and effective the facilities of private investors, except that the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of oil or gas resources.

"(e) SPECIAL ACTIVITIES.—The Corporation is authorized to administer and manage special projects and programs, including programs of financial and advisory support, which provide private technical, professional, or managerial

assistance in the development of human resources, skills, technology, capital savings, intermediate financial and investment institutions, and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private.

"(f) OTHER INSURANCE FUNCTIONS.—

"(1) IN GENERAL.—The Corporation is authorized—

"(A) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and

"(B) to employ such insurance companies, financial institutions, other persons, or groups, where appropriate, as its agent, or to act as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business,

except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 and shall be on equitable terms.

"(2) RISK-SHARING AGREEMENTS.—The Corporation is authorized to enter into pooling or other risk-sharing agreements with multinational insurance or financing agencies or groups of such agencies.

"(3) OWNERSHIP INTEREST IN RISK-SHARING ENTITIES.—The Corporation is authorized to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

"(4) REINSURANCE OF CERTAIN LIABILITIES.—The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof with respect to risks referred to in subsection (a)(1).

"(5) LIMITATION ON REINSURANCE.—The amount of reinsurance of liabilities under this title which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his or her own account specified portions of liability, whether first loss or otherwise.

"(6) ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.—

"(A) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this title, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

"(i) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

"(ii) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

"(iii) Notwithstanding section 237(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this clause, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

"(B) ADVISORY GROUP.—

"(i) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this paragraph. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

"(I) Up to 7 persons from the private political risk insurance industry, of whom no fewer than 2 shall represent private political risk insurers, 1 shall represent private political risk reinsurers, and 1 shall represent insurance or reinsurance brokerage firms.

"(II) Up to 4 persons, other than persons described in subclause (I), who are purchasers of political risk insurance.

"(ii) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(iii) MEETINGS.—The advisory group shall meet at least annually. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

"(iv) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(g) EQUITY FINANCE PROGRAM.—

"(1) AUTHORITY FOR EQUITY FINANCE PROGRAM.—The Corporation is authorized to establish an equity finance program under which it may, on the limited basis prescribed in paragraphs (2) through (4), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this title, except that—

"(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

"(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

"(2) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

"(3) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in eligible countries or areas, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

"(4) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate on the implementation of the equity finance program established under this subsection.

"SEC. 234. GUIDELINES AND CRITERIA FOR OPIC SUPPORT.

"(a) DEVELOPMENT GUIDELINES.—

"(1) CRITERIA.—The Corporation, in determining whether to provide insurance, reinsurance, or financing for a project shall be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors.

"(2) DEVELOPMENT IMPACT PROFILE.—In order to carry out the policy set forth in paragraph (1), the Corporation shall prepare and maintain, for each investment project it insures, reinsures, or finances, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development.

"(b) SMALL BUSINESS DEVELOPMENT.—

"(1) BROADENED PARTICIPATION BY SMALL BUSINESSES.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in eligible countries or areas.

"(2) PREFERENTIAL CONSIDERATION.—Notwithstanding the requirements of section 231(c)(1), and on such terms and conditions as the Corporation may determine through loans, grants, or other programs authorized by section 233, the Corporation shall undertake, to the maximum degree possible consistent with its purposes—

"(A) to give preferential consideration in its investment insurance, reinsurance, and guarantee activities to investment projects sponsored by or involving United States small business; and

"(B) to maintain the proportion of projects sponsored by or significantly involving United States small business at not less than 30 percent of all projects insured, reinsured, or guaranteed by the Corporation.

"(c) ENVIRONMENTAL CONSIDERATIONS.—

"(1) ENVIRONMENTAL, HEALTH, OR SAFETY HAZARD.—The Corporation shall refuse to insure, reinsure, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

"(2) RESOURCE SUSTAINABLE DEVELOPMENT.—The Corporation, in determining whether to provide insurance, reinsurance, or financing for a project, shall ensure that the project is consistent with the objectives set forth in sections 117 (relating to environment and natural resources), 118 (relating to tropical forests), and 119 (relating to endangered species).

"(3) ENVIRONMENTAL IMPACT STATEMENTS AND ASSESSMENTS.—The requirements of section 117(c) relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, or finances under this title in connection with a project in a country.

"(4) NOTIFICATION OF FOREIGN GOVERNMENTS.—Before finally providing insurance, re-

insurance, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

"(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization that relate to the public health or safety or the environment and are applicable to the project; and

"(B) to the maximum extent practicable, any restriction, under any law of the United States, that relates to public health or safety or the environment and would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to paragraph (3).

"(5) CONSIDERATION OF COMMENTS RECEIVED.—Before finally providing insurance, reinsurance, or financing for any investment subject to paragraph (4), the Corporation shall take into account any comments it receives on the project involved.

"(d) WORKER RIGHTS.—

"(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:

"'The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government.'.

"(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c)).

"(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Committee on Foreign Affairs of the House of the Representatives and the Committee on Foreign Relations of the Senate, together with the reasons for the determination.

"(e) HUMAN RIGHTS.—The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 shall apply to any insurance, reinsurance, or financing provided by the Corporation for projects in a country, except that in addition to the exception set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.

"(f) HARM TO EMPLOYMENT IN THE UNITED STATES.—

"(1) REPLACEMENT OF UNITED STATES PRODUCTION.—(A) The Corporation shall refuse to insure, reinsure, or finance an investment if the Corporation determines that such investment is likely to cause the investor (or the sponsor of an investment project in which the investor is involved) significantly to reduce the number of the investor's or sponsor's employees in the United States because the investor or sponsor is replacing his or her United States production with production from such investment, and the production from such investment involves substantially the same product for substantially the same market as the investor's or sponsor's United States production.

"(B) If the Corporation determines that an investment is not likely to have the effects described in subparagraph (A), the Corporation shall monitor conformance with the representations made by the investor on which the Corporation relied in making that determination.

"(2) REDUCTION OF EMPLOYEES IN THE UNITED STATES.—The Corporation shall refuse to insure, reinsure, or finance an investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States.

"(g) PERFORMANCE REQUIREMENTS.—The Corporation shall refuse to insure, reinsure, or finance an investment which is subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment.

"(h) PROHIBITED TRADE PRACTICES.—

"(1) PAYMENTS TO VIOLATORS BARRED.—No payment may be made under any insurance or reinsurance which is issued under this title on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation of section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977.

"(2) REGULATIONS.—The Corporation shall have in effect regulations setting forth appropriate conditions under which any person who has been finally determined by a court of the United States to have violated section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977 shall be suspended, for a period of not more than 5 years, from eligibility to receive any insurance, reinsurance, financing, or other financial support authorized by this title, if that violation related to a project insured, reinsured, financed, or otherwise supported by the Corporation under this title.

"(i) FRAUD OR MISREPRESENTATION.—No payment may be made under any guarantee, insurance, or reinsurance issued under this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(j) PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 233 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

"(k) PUBLIC HEARINGS.—The Board shall hold at least 1 public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 231 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, or financing under this title.

"SEC. 235. ISSUING AUTHORITY, DIRECT INVESTMENT FUND, EQUITY FUND, AND RESERVES.

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 233(a) shall not exceed in the aggregate $10,000,000,000.

"(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 233(b) shall not exceed in the aggregate $3,000,000,000.

"(B) Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

"(i) to transfer $7,450,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan guarantee program under section 233(b) of $500,000,000 for fiscal year 1993; and

"(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan guarantee program under section 233(b) of $800,000,000 for fiscal year 1994 and $900,000,000 for fiscal year 1995.

"(3) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 233 shall continue until September 30, 1995.

"(b) DIRECT LOAN PROGRAM.—Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

"(1) to transfer up to $6,950,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for its direct loan program under section 233(c) of $50,000,000 for fiscal year 1993; and

"(2) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for its direct loan program under section 233(c) of $75,000,000 for fiscal year 1994 and $100,000,000 for fiscal year 1995.

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in section 233(g) and to make transfers to the fund of a total of $45,000,000 (less amounts transferred to the fund before the effective date of the Overseas Private Investment Corporation Amendments Act of 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under section 233(g), and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 632(a) of this Act.

"(d) INSURANCE RESERVES.—

"(1) MAINTENANCE AND PURPOSES.—The Corporation shall maintain insurance reserves. Such reserves shall be available for the discharge of liabilities, as provided in subsection (e), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section.

"(2) FUNDING.—The insurance reserves shall consist of—

"(A) any funds in the insurance reserves of the Corporation on the effective date of the Overseas Private Investment Corporation Amendments Act of 1992,

"(B) amounts transferred to the reserves pursuant to this title, and

"(C) such sums as are appropriated pursuant to subsection (f) of this section for such purposes.

"(e) ORDER OF PAYMENTS TO DISCHARGE LIABILITIES.—Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 233 or under predecessor guarantee authority shall be paid first out of the insurance reserves, as long as such reserves remain available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guarantees issued under section 233(b) shall be paid in accordance with the Federal Credit Reform Act of 1990.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance reserves, to discharge the liabilities under insurance or reinsurance issued by the Corporation or issued under predecessor guarantee authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to subsection (g).

"(2) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made under paragraph (1) to augment the insurance reserves until the amount of funds in the insurance reserves is less than $25,000,000. Any appropriations to augment the insurance reserves shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c).

"(g) ISSUANCE OF OBLIGATIONS.—In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; except that the aggregate amount of such obligations outstanding at any one time may not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within 1 year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code. The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any such purchase.

"(h) ADMINISTRATIVE EXPENSES.—Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

"(1) $11,000,000 for fiscal year 1993;

"(2) $13,000,000 for fiscal year 1994; and

"(3) $15,000,000 for fiscal year 1995.

"SEC. 236. INCOME AND REVENUES.

"In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from its noncredit activities, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

"(1) payment of all expenses of the Corporation, including investment promotion expenses;

"(2) transfers and additions to the insurance reserves maintained under section 235(d), and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

"(3) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under paragraphs (1) and (2).

"SEC. 237. GENERAL PROVISIONS RELATING TO INSURANCE AND FINANCING PROGRAM.

"(a) AGREEMENTS WITH COUNTRIES.—Insurance, guarantees, and reinsurance issued under this title shall cover investment made in connection with projects in any eligible country or area with the government of which the President of the United States has agreed to institute a program for such insurance, guarantees, or reinsurance.

"(b) PROTECTION OF INTERESTS OF THE CORPORATION.—The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, reinsurance, or guarantee issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guarantee, or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

"(c) FULL FAITH AND CREDIT PLEDGED.—All guarantees issued under predecessor guarantee authority, and all insurance, reinsurance, and guarantees issued under this title shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(d) FEES.—

"(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

"(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 233 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

"(e) INSURANCE, GUARANTEES, AND REINSURANCE LIMITED TO 20 YEARS.—No insurance, reinsurance, or guarantee of any equity investment under this title shall extend beyond 20 years from the date on which such insurance, reinsurance, or guarantee is issued.

"(f) AMOUNT OF COMPENSATION PAID ON CLAIMS.—Compensation for any insurance, reinsurance, or guarantee issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guarantee, except that the Corporation may provide that—

"(1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets;

"(2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss; and

"(3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued under section 233 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

"(g) LIMITATION WITH RESPECT TO FOREIGN CREDIT INSTITUTIONS.—Insurance, guarantees, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

"(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—Claims arising as a result of insurance, reinsurance, or guarantee operations under this title or under predecessor guarantee authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) CONTRACTS PRESUMED TO COMPLY WITH ACT.—Each guarantee contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

"(j) USE OF LOCAL CURRENCIES.—Loans, guarantees, or investments made with funds received in foreign currency by the Corporation as a result of activities conducted pursuant to section 233(a) shall not be considered in determining whether the Corporation has made or has outstanding loans, guarantees, or investments to the extent of any limitation on obligations, commitments, and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990

shall not apply to direct loan obligations or loan guarantee commitments made with funds described in this subsection.

"SEC. 238. GENERAL PROVISIONS AND POWERS.

"(a) PRINCIPAL OFFICE.—The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia.

"(b) AUDITS.—

"(1) IN GENERAL.—The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this title.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2).

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(c) POWERS.—To carry out the purposes of this title, the Corporation is authorized—

"(1) to adopt and use a corporate seal, which shall be judicially noticed;

"(2) to sue and be sued in its corporate name;

"(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

"(4) to acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

"(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it considers appropriate;

"(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

"(7) to require bonds of officers, employees, and agents and to pay the premiums therefor;

"(8) notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings;

"(9) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guarantee, and guarantee notes, participation certificates, and other evidence of indebtedness (except that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c)(3) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(h));

"(10) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

"(11) to exercise any priority of the Government of the United States in collecting debts from the estates of bankrupt, insolvent, or decedent parties;

"(12) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(13) to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and

"(14) to take such actions as may be necessary or appropriate to carry out the powers of the Corporation.

"(d) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation (including its franchise, capital, reserves, surplus, advances, intangible property, and income) shall be exempt from all taxation at any time imposed by any State, the District of Columbia, or any county, municipality, or local taxing authority.

"(e) CORPORATE OPERATIONAL GUIDELINES.—The Corporation—

"(1) shall establish and publish guidelines for its programs and operations consistent with the provisions of this title, and

"(2) shall make such guidelines available to applicants for insurance, reinsurance, financing, or other assistance provided by the Corporation.

The provisions of this title shall be controlling with respect to the Corporation's programs and operations.

"SEC. 239. ANNUAL REPORT; MAINTENANCE OF INFORMATION.

"(a) ANNUAL REPORT.—After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 234(a), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation—

"(A) refused to provide any insurance, reinsurance, financing, or other financial support, on account of violations of human rights referred to in section 234(e); or

"(B) notwithstanding such violations, provided such insurance, reinsurance, financing, or financial support, on the basis of a determination that—

"(i) the exception set forth in section 116(a) applies, or

"(ii) the national security interest so requires.

"(b) PROJECTIONS OF EFFECTS ON EMPLOYMENT.—

"(1) IN GENERAL.—Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the fiscal year covered by the report, the Corporation initially issued any insurance or reinsurance or provided financing. Each such report shall include projections of—

"(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

"(B) the final destination of the products to be produced as a result of those projects; and

"(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

"(2) INFORMATION IN AGGREGATE FORM.—The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). Such projections may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

"(c) MAINTENANCE OF INFORMATION.—The Corporation shall maintain as part of its records—

"(1) all information collected in preparing the report required by section 240A(c) of the Foreign Assistance Act of 1961 (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988), whether the information was collected by the Corporation itself or by a contractor; and

"(2) a copy of the analysis of each project analyzed in preparing the projections required by subsection (b) of this section or the report required by section 240A(c) of this Act (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).

"(d) PROGRAMS OF COOPERATION WITH PRIVATE INDUSTRY.—Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 233(f)(6), including the following information, to the extent such information is available to the Corporation:

"(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this title.

"(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this title.

"(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

"(e) PROTECTION OF CERTAIN INFORMATION.—Subsections (b) and (d) do not require the inclusion in any information submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

"SEC. 240. DEFINITIONS.

"As used in this title, the following terms have the following meanings:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Overseas Private Investment Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Overseas Private Investment Corporation.

"(3) ELIGIBLE INVESTOR.—(A) The term 'eligible investor' means—

"(i) a United States citizen;

"(ii) a corporation, partnership, or other association, including a nonprofit association, which is created under the laws of the United States, any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which is substantially beneficially owned by United States citizens; and

"(iii) a foreign corporation, partnership, or other association which is wholly owned by one or more United States citizens or corporations, partnerships, or other associations described in clause (ii), except that the eligibility of any such foreign corporation shall be determined without regard to any shares held by other than United States citizens or corporations, partnerships, or other associations described in clause (ii) if, in the aggregate, such shares equal less than 5 percent of the total issued and subscribed share capital of such foreign corporation.

"(B) For purposes of this title—

"(i) in the case of insurance or a guarantee for any loan investment, a final determination of whether a person is an eligible investor may be made at the time the insurance or guarantee is issued; and

"(ii) in the case of insurance or a guarantee for any other investment, an investor must be an eligible investor at the time a claim arises as well as the time the insurance or guarantee is issued.

"(4) EXPROPRIATION.—The term 'expropriation' includes any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project.

"(5) INVESTMENT.—The term 'investment' includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

"(A) a loan or loans to an approved project,

"(B) the purchase of a share of ownership in any such project,

"(C) participation in royalties, earnings, or profits of any such project, or

"(D) the furnishing of commodities or services pursuant to a lease or other contract.

"(6) NONCREDIT ACCOUNT REVOLVING FUND.—The term 'noncredit account revolving fund' means the account in which funds under section 236 and all funds from noncredit activities are held.

"(7) NONCREDIT ACTIVITIES.—The term 'noncredit activities' means all activities of the Corporation other than its loan guarantee program under section 233(b) and its direct loan program under section 233(c).

"(8) PREDECESSOR GUARANTEE AUTHORITY.—The term 'predecessor guarantee authority' means prior guarantee authorities (other than housing guarantee authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, and section 111(b)(3) of the Economic Cooperation Act of 1948, (exclusive of authority relating to informational media guarantees).".

(b) CONFORMING AMENDMENT.—Section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182(a)) is amended by striking "238(c)" in the first sentence and inserting "240(3)".

TITLE II—TRADE AND DEVELOPMENT AGENCY

SEC. 201. TRADE AND DEVELOPMENT AGENCY.

Section 661 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 661. TRADE AND DEVELOPMENT AGENCY.

"(a) PURPOSE.—The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under part I, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

"(2) USE OF FUNDS.—Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

"(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

"(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

"(3) INFORMATION DISSEMINATION.—(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

"(4) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this section may be used notwithstanding any other provision of law.

"(c) DIRECTOR AND PERSONNEL.—

"(1) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) OFFICERS AND EMPLOYEES.—(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

"(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

"(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"(d) ANNUAL REPORT.—The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"(e) AUDITS.—

"(1) IN GENERAL.—The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, United States Code, except as otherwise provided in this section.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, United States Code, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(f) FUNDING.—

"(1) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section, in addition to funds otherwise available for such purposes, $55,000,000 for fiscal year 1992 and $70,000,000 for fiscal year 1993.

"(2) FUNDING FOR TECHNICAL ASSISTANCE GRANTS BY MULTILATERAL DEVELOPMENT BANKS.—(A) The Trade and Development Agency should, in fiscal years 1992 and 1993, substantially increase the amount of funds it provides to multilateral development banks for technical assistance grants.

"(B) As used in subparagraph (A)—

"(i) the term 'technical assistance grants' means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

"(ii) the term 'multilateral development bank' has the meaning given that term in section 1701(c) of the International Financial Institutions Act.".

SEC. 202. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this

section, be known as the Trade and Development Agency.

(b) APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED.—The enactment of this title shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date of this section.

(c) TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—(1) Sections 644, 645, and 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q, 635r, and 635s) are each amended by striking "Trade and Development Program" each place it appears and inserting "Trade and Development Agency".

(2) The section heading for section 645 of such Act is amended by striking "TRADE AND DEVELOPMENT PROGRAM" and inserting "TRADE AND DEVELOPMENT AGENCY".

(d) TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking out

"Director, Trade and Development Program." and inserting in lieu thereof

"Director, Trade and Development Agency.".

(e) REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

TITLE III—AID, TRADE, AND COMPETITIVENESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Aid, Trade, and Competitiveness Act of 1992".

SEC. 302. CAPITAL PROJECTS OFFICE WITHIN THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) ESTABLISHMENT OF OFFICE.—The Administrator of the Agency for International Development shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) PURPOSES OF OFFICE.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) ACTIVITIES OF AID.—The Administrator of AID (acting through the capital projects office), after consultation with the Trade and Development Agency and, where appropriate, the Export-Import Bank of the United States—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall determine whether each capital project for which AID provides funding is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid credits; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infrastructure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after the date of the enactment of this Act.

SEC. 303. COORDINATION.

The President shall utilize the existing interagency coordinating mechanism to coordinate activities under this title with other relevant activities of the United States Government.

SEC. 304. REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than February 1, 1993, and each year thereafter, the President shall submit to the Congress a report describing—

(1) the extent to which United States Government resources have been expended specifically to support capital projects in developing countries and countries making the transition from nonmarket to market economies;

(2) the extent to which the activities of the United States Government have been coordinated pursuant to section 303; and

(3) the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

SEC. 305. NEGOTIATIONS OF THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.

If the negotiations for the implementation of the December 16, 1991, agreement within the Organization for Economic Cooperation and Development have not been completed by August 1, 1992, the Secretary of the Treasury, together with the President of the Bank, shall submit a report to the Congress on the status of the negotiations, including an analysis of the negotiations since 1987, the causes for the failure to reach an agreement by that date, and reasons the United States Government believes that continued negotiations will result in achieving the implementation of such agreement.

SEC. 306. FUNDING FOR CAPITAL PROJECTS.

The Congress strongly urges the President to use at least $650,000,000 for fiscal year 1992 and at least $700,000,000 for fiscal year 1993 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), assistance under the Multilateral Assistance Initiative for the Philippines, and assistance under the Support for East European Democracy (SEED) Act of 1989, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities.

SEC. 307. REPORT ON THE FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS.

Not later than September 1, 1992, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report on the feasibility of allowing AID to offer credit guarantees for the financing of capital projects.

SEC. 308. DEFINITIONS.

For purposes of this title—

(1) the term "AID" means the Agency for International Development;

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services; and

(3) the term "tied-aid credit" has the meaning given to such term in section 15(h)(1) of the Export-Import Bank Act of 1945.

SEC. 309. AUTHORIZATION OF ADDITIONAL FUNDING FOR THE TRADE AND DEVELOPMENT AGENCY FOR FISCAL YEAR 1993.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated for the Trade and Development Agency $20,000,000 for fiscal year 1993 to carry out section 661 of the Foreign Assistance Act of 1961.

TITLE IV—UNITED STATES COMMERCIAL CENTERS

SEC. 401. UNITED STATES COMMERCIAL CENTERS.

(a) ESTABLISHMENT.—The Secretary of Commerce, in his or her role as Chair of the Trade Promotion Coordinating Committee, shall establish, as a 5-year pilot program, a United States Commercial Center (hereinafter in this section referred to as a "Center") in one of the independent states of the former Soviet Union or one of the Baltic states, in one country in Asia, and in one country in Latin America.

(b) PURPOSE OF THE CENTERS.—The purpose of the Centers shall be to provide additional resources for the promotion of exports of United States goods and services to the host countries, by familiarizing United States exporters with the industries, markets, and customs of the host countries, thus facilitating commercial ties and trade.

(c) FUNCTIONS OF THE CENTERS.—Each Center shall—

(1) collect and publish economic and market data with respect to the host country;

(2) provide, on a user-fee basis, preliminary technical and clerical assistance, language translation, and administrative assistance, and information regarding the legal systems, laws, regulations, and procedures of the host country, to United States exporters seeking to do business in the host country; and

(3) in other ways promote exports of United States goods and services to the host country.

(d) SPECIFIC SERVICES TO BE PROVIDED.—To carry out its objectives, each Center shall make available the following (on a user-fee basis):

(1) BUSINESS FACILITIES.—Business facilities, including exhibition space, conference rooms, office space (including telephones and other basic office equipment), and, where warranted by impeding deficiencies in the public system, high quality international telecommunications facilities.

(2) BUSINESS SERVICES.—Business support services, including language translation services, clerical services, and a commercial library containing a comprehensive collection of reference materials covering United States and host country industries and markets.

(3) COMMERCIAL LAW INFORMATION SERVICES.—Commercial law information services, including—

(A) a clearing house for information regarding the relevant commercial laws, practices, and regulations of the host country;

(B) publications to assist United States businesses;

(C) legal referral services; and

(D) lists of local agents and distributors.

(e) OTHER TRADE PROMOTION ACTIVITIES.—Each Center shall also promote United States export trade by—

(1) facilitating contacts between buyers, sellers, bankers, traders, distributors, agents, and necessary government officials from the United States and the host country;

(2) coordinating trade missions; and

(3) assisting with applications, contracts, and clearances for imports into the host country and exports from the United States.

(f) STAFFING OF CENTERS.—

(1) IN GENERAL.—Each Center shall be staffed by members of the United States and Foreign Commercial Service, participants in the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723), other employees of the Department of Commerce, employees of appropriate executive branch departments and agencies which are members of the Trade Promotion Coordinating Committee, and Foreign Trade Fellows appointed pursuant to paragraph (2).

(2) FOREIGN TRADE FELLOWS.—The Secretary of Commerce shall appoint United States citizens as Foreign Trade Fellows to assist United States Government employees in staffing the Centers. The Secretary shall actively recruit individuals to serve as Foreign Trade Fellows from United States businesses, trade associations, labor unions, and the academic community. In order to facilitate the service of individuals (such as those from the academic community and smaller businesses) as Foreign Trade Fellows, the Secretary may make grants or provide stipends to Foreign Trade Fellows and may reimburse them for expenses they incur as the result of their service as Foreign Trade Fellows.

(g) CENTER FACILITIES AND THEIR RELATIONSHIP TO UNITED STATES DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—

(1) PHYSICAL ACCOMMODATIONS FOR THE CENTERS.—The Secretary of Commerce shall locate each Center in the primary commercial city of the host country. The Secretary shall acquire office space, exhibition space, and other facilities and equipment that are necessary for each Center to perform its functions. To the extent feasible, each Center shall be located in the central commercial district of the host city.

(2) CONSOLIDATION OF DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—For the purpose of obtaining maximum effectiveness and efficiency and to the extent consistent with the purposes of the Centers, the Secretary of Commerce is authorized and encouraged to place all personnel of the Department of Commerce who are assigned to the city in which a Center is located in the same facilities as those in which the Center conducts its activities. The Secretary is authorized and encouraged to integrate activities of the Department of Commerce in the host country.

(h) USE OF MARKET DEVELOPMENT COOPERATOR PROGRAM.—The Secretary of Commerce shall, to the greatest extent feasible, use the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723) to assist in carrying out the purposes of the Centers established under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $6,000,000 for fiscal year 1993, and $4,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997. Funds made available under this subsection may be used for the acquisition of real property.

(j) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 1 year after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, a report on the status, activities, and effectiveness of the Centers. Each such report shall include any recommendations with respect to the pilot program established under this section.

(k) DEFINITIONS.—For purposes of this section—

(1) the term "United States exporter" means—

(A) a United States citizen,

(B) a corporation, partnership, or other association created under the laws of the United States or of any State,

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(2) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(3) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

SEC. 501. ADDITIONAL PROCUREMENT OFFICERS.

(a) APPOINTMENT.—The Secretary of Commerce shall appoint one or more full-time additional procurement officers to promote exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(b) DEFINITION.—As used in this section, the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).•

By Mr. DECONCINI (for himself, Mr. HATCH, and Ms. MIKULSKI):

S. 3153. A bill to reform Customs Service operations, and for other purposes; to the Committee on Finance.

CUSTOMS INSPECTOR BENEFIT REFORM ACT

• Mr. DECONCINI. Mr. President, on behalf of myself and my distinguished colleagues, Senator HATCH, and Senator MIKULSKI, I rise to introduce the Customs Benefit Reform Act of 1992.

I am confident that there is not one Member of this body who has not come in contact with a uniformed inspector of the U.S. Customs Service. They are at the forefront of the Nation's efforts to interdict and prevent the smuggling of drugs and other contraband into this country. On a daily basis they face the multiple challenges of confronting drug criminals, organized crime figures and a broad array of unpredictable and often dangerous persons. They also are responsible for representing the United States of America to millions of international travelers each year.

I would like to spend a few minutes explaining the conditions and challenges under which these fine public servants perform their jobs. Mr. President, as chairman of the Treasury, Postal and General Government Appropriations Subcommittee, the Customs Service falls within my appropriations responsibilities. As such, I have the opportunity to experience first hand the operations of the Customs Service and its over 5,500 uniformed customs inspectors.

The responsibilities which Congress has vested in these people is inspiring. They face multiple challenges—they must confront leading criminals in the drug war, organized crime figures, be prepared to thwart terrorist attacks and detect increasingly sophisticated white collar criminals. During fiscal year 1991, the customs inspector was responsible for making 15,808 criminal arrests, an amount which represent 73 percent of all Customs arrests. Inspectors must carry firearms and maintain the highest degree of proficiency with these weapons as a condition of their employment. Whether a customs inspector is searching a suitcase at an airport, inspecting a shipment of liquified natural gas, or reviewing export documents on missile technology, we expect them to handle all of these responsibilities in an experienced and professional manner.

Over the years customs inspectors have aided in the interdiction of millions of tons of cocaine, marijuana, and other drugs too numerous to mention. These drugs have been seized and destroyed before the contraband could make its way onto our streets and into our Nations schools. During 1991, the customs inspectors seized 71,705 pounds of cocaine, 42 percent of the Customs total; 2,870 pounds of heroin, 97 percent of the Customs total; and 141,988 pounds of marijuana. In addition, believe it or not, it is the customs inspector who helps ensure that tyrants such as Mu'ammar Qadhafi and Sadaam Hussein do not get their hands on critical weapons technology. The customs inspector forms the core of people who make it very expensive and difficult for the international criminal element to operate.

There is very little glamour in these positions. Inspectors work long and ir-

regular hours constantly being exposed to a wide variety of occupational and environmental hazards such as toxic chemicals and exhaust fumes, adverse and extreme weather conditions, and a myriad of other less than desirable working conditions. Duties range from staffing a one person border crossing at a remote and frozen northern port of entry to inspecting the bilge of a filth-infested foreign freighter along the Miami River.

For the last 210 years, 24 hours a day, 365 days a year there has been hundreds of U.S. customs inspectors vigilantly enforcing the trade and tariff laws of the United States. These men and women are required not only to enforce the U.S. customs laws but in addition, to enforce the approximately 1,600 laws and regulations for 60 other Government agencies. Mr. President these men and women have also been charged with enforcing hundreds of separate State and local trade laws as well. A significant area of their work is in the enforcement of international trade laws, which involves the collection of over $20 billion in duties and fees from foreign entities; protection of domestic industries; and the prevention of illegal importations which lead to a loss of jobs in the United States.

The bill I am introducing today will significantly reform the way the customs inspector is paid. The present overtime system for these valuable employees was instituted back in 1911. There has been no significant change in their pay system since that time. Moreover, the evolution of the customs inspectors duties and responsibilities has caused the position to become increasingly complex. Inspectors are now confronted with highly sophisticated narcotics smuggling techniques, terrorism threats, automated systems and highly specialized inspection functions, at the same time this country has experienced a virtual explosion in commercial and passenger traffic. These changes have not been recognized in their pay structure.

It is very difficult to imagine how tangled any pay system would be if it had not changed in any substantive way since 1911. In essence you would be operating in a 21st-century environment using 19th century methods. It would take me days to explain how an inspector is currently being paid—it is just that complicated. I am confident that there are very few people who know all the intricacies of the current inspector pay system. However, it is known that under certain situations inspectors could earn overtime compensation at rates which substantially exceed the actual hours worked. The first goal of the legislation I am sponsoring today is to provide a linear relationship between hours paid for hours worked.

I have used H.R. 3837 as the basis for the bill I am introducing today. By and large, this bill adopts the House Ways and Means Committee's proposal to revise the overtime pay system for customs inspectors. Under this bill the overtime pay system will be calculated on a double-time system, with premium pay for designated shifts and commuting costs when the customs inspector is required to return back to work. I understand that the House Ways and Means Committee adopted such changes as the members believed these changes would correct the anomalies in the current Inspector pay program and provide for a fair overtime system. This bill recognizes the adverse affect on the quality of life of customs officers who are required to work all hours of the day.

This legislation includes provisions of the Ways and Means bill relating to the compensation of U.S. customs inspectors. The first section authorizes the Secretary of Treasury to pay up to 5 percent of basic pay to any customs inspector who possesses and makes substantial use of one or more foreign languages in the performance of his or her official duties. Many individuals whom customs officials encounter on a daily basis do not speak English and this provision would enable Customs to recruit and retain Inspectors who are proficient in a foreign language. The second provision permits a portion of overtime earnings to be included for the purposes of calculating the retirement annuities for customs officers. This places the customs inspector on par with other law enforcement officers who have administratively uncontrollable overtime calculated into their retirement annuities and offsets some of the loss of compensation to the customs inspector as a result of the changes in their existing overtime pay system.

I would like to commend my colleagues in the House Ways and Means Committee for their valued efforts in attempting to bring some logic and fairness to this pay system. As I understand it, the House version, H.R. 3837, has been reported out of the Ways and Means Committee and is awaiting action by the full House.

The bill I am introducing today varies from H.R. 3837 in three important ways. Certain customs inspectors operate in extremely hazardous duty locations. An Inspector who is responsible for a traffic lane along the Southwest border is placing his or her life in great jeopardy each day. I have been told that one of the most hazardous parts of any policeman's daily duties is stopping vehicles for traffic violations. Where a police officer might stop a half dozen cars in any one day, the customs inspector stops, questions and often searches hundreds of cars a day. In addition, as I noted earlier, customs inspectors are charged with inspections of all types of chemical, biological and in all too frequent cases, completely unknown cargo shipments. My bill would allow the commissioner of customs to designate hazardous duty locations. Hazardous duty pay under current law is permitted to be paid, however, it requires a long and laborious administrative process to be undertaken. The provision in this bill will streamline those regulations and permit hazardous duty pay to be given at the discretion of the Customs Commissioner.

Second, the bill allows the customs inspector access to the Federal law enforcement pay provisions contained in Section 405 of the Federal Employees Comparability Act of 1990, Public Law 101-590. Currently, customs inspectors are not designated as law enforcement personnel despite the fact that they perform law enforcement duties on a daily basis. This provision would correct that anomaly and permit customs inspectors working in areas where geographic pay adjustments are in effect to be eligible for locality pay adjustments.

Finally, the bill contains an arduous duty provision which recognizes employees who provide service well beyond that of the typical Federal employee. Some customs inspectors are assigned to special enforcement teams and perform functions which are not only strenuous and difficult, but also require above average physical standards to perform. To recognize the fact that the Customs Service has some extremely difficult functions, I have included a section in the bill which addressed the needs of these employees. Under the provisions of this bill, the Commissioner of Customs would determine which positions would be designated as arduous duty enforcement positions. Section 9 of this bill would authorize for every year served in an arduous enforcement position, an additional one-half year to be added to the inspector's service computation date for retirement purposes.

Mr. President, I began this speech extolling the virtues of the customs inspector. It would seem incongruous that I would now recommend sweeping reform of their unusual pay system. I can tell you that I have received nothing but support and assistance for my efforts from the National Treasury Employees Union [NTEU], the exclusive representative of the 5,500 inspectors which this legislation will affect. NTEU has taken the leadership position of acknowledging that it is time to change inspector overtime pay, but recognizes that these changes must be accompanied by other reforms in the inspectors pay system. This legislation presents a rational approach to this problem.

Mr. President, the last section of this bill is not a pay provision. It is an attempt to close a very large and expensive loophole in the 1985 COBRA law with regard to passenger processing

fees. Currently, international air and sea travelers are required to pay a $5 "passenger processing fee," added to the price of their tickets, to offset the cost associated with the customs processing of international passengers at air and sea ports. However, under current law travelers arriving into or departing from the United States either to or from Canada, Mexico, and the Caribbean are not required to pay this fee. This exemption may be costing the Treasury of the United States an estimated $90 million annually. Section 10 of this bill is intended to close this enormous revenue gap. Section 10 authorizes customs to collect a $5 fee from air and sea passengers who travel between the United States, Canada, Mexico, and the Caribbean. Mr. President, this is the same fee which is now being collected from most other international air and sea travelers. The customs COBRA account has an established record of returning these resources to the traveling public in the form of staffing and equipment for the expeditious processing of passengers at air and sea ports.

Mr. President, I ask unanimous consent that the text of the Customs Inspector Benefit Reform Act of 1992 be entered into the RECORD immediately following my remarks and urge its expeditious consideration by the Senate Finance Committee.

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

S. 3153

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 "Customs Inspector Benefit Reform Act of 1992".

SEC. 2. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:

"SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

"(a) OVERTIME PAY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

"(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—

"(A) MINIMUM DURATION.—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment.

"(B) COMPENSATION FOR COMMUTING TIME.—

"(i) IN GENERAL.—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

"(ii) EXCEPTION.—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

"(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

"(1) NIGHT WORK DIFFERENTIAL.—

"(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

"(c) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

"(d) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as are necessary or appropriate to carry out this section, including regulations—

"(1) to ensure that callback work assignments are commensurate with the overtime pay authorized for such work; and

"(2) to prevent the disproportionate assignment of overtime work to customs officers who are near to retirement.

"(e) DEFINITIONS.—As used in this section:

"(1) The term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

"(2) The term 'holiday' means any day designated as a holiday under a Federal statute or Executive order.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out "**AT NIGHT**" in the section heading and inserting "**DURING OVERTIME HOURS**";

(B) by striking out "at night" and inserting "during overtime hours"; and

(C) by inserting "aircraft," immediately before "vessel".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after the date occurring 90 days after the date of the enactment of this Act.

SEC. 3. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR CUSTOMS OFFICERS.

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

SEC. 4. APPROPRIATIONS REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended by amending clause (i) of subparagraph (A) to read as follows:

"(i) in—

"(I) paying overtime compensation and premium pay under section 5(a) and (b) of the Act of February 13, 1911,

"(II) paying necessary expenses for agency contributions to the Civil Service Retirement and Disability Fund or the Federal Employees Retirement System to match deductions from the overtime compensation paid under subclause (I), and

"(III) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and".

SEC. 5. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFICERS FOR RETIREMENT PURPOSES.

(a) IN GENERAL.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting "; and";

(3) by adding after subparagraph (D) the following:

"(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;"; and

(4) by striking out "subparagraphs (B), (C), and (D) of this paragraph," and inserting "subparagraphs (B), (C), (D), and (E) of this paragraph".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act and apply only with respect to service performed on or after such date.

SEC. 6. REPORTS.

(a) CUSTOMS USER FEE ACCOUNT REPORTS.—Subparagraph (D) of section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(D)) is amended to read as follows:

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a re-

port to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives—

"(i) containing a detailed accounting of all expenditures from the Customs User Fee Account during such year, including a summary of the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii); and

"(ii) containing a listing of all callback assignments of customs officers for which overtime compensation was paid under section 5(a) of the Act of February 13, 1911, and that were less than 1 hour in duration.".

(b) OTHER REPORTS.—

(1) GAO REPORT.—The Comptroller General of the United States shall undertake—

(A) an evaluation of the appropriateness and efficiency of the customs user fee laws for financing the provision of customs inspectional services; and

(B) a study to determine whether cost savings in the provision of overtime inspectional services could be realized by the United States Customs Service through the use of additional inspectors as opposed to continuing the current practice of relying on overtime pay.

The Comptroller General shall submit a report on the evaluation and study required under this subsection to the Committees by no later than the 1st anniversary of the date of the enactment of this Act.

(2) TREASURY RECOMMENDATION.—On the day that the President submits the budget for the United States Government for fiscal year 1994 to the Congress under section 1105(a) of title 31, United States Code, the Secretary of the Treasury shall submit to the Committees recommended legislative proposals for improving the operation of customs user fee laws in financing the provision of customs inspectional services.

(3) DEFINITION OF COMMITTEES.—For purposes of this subsection, the term "Committees" means the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 7. HAZARDOUS DUTY DIFFERENTIAL.

(a) IN GENERAL.—Notwithstanding section 5545(d) of title 5, United States Code, in the administration of such section, the Commissioner of Customs of the United States Customs Service may designate hazardous duty functions for the purpose of paying hazardous duty differentials to customs officers.

(b) DEFINITION.—For purposes of this section the term "customs officer" means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

(c) EFFECTIVE DATE.—This section shall take effect and apply to inspectional services provided on or after October 1, 1992.

SEC. 8. SPECIAL PAY ADJUSTMENT FOR CUSTOMS SERVICE EMPLOYEES.

(a) IN GENERAL.—Section 405 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1466) is amended by adding at the end thereof the following new subsection:

"(d)(1) The provisions of subsection (a) shall apply to customs officers.

"(2) For purposes of this section the appropriate agency head for prescribing regulations shall be the Secretary of the Treasury.

"(3) For purposes of this section the term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), the amendment made by this section shall be effective on and after the first day of the first applicable pay period beginning on or after October 1, 1992.

(2) REGULATIONS.—The Secretary of the Treasury may prescribe regulations after the date of the enactment of this section to provide for the implementation of the amendment made by this section on or after the effective date under paragraph (1).

SEC. 9. CUSTOMS INSPECTOR AND CANINE ENFORCEMENT OFFICER CREDITABLE SERVICE FOR RETIREMENT.

(a) DESIGNATION OF ARDUOUS ENFORCEMENT POSITIONS.—The Commissioner of Customs (hereafter in this section referred to as the "Commissioner") may designate positions in the Customs Service as arduous enforcement positions. An arduous enforcement position may only be filled by an employee who—

(1) is a customs inspector or canine enforcement officer;

(2) is capable of performing duties which are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Commissioner;

(3) is less than 57 years of age;

(4) qualifies in firearms tests conducted on a quarterly basis under regulations promulgated by the Commissioner; and

(5) qualifies in all physical fitness standards under regulations promulgated by the Commissioner that are generally applicable to all Federal law enforcement officers.

(b) REMOVAL FROM ARDUOUS ENFORCEMENT POSITION.—A customs inspector or canine enforcement officer who fails to qualify on any quarterly firearms test as required under subsection (a)(4) or fails to maintain the physical fitness standards under subsection (a)(5) shall be removed from an arduous enforcement position. Such inspector or officer may not be assigned to an arduous enforcement position for a period of no less than 6 months.

(c) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (25) by striking out "and" after the semicolon;

(B) in paragraph (26) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(27) 'designated customs inspector' means a customs inspector or canine enforcement officer who is serving in an arduous enforcement position as designated by the Commissioner of Customs under section 9 of the Customs Inspector Benefit Reform Act of 1992.".

(2) CREDITABLE SERVICE.—Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) For purposes of this chapter, and subject to the provisions of this subsection, a designated customs inspector shall receive 1½ years of creditable service for each year of actual service as a designated customs inspector. Such service shall be based on full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

"(2) The provisions of paragraph (1) shall not apply to any customs inspector or canine enforcement officer unless such inspector or officer has no less than 5 years of actual service as an employee (which is otherwise creditable service under this section).

"(3) No customs inspector or canine enforcement officer may be credited with more than 20 years of creditable service under the provisions of paragraph (1).

"(4) This subsection shall not be construed to give any customs inspector or canine enforcement officer credit for both service as such inspector or officer and service as a designated customs inspector during any specified time period.".

(3) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in the first sentence of subsection (a)(1) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) in the table under subsection (c) by inserting after the item relating to law enforcement officers and firefighters the following new item:

"Designated customs inspector for designated customs inspector service.	7½	After September 31, 1992.".

(4) COMPUTATION OF ANNUITY.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(r) The annuity of an employee with creditable service under section 8332(o) retiring under this subchapter is computed under subsection (a) of this section, except the annuity of such employee is computed with respect to the service credited under section 8322(o)(1) as a designated customs inspector by multiplying 2½ percent of his average pay by the years of that service.".

(5) APPLICATION.—The amendments made by this subsection shall be effective on and after October 1, 1992, and shall apply with regard to service performed by a customs inspector or canine enforcement officer in an arduous enforcement position on and after such date.

(d) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (31) by striking out "and" after the semicolon;

(B) in paragraph (32) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(33) 'designated customs inspector' means a customs inspector or canine enforcement officer who is serving in an arduous enforcement position as designated by the Commissioner of Customs under section 9 of the Customs Inspector Benefit Reform Act of 1992.".

(2) CREDITABLE SERVICE.—Section 8411 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) For purposes of this chapter, and subject to the provisions of this subsection, a designated customs inspector shall receive 1½ years of creditable service for each year of actual service as a designated customs inspector. Such service shall be based on full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

"(2) The provisions of paragraph (1) shall not apply to any customs inspector or canine enforcement officer unless such inspector or officer has no less than 5 years of actual service as an employee (which is otherwise creditable service under this section).

"(3) No customs inspector or canine enforcement officer may be credited with more

than 20 years of creditable service under the provisions of paragraph (1).

"(4) This subsection shall not be construed to give any customs inspector or canine enforcement officer credit for both service as such inspector or officer and service as a designated customs inspector during any specified time period.".

(3) DEDUCTIONS FROM PAY.—Section 8422(a)(2)(B) of title 5, United States Code, is amended by inserting "designated customs inspector," after "law enforcement officer,".

(4) GOVERNMENT CONTRIBUTIONS.—Section 8423(a) is amended—

(A) in paragraph (1)(B) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) in paragraph (3)(A) by inserting "designated customs inspector," after "law enforcement officer,".

(5) COMPUTATION OF ANNUITY.—Section 8415 of title 5, United States Code, is amended—

(A) in subsection (g)(2) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) by adding at the end thereof the following new subsection:

"(h) The annuity of an employee with creditable service under section 8411(h) retiring under this subchapter is computed under subsection (a) of this section, except the annuity of such employee is computed with respect to the service credited under section 8411(h)(1) as a designated customs inspector by multiplying 1⁷⁄₁₀ percent of his average pay by the years of that service.".

(6) APPLICATION.—The amendments made by this subsection shall be effective on and after October 1, 1992, and shall apply with regard to service performed by a customs inspector or canine enforcement officer in an arduous enforcement position on and after such date.

SEC. 10. APPLICATION OF CUSTOMS SERVICE FEES TO PASSENGERS.

(a) IN GENERAL.—Subparagraph (A) of section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)(A)) is amended to read as follows:

"(A) the arrival of any passenger whose journey—

"(i) originated in—

"(I) a territory or possession of the United States; or

"(ii) originated in the United States and was limited to—

"(I) territories and possessions of the United States; and

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 60 days after the date of the enactment of this Act.•

By Mr. SEYMOUR:

S. 3154. A bill to control and prevent criminal gang activity and violence, and for other purposes; to the Committee on the Judiciary.

CRIMINAL GANG AND YOUTH VIOLENCE PREVENTION ACT

• Mr. SEYMOUR. Mr. President, many of America's youth are not joining the football or debate teams. They're joining gangs. Gangs like the Bounty Hunters in Los Angeles, the Insane Killers or Grove Street Crazies in Orange County, or the Wo Hop To Triad in San Francisco.

Recently, we have heard much about the truce between the infamous Crips and Bloods. However, the gang world stretches far beyond the control of the Crips and Bloods. Los Angeles is home to more than 1,000 gangs and more than 150,000 gang members. In 1991, Los Angeles County gangs committed 54 violent crimes each day—nearly 20,000 crimes for the year. Though the full impact and the duration of the Crips and Bloods truce is unclear, gang violence is still prevalent throughout the Los Angeles area.

But gang violence is not a Los Angeles problem. It's a national nightmare. Though one-third of all gang members nationwide reside in Los Angeles, gang activity is a criminal plague that is spreading to all corners of the Nation. Many of these gangs are foot soldiers of drug rings in Mexico and Colombia, and crime syndicates involved in heroin, money laundering, and racketeering.

There's no limit to the degree of violence gangs are capable of committing. Violence and death is tolerated. The ritual of eye for an eye is more than just a measure of revenge, it's a rite of passage from mere gang membership to gang respect, reverence, and awe. As a result, no California community is immune from the terror of gang violence.

By way of comparison, one report found that it was safer to walk through the Iraqi desert at the height of Desert Storm than along the streets of south central Los Angeles. In northern California, law-abiding citizens are victims of home invasions by gangs that don't attempt to conceal their identity—a tragic indication of the stranglehold these thugs have in California communities.

But gangs are more than criminal organizations. Armed with dress codes, nicknames, hand signals, and the unwritten laws of the streets, gangs literally have become dangerous countercultures. Ironically, gang leaders stress values such as teamwork, loyalty, self-respect, and self-confidence. However, they twist these values to promote the wholesale genocide of an entire generation of at-risk youth. We're a witness to the horrifying spectacle of kids exterminating themselves and decimating the communities they inhabit.

Mr. President, there is no silver bullet that will end the perverse criminal and social influence of gangs. Though gangs share a common bond of violence, they vary in organization and criminal activity. Furthermore, to address this complex problem as solely a law and order issue is not enough. We must attack both the criminal organization and the underlying gang culture.

Today, I am here to introduce the Criminal Gang Youth Violence Prevention Act—a comprehensive action plan designed to dismantle criminal gangs and bring hope to thousands of at-risk youth.

Our first response to any organized criminal activity always must be law enforcement. Criminal gangs are nothing less than bands of local terrorists. We must be duty bound to make our streets safe from these lawless elements. We can't sit idly by and wait for long-term prevention initiatives to take effect, while families are unable to find refuge from this menace at home or at school.

We must get violent gang members and gang kingpins off the streets, and dismantle their operations. Gang leaders should be roaming the halls of Lompoc, not the streets of Los Angeles, or any street in America.

To succeed, all elements of law enforcement must work together. We have immortalized Eliot Ness and his band of Untouchables—members of Federal and local law enforcement—for breaking the infamous Capone gangs. My legislation calls for that same cooperation by creating an antigang unit consisting of Federal, State, and local law enforcement. It's time that a new generation of untouchables dismantle an even deadlier force of destructibles.

My plan also designates funds for a cost-effective gang data base that allows law enforcement agencies across the country to share intelligence and other vital data, and calls for the creation of an action plan on how to best deploy national guard and law enforcement units in a domestic emergency. The prolonged violence and devastation that took place in Los Angeles last May must never, ever happen again.

But we need more than law enforcement. We need tough new laws that strike at all gang members, from the street tough to the kingpin.

My plan imposes additional penalties if any criminal act was done to further gang activity, and gives judges greater discretion to try violent youth offenders as adults. If a 16-year-old is aware of his violent crime, and shows the propensity to do it again, he deserves the toughest sentence the law allows.

For nonviolent, first-time gang- offenders, my plan creates 10 military-style boot camps to provide a strict regimen of work, intense drill, values training, and other services. We must send a tough message to young gang members, so they don't become repeat offenders.

Finally, my plan gets tough on anyone who uses a child to commit a crime. The greatest single tragedy of criminal gangs is the attraction it has for young, at-risk youth. In Los Angeles County, 20 percent of gang members are minors; and in San Jose, 60 percent are minors, some as young as 9 years old.

My plan will make it clear to gang kingpins that they will pay dearly for preying upon our children to carry out their agenda of violence. If they use our kids, they'll go to prison—for a long, long time.

But if we are to make a lasting impact, we must offer a long-term plan to

help communities take back their streets from gang violence and drug trafficking.

My plan provides funds for grant programs to empower communities to respond to gang violence—programs that empower communities to take back their streets—programs that empower schools to detect and respond to gang behavior in the classroom—programs that empower parents to reach out and save their children caught in the lure of street violence.

Many communities already have made a difference. El Soledad in Los Angeles and Project Crackdown in San Jose are inspiring examples of community programs that empower citizens to fight back. My legislation will invest in these and other communities that are struggling to reclaim their neighborhoods.

The greatest single tragedy of gangs is the astronomical toll it is taking on our kids. The obstacles facing a young person growing up in Los Angeles are overwhelming. Chief among them is a lack of adult support at home, and the failure of services outside the home, through indifference or ineffectiveness, to provide kids with a way out.

Today's gangs rest on a foundation of despair and disillusionment among at-risk youth. From the ashes of this foundation, gangs have offered to young people the values that parents, teachers, and government are obligated to instill—values like teamwork, loyalty, self-respect. But these values come at a price, and that price is a disrespect for human life. How can we save this and future generations of at-risk youth from paying this price? We need to show a solid commitment to them from birth to maturity.

We must expand programs like WIC, Head Start, and Follow Through, which provide vital health, social, and educational services for disadvantaged youth. These early intervention programs are cost effective, reducing future health costs of both mother and infant, and increase the likelihood of a child's success in school. We must invest in the long-term health and development of all children. Hope and opportunity literally begins at birth, and preventing kids from falling through the cracks means being there for them from that point on.

We must provide more than services, we must offer role models. Sadly, to some kids, gang kingpins are role models, sporting great clothes, a great car, and an aura of success. We must provide alternative role models for these young people—dedicated mentors like the 100 Black Men in California, who provide much-needed guidance to many at-risk youth. My legislation calls for grants to supplement academic volunteer and mentor programs for at-risk youth. Every child deserves a caring adult to provide support, guidance, and love.

Finally, Mr. President, if we are to make a difference for young people, we must provide alternative opportunities so that at-risk youth can obtain the skills necessary to succeed in the work force. Yes, we must support program like the Job Corps, and establish youth apprenticeship programs, but we must provide at-risk youth with programs that take them out of the inner city environment and provide them with the training and self-esteem needed to succeed in a world outside of criminal gangs.

To achieve this, my legislation will create a youth opportunity corps. Many older Americans fondly recall the tremendous accomplishments of the Civilian Conservation Corps, which provided meaningful jobs to young Americans struggling to find work in a depressed economy. The old corps did more than provide a job, it brought pride to those who worked together to conserve America's forests, or restore a home demolished by fire.

Like the old CCC, my proposed opportunity corps will be administered by the Defense Department, with the cooperation of the State National Guards. The corps will consist of teenage youth, stationed in rural areas or small cities divorced from the pressures of criminal gangs. Corps members will take part in community redevelopment, conservation, and natural emergency prevention. Whether it's restoring buildings, clearing brush to prevent forest fires, or cleaning up our coastlines, corps members will experience the joy of being a part of a constructive, rather than destructive, team.

Mr. President, criminal gang activity is a debilitating disease that has already brought scores of human tragedy to the inner cities of Los Angeles. It's an epidemic that's spreading to otherwise peaceful cities and communities across the Nation.

Gangs represent more than complex criminal organizations. They represent a dark way of life that has driven law-abiding families into their homes in fear. Government must come to grips with the extent of this problem and take comprehensive action.

What we face is nothing short of a full-scale war of values. Gangs are spreading a lawless code of conduct—a code that is tolerant of the taking of innocent human life just for the sake of revenge, respect, or honor. If we can't ensure that all citizens share a stake in our society, then we face the consequences of segments or generations giving up on our society, and the values that it embodies. That is exactly what is occurring today.

We can reverse this trend by bringing gang kingpins to justice. We can reverse this trend by empowering struggling communities to take back their parks, their schools, and their streets. We can reverse this trend by renewing our commitment to the values of our society by breaking the stranglehold gang cultures are having on our children. We can reverse this trend by providing real hope—to be able to say to every child that you can excel as far as talent and desire will take you. We can do this and more by taking action on the Criminal Gang and Youth Violence Prevention Act.

Mr. President, I send the Criminal Gang and Youth Violence Prevention Act to the desk, ask that it be appropriately referred, and that the text of this legislation be printed in the RECORD.

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

S. 3154

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 Gang and Youth Violence Prevention Act of 1992."

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) violent criminal gangs pose an ever- increasing threat to American communities;

(2) the explosion of drug trafficking in cocaine, the cocaine derivative known as "crack," and heroin is transforming some of the nation's toughest street gangs into highly organized drug-trafficking organizations;

(3) these extremely violent gangs are establishing ties to international drug suppliers from South America to the Pacific Rim, and are expanding their operations across the United States;

(4) these criminal gangs actively recruit minors to traffic drugs and engage in violent activity

(5) these criminal gangs are at a level of organization that require coordination of law enforcement resources at the Federal, state, and local level; and

(6) preventing youth involvement in violent criminal gang activity requires strategies that involve law enforcement, teachers, parents, community groups, religious leaders, business leaders, and young Americans.

(b) PURPOSE.—It is the purpose of this Act to—

(1) expand and coordinate the resources of federal, state and local law enforcement to target and dismantle criminal gang organizations;

(2) combat gang-related violent crime and drug trafficking through enhanced penalties;

(3) empower communities to take back their schools, parks, and streets from criminal gangs; and

(4) expand government resources to steer at-risk youth from participation in criminal gang activity.

SEC. 3. DEFINITION.

(a) For the purposes of this Act, the term "criminal gang" or "gang" means any group, club, organization, association, or syndicate composed of 2 or more persons that is commonly known by a certain name or identifier that engage or has as one of its purposes engaging in Federal or State felony offenses involving firearms, controlled substances, physical injury, threats of physical injury, money laundering, fraud, and juvenile delinquency involving a violent felony or controlled substance.

TITLE I—LAW ENFORCEMENT AGAINST GANG ACTIVITY

SEC. 101. BUREAU OF ALCOHOL, TOBACCO AND FIREARMS AND STATE AND LOCAL COORDINATION

The Director of the Bureau of Alcohol, Tobacco and Firearms ("ATF") shall establish direct liaison with State and local law enforcement agencies having responsibility for gang investigations for the purpose of providing training, technical expertise, information, coordination, and other enforcement effort to combat gang-related firearms violations.

SEC. 102. FEDERAL BUREAU OF INVESTIGATION AND STATE AND LOCAL COORDINATION.

The Director of the Federal Bureau of Investigation ("FBI") shall establish direct liaison with State and local law enforcement agencies having responsibility for gang investigations for the purpose of providing training, technical expertise, information, coordination and enforcement effort to use Federal and State statutes to dismantle criminal gang organizations.

SEC. 103. FEDERAL ANTI-GANG UNIT.

(a) AUTHORIZATION.—(1) ATF AGENTS.—There is hereby authorized to be appropriated $10,000,000 for fiscal year 1993 to the Bureau of Alcohol, Tobacco, and Firearms for the creation of a new Anti-Gang Unit. Funds appropriated pursuant to this section shall be used to provide 180 agents and necessary support staff.

(2) FBI AGENTS.—There is hereby authorized to be appropriated $10,000,000 for fiscal year 1993 to the Federal Bureau of Investigation for the creation of a new Anti-Gang Unit. Funds appropriated pursuant to this section shall provide 180 agents and necessary support staff.

(3) PROSECUTORS.—There is hereby authorized to be appropriated $8,000,000 for fiscal year 1993 to the Attorney General to provide 40 prosecutors and necessary support staff to aid the Anti-Gang Unit.

(b) COORDINATION OF ANTIGANG UNIT RESOURCES.—

(1) DIRECTOR OF ANTIGANG UNIT.—The Director of the Bureau of Alcohol, Tobacco and Firearms and the Director of the Federal Bureau of Investigation, shall designate an agent as Director of the Anti-Gang Unit.

(2) COORDINATION.—The Director of the Anti-Gang Unit shall work with Federal, State, and local law enforcement agencies to coordinate the resources of the Anti-Gang Unit to fight criminal gangs.

SEC. 104. REPEAT OFFENDER PROGRAM

There is hereby authorized to be appropriated $10,000,000 for fiscal year 1993 to the Bureau of Alcohol, Tobacco, and Firearms for the Repeat Offender Program and anti-gang activities to hire 100 additional special agents and support personnel.

SEC. 105. ASSET FORFEITURE FOR THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.

Section 924(d) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Any property (other than real property) subject to forfeiture under section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)), may be seized and forfeited in connection with an investigation of a violation of subsection (c) of this section and all provisions of section 551 of the Controlled Substances Act shall apply to seizures and forfeitures under this paragraph.

"(B) For the purposes of subparagraph (A), the functions of the Attorney General under section 551 of the Controlled Substances Act with respect to the seizure, forfeiture, and disposition of property shall be carried out by the Secretary of the Treasury.".

SEC. 106. ESTABLISHENT OF NATIONAL CRIMINAL GANG ANALYSIS INFORMATION CENTER.

(a) IN GENERAL.—There shall be established in the Bureau of Alcohol, Tobacco and Firearms a National Criminal Gang Analysis Information Center.

(b) PURPOSES.—The purposes of the Center shall be—

(1) to identify criminal gangs that engage in violent crime, controlled substances trafficking, and other Federal crimes by—

(A) types of illegal activity;

(B) methods of operation; and

(C) geographic distribution;

(2) to gather intelligence on illegal activities undertaken by criminal gangs from law enforcement sources, and create a coordinated data bank to share such intelligence information with Federal, State and local law enforcement.

(3) to conduct seminars, conferences, and other activities with law enforcement and community leaders to assist in the identification of criminal gang activities and methods to curtail and control such activities;

(4) to establish a national, multilingual hotline for the public to report, under the assurance of confidentiality, unlawful gang activity;

(5) to undertake activities to increase public awareness of criminal gang identification, and to solicit information and evidence, under the assurance of confidentiality, from persons who possess information that may assist law enforcement investigations; and

(6) to publish an annual report that outlines activities taken pursuant to this subsection, and the results of Federal anti-gang activities.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE II—DRUG AND VIOLENT CRIME EMERGENCY AREAS

SEC. 201. SHORT TITLE.

This title may be cited as the "Drug and Violent Crime Emergency Areas Act of 1992."

SEC. 202. DRUG AND VIOLENT CRIME EMERGENCY AREAS.

(a) DECLARATION OF DRUG AND VIOLENT CRIME EMERGENCY AREAS.—

(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug- or violent crime-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Attorney General, declare such State or part of a State to be a drug or violent crime emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

(B) for the purpose of this subsection, the term 'major drug- or violent crime-related emergency' means any occasion or instance in which drug trafficking, drug abuse, drug-related violence, gang- or other organized-crime-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, protect property, and preserve public health and safety.

(2) PROCEDURE FOR PRESIDENTIAL DECLARATION.—(A) All requests for a declaration by the President designating a State or part of a State to be a drug or violent crime emergency area shall be made, in writing, by the Governor or chief executive officer of the affected State or local government, respectively, and shall be forwarded to the President through such form as the Attorney General may by regulation require. Joint requests under this subsection may be submitted by one or more local governments, or States.

(B) Any request made under subparagraph (A) of this paragraph shall be based on a written finding that the drug- or violent crime-related emergency is of such severity and magnitude, that Federal assistance is necessary to assure an effective response to save lives, protect property, and preserve public health and safety.

(C) As part of a request for declaration by the President under this subsection, and as a prerequisite to such a declaration and assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

(i) take appropriate action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating a drug- or violent crime-related emergency;

(ii) certify that State and local resources have been or will be used or committed to the greatest extent possible to alleviate a drug- or violent crime-related emergency;

(iii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

(iv) submit a detailed plan outlining that government's short- and long-term plans to respond to the emergency, specifying the types and levels of Federal assistance requested, explicit goals sought (quantitative goals where possible), time tables, and how Federal assistance provided under this subsection is intended to achieve such goals.

(E) The Attorney General shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President, on whether to approve or disapprove the application, within 10 days after receiving such application. Based on the application, and the recommendation of the Attorney General, the President may declare an area to be an emergency area under this subsection.

(3) FEDERAL ASSISTANCE.—In addition to a Presidential declaration of an area to be an emergency area under this section, the President may—

(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(4) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of the enactment of this subsection, the Attorney General shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1993 and in future years such sums as are necessary to carry out this section.

SEC. 203. FEDERAL EMERGENCY LAW ENFORCEMENT READINESS REPORT.

(a) IN GENERAL.—The Attorney General and the Secretary of Defense shall submit to

the appropriate committees of the Congress, by not later than 18 months after the date of enactment of this act, a report and recommendations concerning—

(1) current policies on the use of Federal, state, and local law enforcement, national guard, and Federal troops in domestic and national emergencies, including riots or natural disasters; and

(2) the creation of new policies and strategies to insure the rapid response and placement of law enforcement, national guard, and federal troops in the event of domestic and national emergencies.

(b) CONSULTATION.—Such report shall be made after consultation with Federal law enforcement representatives, Federal and State National Guard representatives, and state and local government and law enforcement representatives.

(c) HEARINGS.—The Attorney General and Secretary of Defense, or their designated representatives, shall chair at least three field hearings at sites to be determined by them to solicit views and recommendations from representatives designated in paragraph (b) of this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out this section.

TITLE III—PENALTIES AGAINST GANG-RELATED VIOLENCE

SEC. 301. SHORT TITLE.

This title may be cited as the Penalties Against Gang Violence Act of 1992.

SEC. 302. PENALTIES FOR CRIMINAL GANG ACTIVITY.

(a) PENALTIES.—Chapter 1 of title 18, United States Code is amended by adding at the end thereof the following new section:

"SEC. 22. CRIMINAL GANG ACTIVITY.

"(a) PROMOTING, FURTHERING, OR ASSISTING IN CRIMINAL GANG ACTIVITY.—Except to the extent that a greater sentence is provided by other law (including subsection (b)), a person who willfully promotes, furthers, or assists in any felonious criminal conduct by the members of a criminal gang, with knowledge that its members engage, or have engaged in a pattern of criminal gang activity, shall be imprisoned not less than 1 and not more than 3 years.

"(b) ENHANCED PENALTY.—(1) Except as provided in paragraph (2), a person who is convicted of an offense, shall, if the offense is committed knowingly for the benefit of, at the direction of, or in association with a criminal gang, in addition and consecutive to any term of imprisonment imposed for that offense, be imprisoned not less than 3 and not more than 7 years.

"(2) In the case of an offense described in paragraph (1) that results in serious bodily injury to any person, the offender, in addition and consecutive to any term of imprisonment imposed for that offense, shall be imprisoned not less than 7 and not more than 12 years.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'criminal gang' means a criminal syndicate of 3 or more persons that is commonly known by a certain name or identifier that engages in or has as one of its purposes engaging in offenses involving—

"(A) assault, homicide, firearms, explosives, robbery, burglary, extortion, fraud, or witness intimidation; or

"(B) possession, possession for sale, sale, transportation, manufacture, offer for sale, offer to manufacture, or offer to transport controlled substances (as those terms are defined in the Controlled Substances Act (21 U.S.C. 801 et seq.)); and

"(2) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code is amended by adding at the end thereof the following new item:

"22. Criminal gang activity.".

SEC. 304. PENALTIES FOR USE OF MINORS IN GANG-RELATED ACTIVITY.

(a) TRANSPORTATION OF MINORS FOR DRUG-RELATED ACTIVITY.—

(1) Section 420(a) of the Controlled Substances Act is amended in paragraphs (1) and (2) by inserting "transport," after "use,".

(2) Section 420(b) is amended by adding at the end thereof the following:

"In addition to any fines imposed by other subsections of this section or by this subsection, the court shall impose a civil fine of $100,000 on a defendant found guilty of an offense under subsection (a). Any fine collected pursuant to the preceding sentence shall be transferred equitably to—

"(1) the Secretary of Health and Human Services to be distributed to State and local agencies for juvenile drug rehabilitation through existing juvenile drug rehabilitation programs; and

"(2) the Attorney General to be distributed to State and local juvenile delinquency and gang prevention programs through existing grants provided by the Office of Justice Programs to the Department of Justice.".

(b) DISTRIBUTION OF FIREARMS TO A MINOR.—Section 420(d) of the Controlled Substances Act is amended by—

(1) striking "or" after the semicolon in paragraph (1);

(2) Adding "transported" before "or used" in paragraph (2);

(3) striking all after the comma at the end of paragraph (2), and inserting "; or"; and

(4) adding after paragraph (2) the following new paragraph:

"(3) by knowingly providing or distributing a firearm to any person employed, hired, used or transported who is under eighteen years of age,

"shall be subject to a term of imprisonment for not more than five years or a civil fine of not more than $100,000, or both, in addition to any other punishment authorized by this section. Any fines collected pursuant to this subsection shall be transferred equitably to—

"(A) the Secretary of Health and Human Services to be distributed to State and local agencies for juvenile drug rehabilitation through existing juvenile drug rehabilitation programs; and

"(B) the Attorney General to be distributed to State and local juvenile delinquency and gang prevention programs through existing grants provided by the Office of Justice Programs of the Department of Justice.".

(c) INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.—(1) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of Title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 23. Inducement of minor to commit an offense.

"(a) IN GENERAL.—Except to the extent that a great minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be—

"(1) except as provided in paragraph (2) and (3) of this subsection, imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed;

"(2) imprisoned not less than 10 and not more than 15 years if such offense results in serious bodily injury, to be served consecutively with any other sentences that are imposed; or

"(3) imprisoned for up to 20 years or life if such offense results in death, to be served consecutively with any other sentences that are imposed.

"(b) CIVIL FINE.—In addition to any fines imposed by other subsections of this section or by this subsection, the court shall impose a civil fine of $100,000 on a defendant found guilty of an offense under subsection (a). Any fine collected pursuant to the preceding sentence shall be transferred equitably to—

"(1) the Secretary of Health and Human Services to be distributed to State and local agencies for juvenile drug rehabilitation through existing juvenile drug rehabilitation programs; and

"(2) the Attorney General to be distributed to State and local juvenile delinquency and gang prevention programs through existing grants provided by the Office of Justice Programs of the Department of Justice.".

"(c) LIMITATION.—In the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(d) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as circumstances in aggravation the severity of the offense sought by the adult, and the age of the child or children.

"(e) DEFINITION.—For purposes of this section the term 'minor' means a person less than 18 years of age.".

(2) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"23. Inducement of minor to commit an offense."

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsections (a), (b), or (c) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsections (a), (b), or (c) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

SEC. 305. INCREASED PENALTIES FOR VIOLENT GUN CRIMES.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking the first and second sentences after "(1)", designating the third and fourth sentences as subparagraph (D) and inserting before subparagraph (D) the following:

"(A) Whoever, during and in relation to a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides an enhanced punishment if committed by the use of a

deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) discharges, uses or carries, or otherwise possesses a firearm shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 5 to 10 years;

"(ii) discharges, uses, carries or otherwise possesses a firearm that is an assault weapon, short-barreled rifle, or short-barreled shotgun, shall, in addition to any penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 10 to 15 years; or

"(iii) discharges, uses, carries, or otherwise possesses a firearm that is a machine gun, a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years.

"(B) In the case of a second conviction under this subsection, such person shall be sentenced to imprisonment for 20 years and if the firearm is an assault weapon, a short-barrelled rifle, a short-barrelled shotgun, a machine gun, a destructive device, or is equipped with a firearm silencer of firearm muffler, to life imprisonment.

"(C) Whoever violates the terms of subparagraph (A) and discharges a firearm that kills another person, shall, if the killing—

(1) is a first degree murder as defined in section 1111(a) of this title, be punished by death or life imprisonment for any term of years or for life, fined under this title, or both; or

(2) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.".

(b) SENTENCING GUIDELINES FOR NEW PENALTIES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, shall promulgate guidelines or amend existing guidelines to provide for a sentencing enhancement in accord with the provisions of subsection (c)(1) of section 924 of title 18, United States Code.

SEC. 306. MISCELLANEOUS AMENDMENTS TO FEDERAL FIREARMS LAWS.

(a) GUN POSSESSION.—The first sentence of section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking "uses or carries" and inserting "uses, carries, or possesses"; and

(2) striking "used or carried" and inserting "used, carried, or possessed".

(b) ARMED CAREER CRIMINALS AMENDMENT.—Section 924(e)(2)(A) of title 18, United States Code, as amended by section 1522(a), is amended by—

(1) adding "or" at the end of clause (ii); and

(2) adding at the end thereof the following new clause:

"(iii) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;"

SEC. 307. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating undesignated paragraphs one through eleven as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h).".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile fifteen years or older alleged to have committed an act after his or her fifteenth birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the best interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her sixteenth birthday which if committed by an adult would be a felony offense that has an element thereof the use, attempted use, or threatened use of physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844(d), (e), (f), (h), (i) or 2275 of this title, subsection (b))(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032 (e) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end thereof the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weight heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status."

SEC. 308. AMENDMENT TO RICO ACT.

Section 1961(1)(B) of title 18, United States Code, is amended by inserting before "section 1029", "sections 922-924 (relating to firearms offenses),".

TITLE IV—BOOT CAMPS

SEC. 401. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this title as "boot camps"). The Boot Camps will be located on closed military installations in rural or secluded regions, or in other areas to be chosen by the Director of the Bureau of Prisons, after consultation with the Director of National Drug Control Policy, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and other characteristics of military basic training.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 300-400 inmates for periods of between 6 months to 1 year. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if the defendant—

"(A) is under 25 years of age;

"(B) has no prior conviction for any crime of violence as defined in section 16 of this title;

"(C) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or an offense under this title that did not result in serious bodily injury as defined in sections 247, 1864, or 2245 of this title.

"(3) If, after one year since placement, the Director of the Bureau of Prisons finds that a prisoner placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director shall transfer the prisoner to any other correctional facility in the Federal prison system, and the period in the boot camp prison may not constitute satisfaction of any period of that prisoner's original sentence.

"(4) Successful completion of assignment to a boot camp may constitute satisfaction of that portion of the prisoner's original sentence as designated by the court at the time of placement, but shall not constitute satisfaction of the original sentence if such period is less than the minimum period authorized for the offense committed, or affect any aspect of a sentence relating to a fine, restitution, or supervised release.

"(5) Any prisoner who completes assignment to a boot camp as defined in paragraph (4) of this subsection, and has a period of incarceration remaining in such prisoner's original sentence, shall be transferred to any correctional facility in the Federal prison system to serve the remaining period of such sentence.".

(d) STATE PRISONERS.—(1) The head of a state correction's department or the head's

designee may apply for placement for any person who has been convicted, or a juvenile who has been adjudicated of a criminal offense in that State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced. Such application may be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by the head of the State corrections department of the head's designee that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 30 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons may determine on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted, or a juvenile adjudicated of a State criminal offense may be eligible for assignment to a boot camp of he or she—

(A) is over 14 and under 25 years of age;

(B) has no prior conviction for any crime of violence as defined in section 16 of this title;

(C) has been designated by the sentencing court as eligible for assignment to a boot camp and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense that does not result in serious bodily injury (as defined in sections 247, 1864, and 2245 of title 18, United States Code, and section 802 of Title 21, United States Code), and if the defendant is eligible for assignment to a boot camp under State law.

(3) If, after one year since placement, the Director of the Bureau of Prisons finds that a prisoner placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions or confinement in the boot camp, the Director shall transfer the prisoner back to the jurisdiction of the State sentencing court, and the period in the boot camp prison shall not constitute satisfaction of any period of that prisoner's original sentence.

(4) Successful completion of assignment to a boot camp may constitute satisfaction of that portion of the prisoner's original sentence as designated by the State at the time of placement, but may not constitute satisfaction of the original sentence if such period is less than the minimum period authorized for the offense committed under State law, or affect any aspect of a sentence relating to a fine, restitution, or supervised release.

(5) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return to the State 20 percent of the amount paid for the prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

(6) Any prisoner who completes assignment to a boot camp as defined in paragraph (4) of this subsection, and has a period of incarceration remaining in such prisoner's original sentence, shall be transferred back to the jurisdiction of the State to serve the remaining period of such sentence.

(e) POST-RELEASE SUPERVISION.—(1) Any State seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an after care plan setting forth the provisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(3) If the Director of the Bureau of Prisons finds that a Federal prisoner placed in an aftercare program willfully refused to comply with the conditions of the program, the Director may transfer the prisoner to a correctional facility in the Federal prison system, and the period in the aftercare program shall not constitute satisfaction of any period of that prisoner's original sentence.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1993, available until expended, of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to other amounts to be appropriated to the Bureau of Prisons.

TITLE V—EMPOWERMENT TO REDUCE AND PREVENT YOUTH GANG ACTIVITY

SEC. 501. ESTABLISHMENT OF GRANTS TO EMPOWER CITIZENS TO PREVENT GANG VIOLENCE.

(a) IN GENERAL.—The Attorney General, through the Office of Justice Programs, shall make grants to and enter into contracts with, public and nonprofit private agencies, organizations (including community-based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to prevent and to reduce criminal gang activities;

(2) to provide alternative activities for youth including but not limited to recreation, skills training, counseling, educational support, and other services that prevent and reduce youth involvement in criminal gang activities;

(3) to facilitate coordination and cooperation among citizens and law enforcement to prevent and reduce criminal gang activities;

(4) to support local law enforcement departments and agencies to conduct educational outreach activities in communities in which gangs commit violent or drug-related crimes;

(5) to institute community patrols and neighborhood watch programs to prevent and reduce criminal gang activities; and

(6) to inform citizens of community and law enforcement activities to prevent and reduce criminal gang activities.

(b) APPLICATION FOR GRANTS AND CONTRACTS.—(1) Any agency, organization, institution, or individual desiring to receive a grant under this section shall submit to the Attorney General an application at such time, in such manner, and containing or accompanies by such information as the Attorney General may require by rule.

(2) Each application for assistance under this chapter shall—

(A) set forth the project or activity to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) certify that the amount requested represents no more than 50 percent of the cost of the establishment or operation of such project or activity;

(E) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter;

(F) provide that regular reports on such project or activity shall be submitted to the Attorney General;

(G) provide assurances that the use of Federal funds made available under this section shall be used to supplement and, to the extent practicable, to increase the level of funds that would, in the absence of Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(H) include such other information and assurances that the Attorney General reasonably determines to be necessary.

(c) PRIORITY.—In selecting among applications submitted under this section, the Attorney General shall give priority to applicants—

(1) who have projects or activities in operation and such project or activity has the broad support of community- and law enforcement-based organizations in the applicant's geographical area; and

(2) who propose to carry out projects and activities in geographical areas in which frequent and severe criminal activities are committed by gangs whose membership is composed primarily of youth.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 502. ESTABLISHMENT OF GRANTS TO EMPOWER SCHOOLS TO PREVENT YOUTH GANG ACTIVITY.

(a) IN GENERAL.—The Secretary of Education shall make grants to, and enter into contracts with, State educational agencies, local educational agencies, and institutions of higher education for teacher and counselor training programs in accordance with this section.

(b) USE OF FUNDS.—Amounts made available under this part shall be used to establish, expand, or enhance programs and activities for the training of teachers, administrators, guidance counselors, and other educational personnel concerning the identification and prevention of youth gang activity and youth violence. Such programs shall be coordinated through the State agency for higher education, or State educational agency, as appropriate.

(c) APPLICATIONS FOR GRANTS AND CONTRACTS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, a State educational agency, a local or intermediate educational agency, an institution of higher education, or consortium thereof, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(2) Each application for assistance under this section shall—

(A) set forth the project or activity to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) certify that the amount requested represents no more than 50 percent of the cost of the establishment or operation of such project or activity;

(E) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter;

(F) provide that regular reports on such project or activity shall be submitted to the Secretary;

(G) provide assurances that the use of Federal funds made available under this section shall be used to supplement and, to the extent practicable, to increase the level of funds that would, in the absence of Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(H) include such other information and assurances that the Attorney General reasonably determines to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 503. ESTABLISHMENT OF GRANTS TO EMPOWER FAMILIES TO PREVENT YOUTH GANG ACTIVITY.

(a) IN GENERAL.—The Secretary of Health and Human Services, through the Administration on Children, Youth, and Families, shall make grants to, and enter into contracts with, public and nonprofit private agencies, organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to assist parents, families and guardians to effectively reduce and prevent participation of youth in the activities of gangs that engage in violent crime and drug-related activity;

(2) to provide education, counseling and support services to parents, families and guardians of youth involved in or who live in a geographic area in which criminal gang activity takes place;

(3) to inform gang members and their families of the availability of counseling, education, drug rehabilitation, and other support services;

(4) to facilitate the coordination and cooperation among parents, local education, juvenile justice, and social service agencies for the purpose of preventing or reducing the participation of youth in activities of gangs that commit violent crime and drug-related activity.

(b) APPLICATION FOR GRANTS AND CONTRACTS.—(1) Any agency, organization, institution, or individual desiring to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(2) Each application for assistance under this chapter shall—

(A) set forth the project or activity to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) certify that the amount requested represents no more than 50 percent of the cost of the establishment or operation of such project or activity;

(E) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter;

(F) provide that regular reports on such project or activity shall be submitted to the Secretary;

(G) provide assurances that the use of Federal funds made available under this section shall be used to supplement and, to the extent practicable, to increase the level of funds that would, in the absence of Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(H) include such other information and assurances that the Secretary reasonably determines to be necessary.

(c) PRIORITY.—In selecting among applications submitted under this section, the Secretary shall give priority to applicants—

(1) who have projects or activities in operation and such project or activity has the broad support of community-based organizations and law enforcement departments or agencies in the applicant's geographical area; and

(2) who propose to carry out projects and activities in geographical areas in which frequent and severe criminal activities are committed by gangs whose membership is composed primarily of youth.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 504. WOMEN, INFANTS AND CHILDREN, HEAD START, AND FOLLOW THROUGH.

It is the sense of Congress that—

(1) in the case of the special supplemental food program for women, infants, and children (WIC) authorized in section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786)), at least $3,000,000,000 should be available for fiscal year 1993, $3,425,000,000 for fiscal year 1994, $3,871,000,000 for fiscal year 1995, and $4,352,000,000 for fiscal year 1996;

(2) in the case of Head Start programs established under the Head Start Act (42 U.S.C. 9831 et seq.), at least $3,200,000,000 should be made available for fiscal year 1993, $4,200,000,000 for fiscal year 1994, $5,200,000,000 for fiscal year 1995, $6,200,000,000 for fiscal year 1996, $7,200,000,000 for fiscal year 1997, and $8,200,000,000 for fiscal year 1998.

(3) in the case of the Follow Through program established by the Follow Through Act, at least $6.4 million should be made available in addition to amounts appropriated in fiscal year 1993 to establish Follow Through programs in each Local Education Agency that has students participating in Head Start.

SEC. 506. ESTABLISHMENT OF GRANTS FOR MENTOR PROGRAMS.

(a) IN GENERAL.—The Secretary of Education shall make grants to, and enter into contracts with, public and nonprofit private agencies, organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to provide for academic volunteers and mentors to children;

(2) to recruit, train, and place academic volunteers and mentors for children;

(3) to coordinate local, regional, and statewide resource referral systems to efficiently link children and potential academic volunteers and mentors with existing academic volunteer programs and organizations; and

(4) to promote and encourage citizen participation in academic volunteer and mentor programs.

(b) APPLICATION FOR GRANTS AND CONTRACTS.—(1) Any agency, organization, institution, or individual desiring to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(2) Each application for assistance under this chapter shall—

(A) set forth the project or activity to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) certify that the amount requested represents no more than 50 percent of the cost of the establishment or operation of such project or activity;

(E) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter;

(F) provide for regular evaluation of the operation of such project or activity;

(G) provide assurances that the use of Federal funds made available under this section shall be used to supplement and, to the extent practicable, to increase the level of funds that would, in the absence of Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(H) include such other information and assurances that the Secretary reasonably determines to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 507 ESTABLISHMENT OF YOUTH OPPORTUNITY CORPS.

(A) IN GENERAL.—Not later than 1 year after the effective date of this section, the Secretary of Defense, in consulation with the Chief of the National Guard, shall establish five pilot Youth Opportunity Corps (referred to in this title as "Corps"). The Corps will be located on closed military installations, or unused federal property, in rural or secluded regions to be chosen by the Secretary of Defense, after consultation with the Secretary of the Interior, the Secretary of Agriculture, and Chief of the National Guard, and will provide a daily regimented schedule of work, drill, skills training and other support services for eligible children.

(b) DEFINITION.—As used in this section—

(1) The term "eligible children" means a youth or youths, not younger than 15 and not older than 19, from a family whose total family income is less than 185 percent of the poverty guideline established by the Secretary of Health and Human Services under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), and resides in a geographic area in which frequent and severe drug trafficking and criminal activities are committed by gangs whose membership is composed primarily of youth.

(c) CAPACITY.—Each Corps shall be designed to accommodate between 200 members

for periods to be established by the Secretary of Defense.

(d) PROGRAM DUTIES.—In carrying out the purposes of this section, the Secretary of Defense, in consultation with the Chief of the National Guard shall—

(1) determine with other Federal agencies, State or local departments of agencies, the appropriate work, education programs, and other projects for participation by members of the Corps. Such work, programs and other projects should include but are not limited to—

(A) forest conservation and reforestation;

(B) flood control;

(C) environmental cleanup of beaches and other sensitive regions; and

(D) building restoration.

(2) determine the rates of pay, hours, and other conditions of employment on the Corps, except that all members of the Corps shall not be deemed to be Federal employees other than for the purpose of chapter 171 of Title 28, and chapter 81 or Title 5.

(3) provide for such lodging, subsistence, transportation, and other services and equipment as they deem necessary for the members of the Corps in their duties; and

(4) promulgate regulations to insure the safety, health and welfare of Corps members.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $70,000,000 for fiscal year 1993, available until expended, of which not more than $12,500,000 shall be used to establish the Corps sites and not more than $1,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to other amounts to be appropriated to the Department of Defense or the Department of Interior for the purpose of administering the Corps program.•

By Mr. INOUYE (for himself, Mr. AKAKA, Mr. COCHRAN, Mr. MCCAIN, Mr. DASCHLE, and Mr. SIMON):

S. 3155. A bill to establish the National Indian Policy Research Institute; to the Select Committee on Indian Affairs.

NATIONAL INDIAN POLICY RESEARCH INSTITUTE ACT

• Mr. INOUYE. Mr. President, on behalf of myself and Senators AKAKA, COCHRAN, MCCAIN, DASCHLE, and SIMON, I rise to introduce a bill that would authorize the establishment of an institute in Washington, DC, which would provide assistance to those who formulate Indian policy by creating and maintaining a database of information on American Indian issues and by conducting research and analyses that would contribute to the shaping of Indian policy.

This bill is the outcome of a feasibility study that was launched about 18 months ago in response to a longstanding need for better resources and scholarly analysis upon which Indian policy could be based, and I think it is important to say a few words about why that study was undertaken.

Mr. President, even though the fundamental principles of U.S. Indian policy are well-established, those principles are not always reflected in laws enacted by the Congress or in regulations or policies adopted by Federal agencies. Given the large number of committees in the Congress, the Congress may advance measures which inadvertently neglect the responsibilities of the United States to tribal governments or in other ways depart from current policy. A similar result may be found in regulations adopted by executive branch departments and agencies.

Underlying at least some of the failures by the Federal Government or other governments in the development of legislation and regulations is the absence of reliable data and information and the scarcity of broad policy analyses conducted on the basis of an understanding of the fundamental principles of U.S. Indian policy.

It was in recognition of this condition that the Congress authorized the feasibility study and authorized it to be conducted under the sponsorship and with the financial support of George Washington University. The study, which was guided by scholars and tribal government leaders from across the country, included wide consultation in Indian country, as well as consultation with representatives of existing research and policy analysis organizations. The conclusions of the study were submitted to the Congress on June 1 of this year.

Based upon that study, draft legislation was developed to establish a national Indian research policy center, and the select committee forwarded the draft to all tribal government leaders to secure their views and comments. Almost a month later, on July 2, the select committee held a hearing on the draft legislation.

Testimony at the hearing was uniformly positive in support of creation of an institute to carry out the activities described in the draft, but, as with most hearings, the testimony included constructive recommendations for modifications of the draft. In revising the draft for introduction, I have taken into consideration the testimony and letters which have reached me.

The key features of the draft legislation are retained in the bill I introduce today. An Indian policy research institute would be established at George Washington University to conduct research on issues related to Indian policy development. The institute would establish an information and data clearing house on Indian issues, conduct forums and symposia, publish and disseminate the products of its research and other activities, and provide opportunities for fellowships.

The institute would be guided by a 14-member board, 12 of whose members would be appointed by the Congress, and a majority of whom would have expertise in Indian policy matters. The other two members would be ex officio, the director of the institute and the president of the George Washington University.

The institute would be advised on a periodic basis by an advisory council composed of 11 officials from the executive and legislative branches and chaired by the persons chairing committees having jurisdiction over Indian affairs in the Senate and the House of Representatives.

The institute would not be an advocacy organization, but would be independent and nonpartisan. As the bill makes plain, the institute would be barred from taking any actions that might be construed as diminishing or in any way interfering with the government-to-government relationship that exists between tribal governments and the United States.

Mr. President, the select committee will be promptly providing a copy of this bill to tribal government leaders for their comments, and, as chairman, I plan to schedule a markup of this bill when we reconvene in September.

I ask unanimous consent that my statement be followed by the text of the bill and a section-by-section analysis of its contents.

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

S. 3155

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 "National Indian Policy Research Institute Act".

SEC. 2. FINDINGS.

(a) FINDINGS OF CONGRESS.—The Congress finds that:

(1) The policy of the United States toward Indian and Alaska Native tribes which has emerged over the course of 200 years of relationships is based upon the following fundamental principles:

(A) the United States has a trust responsibility to protect, maintain, and manage Indian lands and related natural resources, including water, fisheries, game and game habitat, and to preserve permanent homelands for native people within this Nation;

(B) tribal rights of self-government are recognized under the United States Constitution and numerous treaties, intergovernmental agreements, statutes and Executive orders, and have been consistently upheld by the highest courts of the United States;

(C) the goals of economic self-sufficiency and improvement of the social well-being of tribal communities, with the objective of achieving parity with the general United States population as evidenced by national averages for health care, per capita income and rates of employment and educational achievement, are recognized as the basis of numerous Federal statutes and administrative policies;

(D) the unique cultural heritage of tribal people in the United States, including maintenance of native language proficiency, the practice of traditional ceremonies, and religious and artistic expression, is recognized in numerous Acts of Congress as an irreplaceable national heritage to be supported and protected; and

(E) for nearly two decades, the United States has consistently endorsed and advanced the principle of Indian self-determination, with the objective of ending Federal domination of programs affecting Indians and ensuring that tribal governments

are empowered to plan, conduct, and administer such programs themselves.

(2) Despite broad agreement on the underlying principles of United States Indian policy, laws enacted by the Congress and regulations adopted by Federal agencies do not invariably reflect such principles owing to the large number of executive branch agencies and the large number of congressional committees determining policy and owing to the absence of an institutional resource from which agencies and congressional committees might obtain objective and reliable data, information, and analyses based upon the fullest knowledge of the underlying policy principles.

(3) Performance of its trust responsibility to American Indians consistent with the highest fiduciary standards requires the United States to assure that informed and reliable information and scholarly analyses are available to institutions shaping public policy.

(4) Establishment of an independent, nonpartisan, institute to provide data, information, and analyses related to Indian issues would assist institutions in shaping sound and consistent public policy and its establishment is warranted.

(5) The establishment of an institute is not intended, nor should it be construed as, a delegation of the responsibilities of the United States in formulating and adopting public policy.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians including any Alaska Native village which is recognized by the United States as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Institute" means the National Indian Policy Research Institute established by this Act.

(4) The term "Board" means the Board of Directors of the Institute.

(5) The term "president" means the president of the George Washington University located in Washington, District of Columbia.

SEC. 4. ESTABLISHMENT OF INSTITUTE.

(a) IN GENERAL.—There is established a federally chartered corporation to be known as the "National Indian Policy Research Institute" which shall be located in Washington, District of Columbia, and, with the consent of George Washington University, as indicated by the acceptance by it of the grant authorized under section 12 of this Act, within the George Washington University for purposes of administration and management. For purposes of policy and direction, the Institute shall be under the control of the Board of Directors established under section 7 of this Act.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The Federal corporation established by this Act shall have succession, subject to the review provided for in subsection (c), until dissolved by Act of Congress. The Congress shall have exclusive authority to revise or amend the provisions of this Act involving the establishment and operation of such corporation.

(c) REVIEW.—No later than 36 months after enactment of this Act, the Congress shall review the activities and performance of the Institute and of George Washington University in support of the Institute's purposes to determine whether amendments to this Act are required.

SEC. 5. FUNCTIONS.

(a) RESEARCH AND ANALYSIS.—The Institute shall, at the request of institutions shaping policies affecting Indians or upon its own initiative, conduct or commission research and analysis to be carried out, in accordance with the highest standards of scholarship and independence, on issues related to the development of public policy affecting Indians. The Institute shall adopt criteria and procedures to guide the selection of research projects. Priority consideration shall be given to policy initiatives proposed for consideration by the executive or legislative branches of the Federal Government.

(b) DATA AND INFORMATION CLEARINGHOUSE.—The Institute shall establish a data base to make accessible information and data maintained by Government agencies, academic institutions, and Indian and other organizations, and shall develop computer and telecommunication networks to make such information recoverable by policymakers and the public. Where it is determined that developing a new and specific data base is required, the Institute shall undertake to meet such need.

(c) FORUMS AND SYMPOSIA.—The Institute shall conduct periodic public forums to identify and explore emerging Indian policy issues and to identify needs for data, information, or analyses, and shall conduct symposia, when appropriate, to clarify options for policymakers and to advance an understanding of complex and interrelated public policy issues as they affect Indian people and the formulation of Indian policy.

(d) PUBLIC INFORMATION.—The Institute shall publish and make available to the executive and legislative branches of the Federal Government, tribal governments, tribal colleges, and the public, the products of its research and reports of other activities by disseminating information about such research and reports as deemed appropriate by the Board.

(e) FELLOWSHIPS.—The Institute shall, consistent with the availability of funds, and resources and procedures established by the Board of Directors, provide fellowship opportunities for students of Indian policy at tribal colleges and other institutions of higher education and experienced policy experts in order to make it possible for such fellows to dedicate their time and energies to researching significant public policy issues.

SEC. 6. GENERAL POWERS OF INSTITUTE.

(a) POWERS OF INSTITUTE.—In carrying out the provisions of this Act, the Institute shall have the power, consistent with the provisions of this Act—

(1) to adopt, use and alter a corporate seal;

(2) to make, subject to the availability of funds, agreements and contracts with persons, Indian tribal governments, tribal organizations, and private or governmental entities, and to make payments or advance payments under such agreements or contracts without regard to the provisions of section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the Federal agency concerned and on a reimbursable basis, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the Federal Government in carrying out the provisions of this Act, and to pay for such use;

(6) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(7) to receive grants from, and subject to the availability of funds, enter into contracts and other arrangements with Federal, State, tribal, or local governments, public and private agencies, organizations, institutions, and individuals, and, at the request of a tribal government or tribal governments, to receive grants and contracts from Federal agencies on the same basis as a tribal organization as defined and provided for by the Indian Self-Determination and Education Assistance Act;

(8) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the provisions of this Act;

(9) to obtain insurance or make other provisions against losses;

(10) to use any funds or property received by the Institute to carry out the purpose of this Act except that any funds received by, or under the control of the Institute that are not Federal funds shall be accounted for separately from Federal funds; and

(11) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this Act and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

SEC. 7. BOARD OF DIRECTORS.

(a) COMPOSITION.—

(1) The Board of Directors of the Institute shall consist of the following members:

(A) Six individuals appointed within 12 months following the date of enactment of this Act by the President pro tempore of the Senate and 6 individuals appointed within the same period by the Speaker of the House of Representatives, who are representative of a broad range of Indian policy expertise as evidenced by established credentials in the different disciplines which make up the diverse field of Indian policy, including degrees from recognized academic institutions, leadership in public policymaking positions, or affiliation with public and private institutions which are known for their significant contributions to the public interest. The President pro tempore shall appoint from a list of persons submitted by the chairman of the Select Committee on Indian Affairs, and the Speaker shall appoint from a list of persons submitted by the chairman of the Interior and Insular Affairs Committee.

(B) The president of George Washington University, or his or her designee, and the Director of the Institute, both of whom shall serve as ex officio voting members of the Board.

(2) In making appointments under subsection (a)(1), the appointing authorities shall—

(A) consult with Indian tribal governments and tribal organizations;

(B) solicit nominations from Indian public policy specialists, Indian tribal governments, tribal colleges, other Indian organizations, academic institutions and public officials with Indian policy responsibilities; and

(C) ensure that a majority of appointments are Indians who are broadly representative of Indian country.

(b) INTERIM BOARD.—The Planning Committee, appointed by the president of George Washington University to assist with the feasibility study for the establishment of a

National Center for Native American Studies and Indian Policy Development, as authorized by section 11 of Public Law 101-301, and composed of those individuals serving at the time of enactment of this Act, shall serve as the interim Board until the appointments authorized in subsection (a)(1) have been made. Their service shall terminate on the date that all 12 members are appointed.

(c) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members of the Board of Directors appointed pursuant to subsection (a)(1)(A) shall be appointed for terms of office of 3 years.

(2) Of the members first appointed under subsection (a)(1)(A) of this section—

(A) 4 shall have a term of office of 12 months;

(B) 4 shall have a term of office of 24 months; and

(C) 4 shall have a term of office of 36 months.

(3) The term of office assigned to each of the initial members of the Board as provided under paragraph (2) shall be determined by the appointing authorities at the time of appointment, except that no member shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(d) VACANCIES.—Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(e) REMOVAL.—No member of the Board appointed pursuant to subsection (a)(1)(A) of this section may be removed during the term of office of such member except for just and sufficient cause. However, absence from 3 consecutive meetings shall be considered just and sufficient cause.

(f) POWERS OF BOARD.—The Board is authorized to—

(1) formulate policy for the Institute and provide direction for its management, in consultation with George Washington University; and

(2) make such bylaws and rules as it deems necessary for the administration of its functions under this Act, including the organization and operating procedures of the Board.

(g) OFFICERS AND EXECUTIVE COMMITTEE.—The Board shall select from among its members an executive committee to be comprised of a co-chair selected by the Board to serve with a co-chair designated by George Washington University, and a vice chair, secretary, treasurer, and one at-large member selected by the Board. In accordance with the bylaws of the Board, such members shall provide direction for the Board, and serve in lieu of the Board on matters requiring Board action, subject to review and action by the Board as the members of the Board may deem appropriate.

(h) COMMITTEES.—The Board may establish such committees, task forces, and working groups as it deems appropriate and necessary.

(i) COMPENSATION.—Members of the Board appointed under subsection (a)(1)(A) shall, for each day they are engaged in the performance of their duties, receive compensation at the rate of $125 per day, including travel time. All members of the Board, while so serving away from their homes or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

SEC. 8. RESOURCE ADVISORY COUNCIL.

(a) RESOURCE ADVISORY COUNCIL.—There is established the Resource Advisory Council to the National Indian Policy Research Institute (hereafter referred to as the "Council") which shall provide assistance in the development and operations of the Institute.

(b) COMPOSITION.—The membership of the Council is as follows:

(1) Secretary of Health and Human Services;

(2) Secretary of Interior;

(3) Secretary of Education;

(4) Secretary, Smithsonian Institution;

(5) Secretary of Commerce;

(6) Secretary of Labor;

(7) Administrator of the Environmental Protection Agency;

(8) Director, National Academy of Sciences;

(9) Librarian of Congress;

(10) Director, Office of Technology Assessment

(11) Director, National Institutes of Health;

(12) Chairman, Select Committee on Indian Affairs, United States Senate; and

(13) Chairman, Interior and Insular Affairs Committee, United States House of Representatives.

(c) FUNCTIONS.—The Council—

(1) shall make recommendations to the Board of Directors regarding research procedures and organizational development;

(2) shall provide professional and technical assistance upon request of the Board of Directors, including staff support for the activities of the Council;

(3) when biannual meetings are called by the chairmen of the Senate Select Committee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives, shall attend such meetings or shall designate an individual or individuals to attend on behalf of the Council; and

(4) shall make reports and recommendations to the Board of Directors and to the Congress as they may from time to time request, or as the Council may consider necessary to more effectively accomplish the purposes of this Act.

SEC. 9. OFFICERS AND EMPLOYEES.

(a) DIRECTOR.—The Board of Directors, with the concurrence of the president, shall appoint a Director of the Institute. The Director may only be removed from office by the Board in accordance with the bylaws of the Institute.

(b) RESPONSIBILITY OF DIRECTOR.—Subject to the direction of the Board, and the general supervision of the president, the Director shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(c) EMPLOYEES.—The Director, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute.

(d) PREFERENCE.—In implementing this section, the Board and the Director shall afford preference to American Indians.

SEC. 10. NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE.

(a) NOT AN ADVOCACY ORGANIZATION.—The Institute shall not engage in the advocacy of public policy alternatives, represent itself as the voice of tribal governments, or take other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

(b) NO SUPPORT TO POLITICAL PARTIES.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(c) OTHER.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual, except as salary or reasonable compensation for services.

SEC. 11. TAX STATUS OF INSTITUTE.

The Institute and the franchise, capital, reserves, income and property of the Institute is exempt from all taxation imposed by the United States, by any Indian tribal government, or by any State or political subdivision thereof, or the District of Columbia.

SEC. 12. TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Institute, and such Institute shall perform, the functions of the National Center for Native American Studies and Indian Policy Development, as authorized under section 11 of Public Law 101-301.

(b) GRANT.—Subject to an appropriation by the Congress for this purpose, within 30 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall award a grant to the George Washington University for all activities of the Institute and to enable the University to provide such management, technical and support assistance to the Institute as may be reasonable or necessary to operate the Institute, including audit, accounting, computer services and building and maintenance services. Subject to the availability of funds, the grant shall be automatically renewable, at the option of the University, on an annual basis until such time as Congress may provide otherwise. No offsets or matching requirements may be imposed.

SEC. 13. RELATIONSHIP WITH TRIBAL COLLEGES.

The Director of the Institute, pursuant to the direction of, and in consultation with, the Board of Directors, is authorized to enter into contracts, memoranda of understanding and agreements with, and make grants to—

(1) tribally-controlled community colleges as defined by section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; and

(2) the United Tribes Technical College and Southwest Indian Polytechnic Institute;

for the purpose of conducting research, developing issue papers, or to assist the Institute in carrying out its responsibilities under this Act.

SEC. 14. REPORTS.

(a) ANNUAL REPORT.—The Director of the Institute shall submit an annual report to the chairman of the Senate Select Committee on Indian Affairs, the chairman of the Interior and Insular Affairs Committee of the House of Representatives, and to the Board concerning the activities and status of the Institute during the 12-month period preceding the date of the report. Such report shall include, among other matters, a comprehensive summary of studies performed and activities carried out, a detailed statement of private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period, and the disposition thereof, as well as any recommendations for improving the Institute. Such report shall also be provided to all tribal governments.

(b) BUDGET PROPOSAL.—(1) The Board shall submit a budget proposal for the Institute for fiscal year 1994, and each fiscal year thereafter, to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall transmit such budget proposal, together with the budget proposal of the Department of Health and

Human Services, to the President of the United States. The budget proposal of the Institute shall be included in the annual budget of the President of the United States.

(2) In determining the amount of funds to be appropriated for any fiscal year to the Institute on the basis of the budget of the Institute for that fiscal year, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 15. COMPLIANCE WITH FEDERAL LAWS.

For the purpose of administering the Federal criminal laws relating to larceny, embezzlement, or conversion of property or funds, the Institute shall be considered to be a Federal entity and subject to such laws.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for fiscal year 1994, and for fiscal years 1995 and 1996, such sums as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to the authorizations under this section shall remain available without fiscal year limitation.

SECTION-BY-SECTION ANALYSIS

SECTION 1 SHORT TITLE

Section 1 cites the short title of the Act as the "National Indian Policy Research Institute Act."

SECTION 2 FINDINGS

Section 2(a)(1) declares that Congress finds that the United States has an acknowledged trust responsibility to American Indians and Alaska Natives; recognizes the tribal rights of self-government, tribal goals of economic self-sufficiency and improvement of social well-being, and the unique cultural heritage of tribal people in the United States; and acknowledges the United States' ongoing commitment to facilitating Indian self-determination.

Section 2(a)(2) finds that the underlying principles of Indian policy are not invariably reflected in statutes and regulations because of an absence of information; performance of the trust responsibility requires informed reliable information and analyses; establishment of an institute to provide such information is warranted; and establishment of an institute is not intended, nor should it be construed to be, any delegation of responsibilities of the United States in formulating and adopting public policy.

SECITON 3 DEFINITIONS

Section 3 provides a definition of terms.

SECTION 4 ESTABLISHMENT OF INSTITUTE

Section 4(a) establishes a federally chartered corporation to be known as the "National Indian Policy Research Institute" within the George Washington University for purposes of administration and management.

Section 4(b) provides that Congress will have the exclusive power to dissolve the corporation established by this Act.

Section 4(c) requires the Congress, three years after enactment of the Act, to review the activities and performance of the Institute and the George Washington University to determine whether amendments to the Act are needed.

SECTION 5 FUNCTIONS

Section 5(a) provides that the primary functions of the Institute will be to conduct and commission research concerning Federal Indian policy on the basis of provisions in this section and selection criteria adopted by its Board of Directors.

Section 5(b) provides that another function will be to perform an information and data clearinghouse role and describes that role.

Section 5(c) provides that a third function will be to conduct public forums and symposia.

Section 5(d) provides that another function will be to disseminate the results of its research and other information consistent with a plan determined by the Board of Directors.

Section 5(e) provides that another function will be to establish fellowship opportunities for students of Indian policy and experienced policy experts.

SECTION 6 GENERAL POWERS OF INSTITUTE

Section 6(a) empowers the Institute to adopt, use and alter a corporate seal; to make agreements and contracts, to sue and be sued, to use and pay for Federal services or facilities, to accept and dispose of gifts, to accept grants and receive contracts, to obtain insurance, to use any funds or property received by the Institute to carry out the purpose of the Act, and to exercise all other lawful powers related to the establishment of the Institute.

SECTION 7 BOARD OF DIRECTORS

Section 7(a) provides that the six members of the Board of Directors will be appointed by the President pro tempore of the Senate and six will be appointed by the Speaker of the House of Representatives, based upon nominations submitted by the chairmen of the two committees of Congress having jurisdiction over Indian affairs; provides further that the Institute director and the university president are to be ex officio directors; provides also that the Board is to formulate policy and adopt-by-laws; provides also for officers, task forces, and compensation of board members.

Section 7(b) provides that the Planning Committee of the National Center for Native American Studies and Indian Policy Development shall serve as the interim Board for the Institute for a period of up to 12 months.

Section 7(c) provides for three-year terms for directors, but staggered terms for the initial board.

Section 7(d) provides for filling vacancies on the Board.

Section 7(e) provides for the removal of members of the Board for just and sufficient cause.

Section 7(f) provides that the powers of the Board include formulation of policy for the Institute and adoption of by-laws and rules.

Section 7(g) provides for the selection of officers and an executive committee.

Section 7(h) authorizes the formation of committees and task forces.

Section 7(i) authorizes compensation of $125 per day for members of the Board and payment of travel expenses.

SECTION 8 RESOURCE ADVISORY COUNCIL

Section 8(a) provides for the establishment of a Resource Advisory Council to the Institute.

Section 8(b) identifies eleven officials of the executive branch and the chairmen of Congressional committees having jurisdiction over Indian affairs as members of the Council.

Section 8(c) provides that the Council is to make recommendations to the Institute and the Congress, to provide technical assistance to the Institute, to attend bi-annual meetings, and to report to the Board of Directors and the Congress.

SECTION 9 OFFICERS AND EMPLOYEES

Section 9(a) empowers the Board of Directors, with the concurrence of the university's president, to appoint a director of the Institute.

Section 9(b) describes the responsibilities and authority of the director to carry out the policies and functions of the Institute.

Section 9(c) authorizes the Director to appoint and fix the compensation and duties of employees, with the approval of the Board.

Section 9(d) prescribes that the Board and the Director are to afford preference to American Indians.

SECTION 10 NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE

Section 10(a) prohibits the Institute from being an advocacy organization, representing itself as the voice of tribal governments or taking any actions that might be construed as diminishing the government to government relationship of the United States to Indian tribal governments.

Section 10(b) prohibits the Institute's support of any political party or candidate for elective public office.

Section 10(c) provides that no part of the income or assets of the institute shall benefit any director, officer, employee, or any other individual, with the exception of salaries or compensation for services.

SECTION 11 TAX STATUS OF INSTITUTE

Section 11(a) exempts the Institute and its franchise, capital, reserves, income and property from all taxation.

SECTION 12 TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY

Section 12(a) provides that the Institute shall assume the functions of the existing National Center for Native American Policy Studies and Indian Policy Development.

Section 12(b) provides that 30 days after an appropriation is made for the Institute, the Secretary of Health and Human Services is to award a grant to the George Washington University for all activities of the Institute, and that, subject to the availability of funds, the grant shall be automatically renewable on an annual basis until such time as Congress may provide otherwise.

SECTION 13 RELATIONSHIP WITH TRIBAL COLLEGES

Section 13 authorizes the Institute to enter into contracts and make grants to tribal colleges, the United Tribes Technical College, and Southwest Indian Polytechnic Institute to assist the Institute in carrying out its responsibilities.

SECTION 14 REPORTS

Section 14(a) provides that the director of the Institute is to submit an annual report to the Chair of the Select Committee on Indian Affairs of the Senate, to the Chair of the Interior and Insular Affairs Committee of the House of Representatives, to tribal governments, and to the Board; also prescribes the contents of such report.

Section 14(b) provides that the Board is to submit a budget proposal for fiscal year 1994 and each succeeding fiscal year to the Secretary of Health and Human Services, who is to submit it to the President of the United States; further, that the budget proposal of the Institute is to be included in the annual budget of the President; further, that the Congress is not to consider private funds obtained by the Institute in its determination of an appropriation level in any fiscal year.

SECTION 15 COMPLIANCE WITH FEDERAL LAWS

Section 15 provides that, for the purpose of certain criminal laws, the Institute is to be considered to be a Federal entity and subject to such laws.

SECTION 16 AUTHORIZATION OF APPROPRIATIONS

Section 16 authorizes an appropriation of $1,000,000 for the Institute for fiscal year 1994,

and such sums as are necessary to carry out the provisions of the Act in fiscal years 1995 and 1996, and provides that the funds are to remain available without fiscal year limitations.•

By Mr. SEYMOUR:

S. 3156. A bill to amend the Internal Revenue Code of 1986 to provide for the designation of turbo enterprise zones to assist those areas of Los Angeles affected by recent rioting and to assist other areas of high unemployment; to the Committee on Finance.

TURBO ENTERPRISE ZONE ACT

• Mr. SEYMOUR. Mr. President, I rise today to introduce legislation that will create new jobs, rebuild our cities, and inspire hope among the millions of impoverished Americans living in our urban communities. By targeting growth, my legislation will energize our inner cities with an unprecedented stream of investment capital, and furnish the tools necessary to empower residents to take control of their lives.

As we all remember, beginning on the evening of April 29, this Nation witnessed the most destructive and violent social disturbance of the 20th century. And, when the several days of rioting finally ended, the rubble and death in Los Angeles looked reminiscent of scar torn Europe during World War II.

The toll of these few short days of unrest was overwhelming. There were at least 58 deaths, over 2,300 injuries, and over 5,300 structure fire calls. The city of Los Angeles estimated they spent $33 million in extraordinary costs to respond to the rioting. The Los Angeles Police Department put in almost 200,000 hours of overtime to respond at a rough cost of $21 million.

We saw entire communities go up in smoke. We saw businesses that took years of hard work and sweat to build looted and destroyed. We saw livelihoods ruined, and numerous acts of violence against innocent people. While the Rodney King verdict may have ignited this conflagration, poverty and despair fanned the flames.

Mr. President, this alone is enough to warrant a tough and aggressive campaign against urban decay and distress. However, no one can go it alone. We must act together. An urban agenda must be based on cooperative, coordinated action on the part of elected representatives, State and local officials, business leaders, and concerned citizens who are truly prepared to address our Nation's urban crisis headon. And, while I certainly do not claim to have all the answers to our urban problems, I do believe that the legislation I am introducing today will lay the foundation of cooperation, unleash the economic potential of these communities, and chip away at the hopeless mindset instilled in many inner city residents from years of urban neglect.

The thesis of my proposal is very simple—that all communities have economic vitality if you strip away the restrictive nature of taxes and regulation. This is exactly what my proposal entails.

Specifically, my legislation targets Los Angeles and other cities with severely distressed communities by allowing local governments to green line the hardest hit areas where unemployment is at crisis levels and no material tax base exists. This will create what I call turbo enterprise zones. Within the targeted green line area, the rate of tax at all levels will be zero for a period of 5 years. the city, county, State, and Federal Governments will cooperate to implement a zero tax rate regime. In short, within the turbo enterprise zones, individuals and enterprises will pay no sales taxes, no payroll withholding taxes, no property taxes, and no income taxes.

In addition, to obtain the benefits of the turbo enterprise zone, 90 percent of a firm's employees must live within the targeted green line, and the principal place of business must fall within the targeted green line area.

Essentially, the cost of my proposal to the taxpayers is the forgone revenue of the designated areas. However, by the very definition of a turbo enterprise zone, these hard-hit areas are tax burdens, not tax producers. For this very reason, it can't be argued that my bill will cost the taxpayers a dime. Moreover, by providing investment capital incentives, I believe we can realistically anticipate an unprecedented thrust of economic growth in these areas. And, by the end of the 5-year, no-tax moratorium, I believe a healthy, stable tax base will be firmly implanted.

To be successful in our urban revitalization efforts, we must cultivate the roots of economic opportunity—the true secret to empowering citizens to take hold of their lives and make lasting change. Many of our inner city families have endured generations of perpetual poverty. By giving families a way out—a way to break the mold—they can, and will, control their own destinies.

Mr. President, HUD Secretary Jack Kemp hit the nail right on the head when he stated before the Senate Finance Committee that we must build a ladder of opportunity for our inner city residents. By enhancing a community's access to credit and capital, and creating jobs, we can pave the road of economic prosperity in our urban centers. My proposal will do just that. Enactment of my legislation will give these citizens a piece of the action, allow them to take charge of their futures and realize the dream of owning a home, running a business, or sending their children to college.

My initiative is an aggressive attempt to cure the serious ills that continue to plague our inner cities. Most importantly, it is a bipartisan, locally driven and community-based effort that recognizes no particular ideology. In fact, the companion bill to my legislation in the House of Representatives was authored by Congressman CHRIS COX of California—a Republican, and Congressman CRAIG WASHINGTON of Texas—a Democrat. This clearly demonstrates that both parties can work together to get the job done. Indeed, a comprehensive, nonpartisan effort is what it will truly take to solve our intractable urban problems.

Mr. President, I believe the legislation I am offering today is a way to inject hope and commerce in our inner city communities. I hope my colleagues will join me in supporting this new bold and innovative program.

I ask unanimous consent that the text of my bill be printed in the RECORD following my remarks.

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

S. 3156

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 "Turbo Enterprise Zone Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) The devastation caused by the riots, looting, gang violence, and destruction in Los Angeles requires urgent national attention.

(2) It is the Federal Government's responsibility to lead the partnership to create the conditions in which enterprise can once again flourish in our inner cities, and to help create jobs where now there is only unemployment.

(3) Enterprise zones will reduce taxes, regulations, and other government burdens on economic activity in the Nation's most economically depressed areas. If properly implemented, this concept can and will work over a period of several years. Because the problem in Los Angeles is more urgent and more immediate, however, it requires a more aggressive reform, designated the "turbo enterprise zone".

(4) To suit the current emergency, the enterprise zone concept is supercharged: first, it is targeted on especially hard-hit areas bereft of current tax revenue production; and, second, the incentives are extraordinary. Specifically, local governments will be asked to "green line" the most depressed areas. Within the green line, city, county, State, and Federal governments will cooperate to implement a zero tax rate regime for 5 years: No sales taxes, payroll withholding taxes, property taxes, excise taxes, or income taxes. To obtain these benefits, 90 percent of a business's employees and managers must live within the green line.

(5) Under current circumstances, the hardest-hit areas of Los Angeles are tax burdens rather than tax producers. By offering striking incentives for capital to locate within the turbo enterprise zone, however, it is realistically to be anticipated that enormous economic activity will occur in this area within the 5-year period.

(b) PURPOSE.—The purpose of this Act is to inspire renewed confidence in the hardest hit areas of Los Angeles, and in other blighted

areas within America's inner cities, without requiring enormous amounts of new taxes and borrowing.

SEC. 3. NO FEDERAL TAXES IN LOS ANGELES TURBO ENTERPRISE ZONES FOR 5 YEARS.

(a) INCOME, EMPLOYMENT, AND SELF-EMPLOYMENT TAXES.—No tax shall be imposed under subtitle A or C of the Internal Revenue Code of 1986 with respect to—

(1) any income received or accrued by—

(A) any individual who is a qualified resident of a Los Angeles turbo enterprise zone, or

(B) any qualified business, or

(2) any remuneration paid by a qualified business for services performed by a qualified resident.

This subsection shall not apply for purposes of determining benefits under the Social Security Act.

(b) EXCISE TAXES.—No tax shall be imposed under subtitle D or E of such Code with respect to any taxable event occurring in a Los Angeles turbo enterprise zone.

(c) LOS ANGELES TURBO ENTERPRISE ZONE.—For purposes of this section, the term "Los Angeles turbo enterprise zone" means any area in the County of Los Angeles which is specifically designated for purposes of this section both by such county and the city having jurisdiction over such area as being—

(1) significantly and adversely affected by the rioting which occurred on or about May 1, 1992;

(2) afflicted with unemployment estimated to exceed 30 percent;

(3) subject to severe economic blight as measured by per capita income and number of persons below the Federal poverty level; and

(4) nonproductive of material tax revenues to the city, county, State, or Federal governments.

(d) QUALIFIED RESIDENT.—For purposes of this section, the term "qualified resident" means any individual whose domicile and principal residence is, and has been for at least 6 continuous months, located within a Los Angeles turbo enterprise zone.

(e) QUALIFIED BUSINESS.—For purposes of this section, the term "qualified business" means any firm which meets the following criteria:

(1) the active conduct of the trade or business of such firm is within a Los Angeles turbo enterprise zone;

(2) 90 percent of the remuneration paid by such firm to employees, consultants, contract labor, or other individual providers is to qualified residents; and

(3) 90 percent of the number of employees of such firm are employees of such firm on the date of the enactment of this Act or qualified residents.

(f) APPLICATION OF SECTION.—

(1) IN GENERAL.—This section shall irrevocably apply to any Los Angeles turbo enterprise zone during the 5-year period beginning on the earliest date on which there is in effect by each of—

(A) the State of California,

(B) the County of Los Angeles, and

(any municipality with jurisdiction over the zone,

an irrevocable 5-year waiver of all tax levies of any kind (including but not limited to property taxes, sales taxes, payroll withholding taxes, income taxes, excise taxes, and license fees) that would otherwise be applicable to or collectible by qualified residents and qualified businesses.

(2) EXTENSION OF 5-YEAR PERIOD.—

(A) IN GENERAL.—If, as of the close of the 5-year period referred in paragraph (1) with respect to any Los Angeles turbo enterprise zone, the Secretary of Housing and Urban Development determines that—

(i) during such period the unemployment rate for such zone has fallen below 1.5 times the national average unemployment rate, and

(ii) the governmental units referred to in paragraph (1) have extended the waiver referred to in paragraph (1) for at least an additional 2 years,

then this section shall remain in effect for an additional 2 years with respect to such zone.

(B) ADDITIONAL EXTENSIONS PERMITTED.—If, as of the close of any extension of the 5-year period referred to in paragraph (1) with respect to any Los Angeles turbo enterprise zone, the Secretary of Housing and Urban Development determines that—

(i) during the preceding 2-year extension the unemployment rate for such zone has fallen below 1.5 times the national average unemployment rate, and

(ii) the governmental units referred to in paragraph (1) have extended the waiver referred to in paragraph (1) for at least an additional 2 years,

then this section shall remain in effect for an additional 2 years with respect to such zone.

(C) EXTENSIONS LIMITED TO 6 YEARS.—Extensions under this paragraph shall not exceed 6 years.

(g) APPLICATION BY OTHER JURISDICTIONS FOR "TURBO ENTERPRISE ZONE" STATUS.—Any geographic area within the jurisdiction of the United States may qualify for a 5-year waiver of all Federal taxes as described in this section, upon application to the Secretary of Housing and Urban Development made by each of the State, county or parish, and municipal government (if any) with jurisdiction over such area. The application shall certify that the 5-year waivers provided in subsection (f) have been irrevocably granted by each of such governments (subject to and effective upon the condition of approval by the Secretary as provided in this section), and that the area within the zone meets each of the criteria in subsection (c)(2) through (c)(4), inclusive. Upon determination that the area meets such criteria and that the irrevocable tax waivers have been granted, the Secretary shall approve such application, which shall be effective for a period of 5 years from the date of approval.

(h) TREATMENT OF CARRYOVERS DURING PERIOD TAXES SUSPENDED.—For purposes of determining the application of any deduction, credit, or capital loss carryover under the Internal Revenue Code of 1986, the taxable income of the taxpayer on whom no tax is imposed by reason of this section for any period shall be treated as zero for such period.•

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. GORTON, Mr. AKAKA, Mr. DASCHLE, and Mr. SIMON):

S. 3157. A bill to provide for a National Native American Veterans' Memorial; to the Select Committee on Indian Affairs.

NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT

• Mr. MCCAIN. Mr. President, I rise today on behalf of myself and Senators INOUYE, MURKOWSKI, GORTON, AKAKA, DASCHLE, and SIMON to introduce legislation to establish a National Native American Veterans' Memorial.

From the Revolution through Desert Storm, native Americans have served, suffered, and died for the cause of American freedom. During World War II, military communications between Allied forces were constantly intercepted by the enemy with tragic consequences for the success of Allied missions and forces. The legendary Navajo code talkers used their language to devise an unbreakable code, and by so doing greatly hastened the day of Allied victory. The Navajo code was the only Allied code that the enemy was never able to decipher.

Earlier, Choctaws provided the same service for the American Expeditionary Force in World War I. Like their Navajo successors, the Choctaw code talkers devised the only code that the Germans could not break. The strength of their great service, like the service of all native Americans who have fought in their country's battles, rested on the conviction they shared with the rest of their countrymen. That conviction was best expressed by a great chief of the Choctaws, Pushmataha, who, in 1811, appealed to his people not to join the British in their war with the Americans. "We do not take up the warpath," he told his people, "without a just cause and an honest purpose."

Native Americans have never served their country in wartime without a just cause and an honest purpose. I believe that the tenacity with which Indians hold to their convictions is the source of their tenacity on the battlefield. I greatly admire those values as I admire the great courage and the exceptional fighting ability of native Americans.

I would point out that our service academies still teach the military tactics of the great chiefs. The lessons taught to us by men like Geronimo and Chief Joseph are still employed by American Armed Forces whenever they are called upon to defend the interests of this Nation. Professional soldiers can recognize superior fighting skills and bravery when they see it on the battlefield. And we recognize military genius when we study the exploits of these great Indian leaders.

Sadly, though we may acknowledge their military prowess and their contributions to our victories, we have not always acknowledged our debts to the native American. When war has subsided, the Indian's prominent place in the battlefield has been replaced with second-class citizenship at home. That sad truth is captured in the life of Ira Hayes. A Pima Indian who served in the Marine Corps in World War II, Ira Hayes was a genuine American hero. In a place very near here, he is depicted in the Iwo Jima Memorial planting his country's flag in the soil of a foreign land. His heroism has been enshrined for all time in that memorial, but the man was soon forgotten. He died a broken man, a victim of alcoholism.

I hope that we will not only acknowledge the service of native American veterans by enacting this legislation, but we also will honor our debts to them in peacetime. In all tribes, the native American bows to no one in the depth of his patriotism and in his love of country. They fought, more bravely than many, for the same values that all the sons and daughters of America have so nobly preserved when they have taken up arms to defend us. They are the values Chief Joseph described, much better than I can. He pleaded.

Let me be a free man, free to travel, free to stop, free to work, free to trade where I choose, free to choose my own teachers, free to follow the religion of my fathers, free to think and talk and act for myself.

Just last year, Michael Noline of the San Carlos Apache Tribe in Arizona, and Eric Bentzlen of the Sisseton-Wahpeton Sioux Tribe in South Dakota did not return from the Persian Gulf. Like native American veterans in previous wars, they perished in service to this country and the values Chief Joseph spoke of so eloquently.

I view this national memorial as only a small way in which we can honor the service and sacrifice of all native American veterans. Such sacrifice deserves to be memorialized in something more lasting, more meaningful than bronze. Let their memory be the spirit that guides us all as we seek means to redress the disservices done to the native American. I promise you the memory of their valor will guide me, for I, too, want to remain a free man, and I know that they died so that we all might be free to think and talk and act for ourselves.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 3157

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 "Native American Veterans' Memorial Establishment Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Native Americans of various Indian tribes across the Nation, have long, proud and distinguished tradition of service in the armed forces of the United States.

(2) Native Americans have historically served in the armed forces of the United States in numbers which far exceed their representation in the population of the United States.

(3) Native Americans have lost their lives in the service of their Nation, and in the cause of peace.

(4) The National Museum of the American Indian was established as a living memorial to Native Americans.

(5) The National Museum of the American Indian is an extraordinary site and is an ideal location to establish a National Native American Veterans' Memorial.

(6) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the armed forces of the United States.

SEC. 3. AUTHORIZATION FOR ESTABLISHMENT OF MEMORIAL.

(a) MEMORIAL.—The Board of Trustees of the National Museum of the American Indian is authorized to design, construct, and maintain a National Native American Veterans' Memorial (hereafter referred to in this section as the "Memorial").

(b) SITE.—The Board of Trustees shall select a suitable site for the Memorial. The site shall be located on a portion of the lands within the boundaries described in section 7(a) of the National Museum of the American Indian Act.

(c) DESIGN AND PLANS.—The Board of Trustees is authorized to hold a competition to select the design of the Memorial. Except as otherwise provided in this Act, the design, location, and construction of the Memorial shall be subject to the Act entitled "An Act to provide standards for replacement of commemorative works on Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(d) DONATIONS.—Notwithstanding any other provision of law, the Board of Trustees may accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of designing, constructing, or maintaining the Memorial.

(e) PAYMENT OF EXPENSES.—The United States Government shall not pay any of the expenses of the establishment of the Memorial other than providing the site on which it is to be located.●

By Mr. SMITH:

S. 3158. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT

● Mr. SMITH. Mr. President, according to the President's budget for fiscal year 1993, a child born in 1990 will pay 76 percent more in taxes over his lifetime than he will receive in benefits. For every dollar that person gives Uncle Sam over his lifetime, the Federal Government will give him less than 60 cents in return. Clearly, the national debt-which is fast approaching $4 trillion—is bankrupting the Nation and seriously jeopardizing the well-being of future generations.

Today I am introducing legislation that will allow the American people to become directly involved in solving our Nation's debt problem. This bill would allow each taxpayer to contribute up to 10 percent of his or her tax liability to a public debt reduction fund. The corresponding reduction in funds to the Government would result in an across-the-board sequester of all accounts except Social Security retirement benefits, interest on the debt, and deposit insurance.

Mr. President, this legislation was recently introduced in the House of Representatives by Congressman BOB WALKER of Pennsylvania. Congressman WALKER has been a leader on fiscal issues for many years, and his efforts to tackle our debt problem should be applauded. Unlike many who only pay lip service to our budget problems, he is willing to propose real solutions. In fact, a study by the Congressional Budget Office indicates that this idea could balance the budget in 5 years.

I urge my colleagues to take a look at this new innovative idea. Budget summits and higher taxes have not made a dent in the Federal deficit. It is time for the American people to be given a role in the process.●

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT

NUNN (AND OTHERS) AMENDMENT NO. 2916

Mr. NUNN (for himself, Mr. WARNER, Mr. PRYOR, Mr. RUDMAN, Mr. BINGAMAN, Mr. COATS, Mr. D'AMATO, Mr. LAUTENBERG, Mr. CHAFEE, Mr. GRAHAM, Mr. WELLSTONE, Mr. DODD, Mr. ROBB, and Mr. SANFORD) proposed an amendment to the bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Defense Conversion and Transition Assistance

SEC. 1091. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the

capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national defense technology and industrial base.

(7) Prompt and vigorous implementation of a defense conversion and transition assistance program is essential to ensure that the defense build down is structured in a manner that enhances the long-term ability of the United States to maintain a strong and vibrant national defense technology and industrial base.

(b) POLICY.—(1) It is the policy of Congress that the United States attain its national defense objectives through the development and implementation of defense conversion and transition assistance programs that have the following objectives:

(A) Facilitating the transition of military personnel, civilian employees of the United States, and defense industry workers affected by the defense build down in a manner which recognizes the contributions of those individuals to the national defense and promotes continued national access to, and benefit from, their skills and capabilities.

(B) Assisting communities in adjusting to the impact of reduced defense spending in recognition of the contributions that such communities have made to the national defense of the United States.

(C) Strengthening the ability of the national defense technology and industrial base to meet the following national security objectives:

(i) Supplying and equipping the force structure necessary to meet near-term national security requirements.

(ii) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

(iii) Maintaining advanced research and development activities to provide the Armed Forces of the United States with systems capable of ensuring technological superiority over potential adversaries.

(iv) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the Armed Forces.

(D) Achieving the national defense technology and industrial base objectives described in subparagraph (C) by enhancing the opportunities for conversion of defense-dependent businesses to dual-use capabilities.

(2) It is the policy of Congress that not less than $1,200,000,000 of the funds authorized to be appropriated by this Act be available for defense conversion and transition assistance programs.

SEC. 1092. ACTIVE FORCES TRANSITION ENHANCEMENTS.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The program to encourage members and former members of the Armed Forces to enter critical public and community service jobs after discharge or release from active duty as established pursuant to section 1143a of title 10, United States Code (as added by section 531(a)).

(2) The program to facilitate alternative teaching certification for personnel separating or retiring from the Armed Forces who choose to enter teaching based upon military experience and training, as provided in section 532.

(3) The program to grant educational leave to qualify for and enter public and community service, as authorized by section 533.

(4) The temporary early retirement authorities provided in sections 534 and 535.

(5) The authority for persons being voluntarily separated from active duty in the Armed Forces to enroll in the Montgomery GI Bill program under section 536.

(6) The revision of the recoupment requirement related to certain reserve duty, as provided under section 537.

(7) The program referred to in section 538 for certain employment, job training, and other assistance for members of the Armed Forces who are being separated from active duty.

(8) The temporary continued health coverage for members of the Armed Forces upon separation from active duty, as provided under section 1078a of title 10, United States Code (as added by section 539).

SEC. 1073. GUARD AND RESERVE TRANSITION INITIATIVES.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The regulations required by sections 543 through 545 concerning inactivation of units of the Selected Reserve, involuntary discharge from a reserve component of the Armed Forces, and involuntary transfer from the Selected Reserve.

(2) The temporary authority for early retirements established under sections 546 and 547.

(3) The temporary authority for separation pay provided in section 548.

(4) The waiver of the continued service requirement for Montgomery GI Bill benefits under section 549.

(5) The transitional commissary and exchange privileges authorized by section 550.

(6) The temporary continuation of Servicemen's Group Life Insurance coverage provided under section 551.

SEC. 1094. DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL TRANSITION INITIATIVES.

(a) REQUIREMENT FOR REGULATIONS WITHIN 45 DAYS.—Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities, consistent with such guidance as may be issued by the Director of the Office of Personnel Management:

(1) The reemployment assistance requirements provided pursuant to sections 341 and 342.

(2) The reduction-in-force notification requirements provided pursuant to section 343.

(3) The commencement of eligibility for certain job training assistance to employees adversely affected by base closures and realignments, as established pursuant to section 344.

(4) The authority to continue health benefits established pursuant to section 346.

(5) The authority to pay benefits under the Thrift Savings Plan to employees separated by a reduction in force, as provided pursuant to section 347.

(6) The authority to establish skill training programs in the Department of Defense, as provided in section 348.

(b) REQUIREMENT FOR PROMPT IMPLEMENTATION.—The Secretary of Defense, subject to such regulations as may be prescribed by the Director of the Office of Personnel Management, shall ensure the prompt implementation of the authority established in section 345 to provide separation benefits and to restore certain leave.

SEC. 1095. COMMUNITY TRANSITION INITIATIVES.

(a) ECONOMIC ADJUSTMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that policies and procedures required pursuant to section 331 are issued not later than 90 days after the date of the enactment of this Act, and to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers.

(b) ECONOMIC, CONVERSION, AND STABILIZATION ASSISTANCE.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to ensure the prompt and effective delivery of assistance under the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note), as amended by sections 331 and 332, to communities, businesses, and workers substantially and seriously affected by reductions and defense expenditures.

(c) IMPACT AID.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the authority provided in section 333 to furnish assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

SEC. 1096. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE CONVERSION AND TRANSITION INITIATIVES.

(a) PUBLIC INFORMATION REQUIREMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that, not later than 90 days after the date of the enactment of this Act, policies and procedures are issued to provide for wide public dissemination of the opportunities to participate in programs authorized pursuant to sections 802, 804, and 805.

(b) PROGRAMS IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the following programs, requirements, and authorities:

(1) The defense dual-use technology research and development programs referred to in section 802.

(2) The defense dual-use manufacturing technology programs referred to in section 804.

(3) The national defense technology and industrial base dual-use assistance extension programs.

(4) The requirements and authorities provided under section 807 for the Small Business Innovation Research Program.

(c) COMMENCEMENT OF OPERATIONS BY THE OFFICE OF TECHNOLOGY TRANSITION.—Not-

withstanding section 803(b) of this Act, the Office of Technology Transition established by section 803(a) shall commence operations not later than 120 days after the date of enactment of this Act.

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 2917

Mr. D'AMATO (for himself and Mr. MOYNIHAN) proposed an amendment to the bill S. 3114, supra, as follows:

At the end of the bill insert the following title:

SECTION I. SHORT TITLE.

This Act may be cited as the "Calverton Pine Barrens Preservation Act".

SEC. II. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Pine Barrens, a forest of pine trees extending across Long Island, New York, protect and replenish the Island's sole-source aquifer and require well-planned protection strategies.

(2) The Department of Defense owns 3234 acres of the Pine Barrens which serve as a buffer zone surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York, and provide numerous benefits to the public and wildlife.

(3) The General Services Administration has suggested selling portions of the Pine Barrens described in paragraph (2) and under Federal law, such portions could be sold for commercial development.

(4) The New York State Government and local governments have an interest in preserving the Calverton Pine Barrens in its natural state.

(b) PURPOSE.—The purpose of this Act is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

SEC. III. CALVERTON PINE BARRENS PROHIBITED FROM BEING COMMERCIALLY DEVELOPED.

In the event that any part of the Calverton Pine Barrens is declared to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall designate that part a protected tract. The protected tract, or any part thereof, may not be disposed of in any way that would allow commercial development to take place on it. If the protected tract, or any part thereof, is ever conveyed to an entity which uses it for commercial development, ownership of the protected tract shall revert to the United States.

SEC. IV. DESCRIPTION OF THE CALVERTON PINE BARRENS.

The Calverton Pine Barrens is the land of not less than 3234 acres located on Department of Defense land surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York.

SASSER (AND OTHERS) AMENDMENT NO. 2918

Mr. SASSER (for himself, Mr. BUMPERS, Mr. JEFFORDS, Mr. LEVIN, Mr. JOHNSTON, Mr. ROBB, Mr. DECONCINI, Mr. SARBANES, Mr. MOYNIHAN, Mr. DASCHLE, Mr. RIEGLE, and Mr. SIMON proposed an amendment to the bill S. 3114, supra, as follows:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,300,000,000 may be obligated for the Strategic Defense Initiative.

BUMPERS (AND OTHERS) AMENDMENT NO. 2919

Mr. BUMPERS (for himself, Mr. SASSER, Mr. LEVIN, and Mr. JEFFORDS) proposed an amendment to amendment No. 2918 proposed by Mr. SASSER (and others) to the bill S. 3114, supra, as follows:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,301,000,000 may be obligated for the Strategic Defense Initiative.

SPECTER AMENDMENT NO. 2920

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 3114, supra, as follows:

At the appropriate place, insert:

SECTION 1. EMERGENCY ASSISTANCE FOR REFUGEES OF CROATIA, SLOVENIA, AND BOSNIA-HERCEGOVINA.

There are authorized to be appropriated $25,000,000 to provide emergency temporary housing assistance for refugees and displaced persons from Croatia, Slovenia, and Bosnia-Hercegovina.

SPECTER (AND OTHERS) AMENDMENT NO. 2921

(Ordered to lie on the table.)

Mr. SPECTER (for himself, Mr. WOFFORD and Mr. SEYMOUR) submitted an amendment intended to be proposed by him to the bill S. 3114, supra, as follows:

On page 333, between lines 13 and 14, insert the following new section:

SEC. 810. EXPANSION OF NON-DEPARTMENT PARTICIPANTS IN DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.

Section 2271(b) of title 10, United States Code (as redesignated by section 802(a)(2)), is amended by inserting "federally owned or operated industrial facilities," after "Federal laboratory or laboratories,".

In section 2(b), insert after the item relating to section 809 the following new item:

SEC. 810. EXPANSION OF NON-DEPARTMENT.

Subparagraph (b) of section 2523 of title 10, United States Code, is amended by striking the "," after "laboratory" and inserting the following: "federally owned industrial facilities,".

SPECTER AMENDMENT NO. 2922

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 3114, supra, as follows:

At the appropriate place in the bill insert the following:

SEC. 2823. COMPTROLLER GENERAL REVIEW OF THE COSTS OF A BASE CLOSURE OR REALIGNMENT

(a) REVIEW REQUIRED.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by inserting after section 2903 the following new section:

"SEC. 2903A. CONSIDERATION OF COSTS OF CLOSURE OR REALIGNMENT.

"(a) REVIEW OF PRECEDING CLOSURE AND REALIGNMENT RECOMMENDATIONS.—In the report of the Comptroller General of the United States required under section 2903(d)(5)(B) to be submitted to the Commission, the Comptroller General shall review the direct and indirect costs of carrying out the closure or realignment of each military installation recommended for closure or realignment by the Commission in the preceding report transmitted by the President to the Congress under section 2903(e).

"(b) RECONSIDERATION OF RECOMMENDATIONS BY COMMISSION.—If the Comptroller General determines from the review required by subsection (a) that the direct and indirect costs of carrying out the closure or realignment of a military installation previously recommended for closure or realignment is likely to exceed by 50 percent or more the cost cited in the materials transmitted by the Secretary of Defense that were used to justify the closure or realignment of that military installation, the Commission shall—

"(1) reconsider, as part of its review under section 2903(d), the cost-effectiveness and continued desirability of the closure or realignment of that military installation in light of the most recent available cost data; and

"(2) transmit its conclusions and recommendations following that reconsideration to the President as part of the report required by section 2903(d)(2).

"(c) USE OF CLOSURE AND REALIGNMENT CRITERIA.—In reconsidering the closure or realignment or a military installation pursuant to subsection (b), the Commission shall reconsider each such military installation on a separate and individual basis, and not as a part of any grouping of military installations, based on the final criteria prepared by the Secretary pursuant to section 2903(b)(2).

"(d) INFORMATION.—The Secretary of Defense and Comptroller General shall assist the Commission, to the extent requested, in the Commission's reconsideration under subsection (b) of the closure of realignment of a military installation and review of cost data made available relating to such closure or realignment.

"(2) Nothing in this subsection shall be construed to permit the Secretary of Defense to make information available to the Commission which is not also made immediately available to the Congress and the Comptroller General.

"(3) The Commission shall provide the Comptroller General an opportunity to comment on any information provided by the Secretary to assist the Commission to carry out this section.

"(4) The Commission shall provide any interested Member of Congress an opportunity to comment on any information provided by the Secretary to assist the Commission to carry out this section and any comments of the Comptroller General regarding the information.".

"(b) EFFECT ON CURRENT CLOSURES AND REALIGNMENTS.—The report of the Comptroller General of the United States required by the Department of Defense Appropriations Act, 1992 (Public Law 102-172) and evaluating the costs of the closure or realignment of certain military installations shall be submitted to the Commission as part of the report of the Comptroller General required in 1993 under section 2903(d)(5)(B) of the Defense Base Closure and Realignment Act of 1990.

ENTERPRISE ZONE TAX INCENTIVES ACT

SPECTER AMENDMENT NO. 2923

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

On page 885, line 20, insert "OR NEW AUTOMOBILES" after "HOMES".

On page 886, line 5, insert "OR NEW AUTOMOBILE" after "HOME".

On page 886, line 14, strike "or".

On page 886, line 18, strike the period and quotation marks and insert "; or".

On page 886, between lines 18 and 19, insert: "(iii) to the extent such distributions are made during 1992 and 1993 and are used within 60 days to purchase a new automobile".

On page 892, line 11, insert ", distributions during 1992 and 1993 which are used within 60 days to purchase a new automobile," before "or".

On page 892, line 21, insert ", for distributions during 1992 and 1993 which are used within 60 days to purchase a new automobile," before "or".

NORTHERN CHEYENNE WATER RIGHTS SETTLEMENT ACT

DANFORTH AMENDMENT NO. 2924

Mr. SIMPSON (for Mr. DANFORTH) proposed an amendment to the bill (S. 1607) to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes; as follows:

On page 36, strike line 8 and insert the following:

SEC. 12. APPLICATION OF PROVISIONS REGARDING ALLOCATION OF WATER RESOURCES.

(a) FINDING.—Congress finds that the allocation of water resources to the Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

(a) APPLICATION.—The provisions of this Act regarding the allocation of water resources to the Tribe shall not be construed to be applied to nor be precedent for any other Indian water right claims.

SEC. 13. EFFECTIVE DATE OF SETTLEMENT.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the energy conservation implications of beverage container recycling, as outlined in S. 2335.

The hearing will take place on Thursday, September 17, 1992, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Black Cordes.

For further information, please contact Leslie Black Cordes of the committee staff at 202-224-9607.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, August 12, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2975, the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1992; S. 3095, Jena Band of Choctaws Louisiana Restoration Act; and for other purposes, to be followed immediately by an oversight hearing on Indian trust fund management.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. FORD. The Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on August 7, 1992, at 10 a.m. in room 418 of the Russell Senate Office Building. The legislation scheduled for markup is as follows: S. 2575, the proposed Veterans Health Programs Improvement Act of 1992, and committee prints of S. 2973, the proposed Women Veterans Sexual Trauma Services Act of 1992, S. 2974, relating to the Court of Veterans Appeals; S. 3108, the proposed Veterans Home Loan Program Revitalization Act of 1992.

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

COMMITTEE OF FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, August 7, at 10 a.m. to conduct a nomination hearing.

NOMINATION

Mr. Anthony C. E. Quainton, of the District of Columbia, to be Assistant Secretary of State for Diplomatic Security.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Friday, August 7, at 9:30 a.m. for a hearing on the subject: CFO Act and Army Audit.

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

ADDITIONAL STATEMENTS

HAITIANS—THE FORGOTTEN REFUGEES

• Mr. DECONCINI. Mr. President, I would like to take this opportunity to address the serious and continuing situation in Haiti. The administration's handling of the Haitian crisis has been inconsistent with respect to what our country holds to be the most basic notion of human rights. The events that have transpired since last September are a major scar on America's human rights record.

Before I discuss the mistreatment of the Haitian refugees, I would first like to applaud the decision of the Federal Appeals Court in New York on July 29, 1992. The court said that Haitians interdicted at sea must be given the opportunity to state their reasons for fleeing Haiti, and also given the chance to pursue asylum in the United States if those stopped have a well-grounded fear of persecution. This decision overturns President Bush's Executive order of May 24 that ordered the Coast Guard to immediately return all Haitians to Haiti, without an opportunity to gain asylum.

On September 30, 1991, the President of Haiti, Jean-Bertrand Aristide, was ousted in a coup d'etat by a section of the military. President Aristide had been elected only a year earlier in the first free and fair election in the history of the country. After 30 years of dictatorship under Francois DuValier and his son, Jean-Claude, Aristide's election was a celebrated event not only in Haiti, but throughout the free world. Tragically, since his ouster, many atrocities have occurred within the country. The old Duvalist system of repression has targeted supporters of President Aristide. Widespread killing, arbitrary arrests, tortures, beating, and disappearances have all been reported. As a result of these human rights violations, many Haitians have taken to the seas. In fact, approximately 37,000 Haitian boat people have been interdicted by the United States Coast Guard.

Over the last decade, the administration's policy of interdicting Haitian boat people has changed repeatedly. In 1981, the Reagan administration established the interdiction program. The program allowed the Coast Guard to stop and search private Haitian vessels thought to be transporting undocumented Haitians. Under the agreement, made with dictator Jean-Claude Duvalier, passengers aboard these vessels were also allowed to be interrogated. Haiti is the only country with which the United Stares has such an alien migrant interdiction agreement.

Between 1981 through 1990, 22,940 Haitians were interdicted, with the inteviewing process taking place aboard the boats of these desperate individuals. Oftentimes, the passengers were exhausted and staring from being at sea for several days. Most Haitians did not understand the purpose of the interview. As a result, only 11 Haitians qualified for asylum.

A change in the interviewing policy in March 1991 by the Immigration and Naturalization Service [INS] led to more Haitians qualifying for asylum. The new policy explained the purpose of the interview and was conducted in private to allow those interdicted to speak more candidly. Between March 1991 and October 1991, 20 interdicted Haitians were allowed to apply for asylum, twice the number allowed in the previous 10 years.

Immediately after the coup, the number of Haitian boat people dramatically increased. So many Haitians were interdicted at sea that United States Coast Guard cutters became overcrowded. Haitians were then taken to the U.S. Naval Base at Guantanamo Bay, Cuba. Under the new INS screening process, 34 percent of those interviewed at Guantanamo were found to have a justified fear of harm if returned to Haiti. The continuing number of Haitians interdicted by the Coast guard led to Guantanamo being filled to capacity. In November 1991, the administration then chose to begin forcibly repatriating Haitians, leading to a legal battle over the treatment of Haitians in the United States Federal courts.

On November 19, 1991, in Haitian Refugee Center, Inc. versus Baker, United States District Judge Donald L. Graham issued a temporary restraining order [TRO] that prevented the forced repatriation of Haitians interdicted by the United States Government. That order was extended by Judge Clyde Atkins until December 3, 1991. Two weeks later, however, the 11th Circuit Court of Appeals, in a 2-to-1 decision, overturned the district court. The appeals court sided with the administration in holding that the Haitians were not entitled to protection because they were not within the United States. Hours later, Judge Atkins issued another TRO, which was subsequently overruled by the 11th circuit in another 2-to-1 decision. A third TRO was issued by Judge Atkins, that the 11th Circuit Court of Appeals overturned, once again siding with the administration. Additionally, the U.S. Supreme Court lifted the ban on repatriation in an emergency ruling by an 8-to-1 decision on January 31, 1992. As a result of this decision, more than 23,000 Haitians have been returned to Haiti, while 10,500 were granted entry to the United States. There are only a few hundred Haitians remaining at Guantanamo Bay.

In response to another large onslaught of Haitian boat people seeking to enter the United States, President Bush issued an Executive order on May 24, 1992. The order instructed the Coast Guard to immediately return to Haiti, all Haitians intercepted without any prescreening, or an opportunity to gain asylum. Since this order, over 3,000 Haitians have been interdicted, and all returned to Haiti without an interview. The administration claims this policy is intended to deter boat people from leaving the country in order to protect Haitians who are traveling in boats that are not equipped for the 600-mile sea journey. As a result, all applications for asylum must now go through the U.S. Embassy in Port-au-Prince. The administration justifies this action by stating that our international legal obligations under the U.N. Protocol Relating to the Status of Refugees and the U.N. Convention Relating to the Status of Refugees does not extend to persons located outside the territory of the United States.

The convention and the protocol establish the basic norm of nonrefoulement, which prohibits States from expelling or returning refugees to frontiers or territories where they would be threatened on account of race, religion, nationality, or membership of a particular social group or political opinion.

Although the number of Haitian boat people has diminished dramatically, the number of Haitians seeking asylum has not. The administration's policy to have all Haitians seeking asylum to report to our Embassy in Port-au-Prince has led to 100 applications per day. The State Department has admitted that over 20,000 Haitians who could legally migrate to the United States are stuck because the visa applications have not been processed. The most recent statistics show that of the 7,000 Haitians who have sought asylum at the U.S. Embassy in Port-au-Prince, only 82 have been granted admission to the United States.

There are several problems associated with the handling of the Haitian crisis. First, the indiscriminate forced repatriation of Haitians is deplorable. In 1989, the administration led the charge in condemning the British Government for their forced repatriation of Vietnamese from Hong Kong. That pressure led the British to stop this policy. The administration no longer condemns forced repatriation of Vietnamese boat people. Moreover, the British have begun to reimplement their policy of forcibly repatriating Vietnamese, and the administration is now silent on the issue. Is this because we no longer believe forced repatriation is a violation of international law? Are we silent because the administration is doing exactly what it condemned the British Government for doing in Hong Kong? This double standard is unacceptable. If the British Government should not send human beings back to a country run by tyranny, we should not either. Furthermore, forced repatriation does nothing to address the reasons why Haitians leave their homeland.

Second is the claim that all Haitian boat people are leaving their country for economic reasons. While it is true that Haiti is one of the most economically depressed countries in the world, there are many Haitians leaving to escape the repression of the military forces. It is no secret that anyone who is a supporter of the Aristide government is in jeopardy of political persecution. The number of Haitians found to be eligible for asylum for the month of May 1992 was 40 percent. Now forced repatriation could potentially become a standard practice as the leader of the free world has chosen to isolate himself from other countries' problems.

The economic conditions in Haiti have worsened since the embargo was put in place by the Organization of American States [OAS] shortly after the coup. However, there are several countries, including some members of the OAS, who have not honored the embargo. The holes in the embargo allow the aristocracy, who supported the overthrow of President Aristide, to continue to purchase imported goods. While the rich continue to live lavishly, the suffering of the poor has increased. Humanitarian aid has been radically cut. Food and medical assistance have been reduced and agricultural assistance and reforestation programs halted. The bottom line on the embargo is that while the poor people of Haiti are hurting, the aristocracy is uncomfortable at worst. These conditions set up a time bomb that could explode in political unrest at any moment.

Third, is the administration's refusal to allow human rights monitoring organizations access to investigate asylum processing at Guantanamo. As cochairman of the Helsinki Commission, I believe such data is crucial to effectively monitor compliance with all international refugee standards. The administration cannot hide their practices and expect other countries to cooperate later in similar circumstances.

Congress has attempted to resolve the Haitian crisis through legislation. On February 27, 1992, the House passed the Haitian protection bill which imposes a 6-month moratorium on the forced repatriation of Haitians in United States custody outside the United States as of February 5, 1992; requires a study and report of the Haitian situation since last September's coup; and sets aside for Haitians 2,000 refugee slots out of a worldwide total of 132,000 already federally funded refugee admission slots for fiscal year 1992 that go through the normal INS process. On November 26, 1991, I introduced a bill

that would grant temporary protected status [TPS] for Haitian refugees. TPS assures that Haitians in the United States or in United States custody are protected until democratic rule is restored in Haiti. Unfortunately, these bills have not been enacted to prevent the administration from repatriating the Haitian boat people. There is also legislation pending that will help to diminish the scar which the administration has inflicted upon our country.

The Democracy in Haiti Act of 1992 codifies United States policy toward rebuilding democracy in Haiti. Specifically, it calls upon all governments to abide by the OAS-supported embargo of Haiti; supports the protocol agreement between President Aristide and the Parliamentary Negotiating Committee to Find a Permanent Solution to the Haitian Crisis signed on February 23, 1992; urges the ratification of a new prime minister, the separation of the police from the armed forces, and President Aristide's return to Haiti; supports the OAS proposal for a civilian OAS–DEMOC mission in Haiti and calls upon the international community to make a commitment to a sustained presence in Haiti throughout the process of establishing a democratic system. Additionally, the Secretary of State is directed to ensure appropriate burden sharing among OAS member governments and is authorized to make the following contributions to the OAS–DEMOC program: $3 million for fiscal year 1992, $5 million for fiscal years 1993 and 1994, and $6 million for fiscal years 1995 and 1996. Finally, Haitian nationals involved in the coup are excluded from entering the United States and their United States assets can be seized.

The Haitian Refugee Protection Act of 1992 will ensure against the forced return of asylum seekers to countries where they would have a well-founded fear of persecution. In the case of Haitians, the Coast Guard which encounters Haitians at sea would pick them up and provide them with some kind of screening process for refugee status.

Mr. President, we have a moral responsibility to protect those who seek refuge from persecution in their country. Since the ouster of President Aristide, many lives have been lost, many Haitians have been imprisoned, and thousands eligible for asylum are still waiting to be processed. The people of Haiti have lost their basic freedoms less than 1 year after their first democratic election. International law mandates that those who flee persecution should not be forcibly returned to the country they fled. We should abide by that declaration. Currently, most Haitians who fear reprisal for supporting President Aristide can only apply for asylum at the embassy in Port-au-Prince. We must protect those individuals in the name of democracy. We live in a world that has begun to see democracy spread throughout the former Soviet Union and Eastern Europe. Surely, we should do all that is necessary to protect democracy in our own backyard.

I urge my colleagues to join me in voicing their opposition to the administration's treatment of the crisis in Haiti and of the Haitian boat people. The unrest in Haiti will continue to be a problem in our hemisphere until we implement policies that provide a long term solution.

I also urge my colleagues to support legislation which will alleviate the problems that the administration has perpetuated through its treatment of the Haitian crisis. The Democracy in Haiti Act of 1992 and the Haitian Refugee Protection Act will be a step in the right direction in restoring stability in a country struggling to achieve democracy. As the leader of the free world, the United States has a moral obligation to support their struggle.•

THE 100 YEARS OF SERVICE

• Mr. D'AMATO. Mr. President, I rise today to honor and praise the Monroe County Bar Association on the occasion of their founding 100 years ago. At its inception, the Monroe County Bar Association has proposed that its mission be: To improve the quality and accessibility of justice; promote respect for and understanding of the law; enhance professional growth, fulfillment, excellence, collegiality, and diversity among its members; and serve as the voice of the profession. They have had 100 years of keeping to this mission, and for this I wish to commend the Monroe County Bar Association.

Founded in 1892, the Monroe County Bar Association filed its articles of incorporation with the names of 25 attorneys on December 2. Today the association membership numbers over 2,000. Originally there were five committees. Today the association has 37 committees, three special committees, and eight sections.

The Monroe County Bar Association has strongly supported a return to an appointive system of selection of judges rather than an elective judiciary. This was the opinion expressed by William F. Cogswell in 1843 and the association still supports this position today.

Access to the legal system has always been an association priority. In 1949, the association established a lawyer referral service to provide access to a lawyer for members of the public who did not have an attorney. In subsequent years the Monroe County Bar Association established a coordinated assigned counsel system which later became the public defender's office. In 1988 the association was instrumental in setting up an assigned counsel administrator's office to coordinate the appointment of attorneys when there is a conflict of interest in the public defender's office. Among the association's other accomplishments is its involvement in the structuring of the Monroe County Legal Assistance Corp., the local arm of the federally funded Legal Services Corporation; the establishment of the first separately incorporated pro bono service in New York; and the Volunteer Legal Services Corp., for which the Monroe County Bar Association won the first Harrison Tweed Award from the American Bar Association and National Legal Aid and Defenders Association in 1982. In 1991 the community legal intake and referral service was started to coordinate the screening and referral of clients to legal service agencies in Monroe County.

For the past 30 years, the association has been involved in various public and law-related education projects, including radio and television programs. This year the association will launch a people's law school.

As part of its centennial celebration, the association has moved into a bar center, which not only houses the administrative offices but also an educational facility which will enable the association's academy of law to present all but its largest continuing legal education programs in-house.

The Monroe County Bar Association has a long, proud tradition of serving Monroe County. Their legacy is profound and deserving of kudos and accolades. It is my hope that my colleagues will join me in commending this momentous achievement and in wishing the Monroe County Bar Association many more prosperous years.•

COMMEMORATING THE CAREER OF DR. W. EUGENE MAYBERRY

• Mr. DURENBERGER. Mr. President, everyone knows that the practice of medicine has changed enormously during the course of this century. Technological advances in the diagnosis and treatment of illness have been literally too numerous to comprehend. We take for granted today medical treatments that were not even thought of in our youth.

No one is more aware of the revolution in medicine than Dr. Eugene Mayberry, who, as chief executive officer of the Mayo Foundation, guided the foundation through many changes. Dr. Mayberry retired in June, ending a 36-year career marked by numerous highlights.

When he first came to Minnesota in 1956 as a Mayo Foundation fellow, nearly a century had passed since the Doctors Mayo watched over the 27 beds at St. Marys Hospital on the Minnesota prairie. During his tenure, Dr. Mayberry would see the Mayo Clinic grow to its current level of 17,377 personnel and 45 separate facilities, enabling 297,877 patients to be registered

in 1990 alone. Today, the foundation, in partnership with St. Marys and Rochester Methodist hospitals for the world's largest private medical center, offering every kind of medical expertise, treatment, and diagnostic tool.

Dr. Mayberry's career at Mayo includes a long list of consulting, academic, and board positions. He has been an important part of the community through his involvement in the arts and on many select committees including the Governor's task force on torture victims, the Governor's committee on the economic future of Minnesota, the Minnesota business partnership, and the Academic Excellence Foundation, in addition to numerous corporate activities.

Mr. President, I have often met with Dr. Mayberry in my efforts to craft legislation that will reform the many problems with our current health care system. I am proud of my association with Dr. Mayberry, and of my enduring involvement in the institution he lead for so many years.

It is clear to me that the Mayo Clinic—its very name synonymous with excellence in the practice of medicine—has Dr. Mayberry to thank for its worldwide reputation.•

COMMEMORATING THE GOLDEN JUBILEE OF THE PRIESTHOOD OF FATHER BERNARD H. LOUGHREY

• Mr. DECONCINI. Mr. President, I would like to take this opportunity to extend my congratulations to Father Bernard H. Loughrey, pastor of the St. Augustine Indian Mission at the Isleta Pueblo in New Mexico, who will be celebrating the 50th anniversary of his priesthood on August 28.

I learned of Father Loughrey and his lifelong dedication to native Americans through Msgr. Paul A. Lenz, a member of the board of directors of the Bureau of Catholic Indian Missions. As a Senator from Arizona, a State with a large Indian population, I wanted to commend Father Loughrey for his commitment to these wonderful Americans who contribute so much to our culture.

Father Loughrey was born in Philadelphia on March 21, 1917, and was ordained a priest of that diocese on August 28, 1942. After his ordination, he decided to begin his priesthood in Santa Fe, NM, where he could work with the Indians—work he has continued for the past 50 years. His life and devotion to the Indians has been returned in full measure.

Father Loughrey is much loved by his parishioners who fill the St. Augustine Indian Mission Church each Sunday. The church is a beautiful place of worship which is visited by thousands of people each year who come to see the old paintings and to visit the museum containing many Indian artifacts.

A Mass will be celebrated on August 28, the Patronal Feast Day of the parish, to commemorate Father Loughrey's golden jubilee. After the Mass, the Pueblo Indians are planning a gala celebration which will include good food, music, and dancing. I extend my heartiest congratulations to Father Loughrey and wish him and all those who will be celebrating this wonderful event with him, a very joyous occasion.•

SENATE ACTION ON H.R. 4004

• Mr. GORTON. Mr. President, I appreciate the willingness of my colleagues on the select committee to include the provision requiring a study by tribal and Federal judges of Federal court review of Indian Civil Rights Act [ICRA] claims. The distinguished chairman and vice chairman have graciously included this provision in the bill.

Briefly, this provision requires several things to happen to undertake this study. First, the provision sets up an eight-member panel of tribal and Federal judges, equally divided. Second, it requires the panel to review the 10-year history of Federal court review of Indian Civil Rights Act claims. It asks the panel to examine the burden of reviewing the claims on both the tribal and Federal court systems. The provision requires the panel to make its recommendation to the Congress, the tribal courts, and the Federal courts regarding the appropriate level of Federal review of ICRA claims.

The final important provision requires the panel's study to be complete by a date certain, 18 months after the empaneling of the Tribal Judicial Conference created in the bill. The report must be completed within this time frame or the conference will not be able to continue funding the tribal courts through the grant program created by this bill. This assures that the study will actually see the light of day.

With this provision in the Senate-passed version of the bill, I look forward to supporting the legislation in conference with the House. There are significant differences with the House bill. It is my understanding, however, that my chairman will insist on this provision during this conference with the House on H.R. 4004.

Mr. INOUYE. As chairman of the Select Committee on Indian Affairs, I am pleased to assure my colleague of my commitment to support his amendment in House-Senate conference on H.R. 4004 and to work for its inclusion in the measure that is adopted by the conference. I believe that this is a constructive approach to addressing the issue of whether Federal court review of actions arising under the Indian Civil Rights Act and whether such review is warranted or necessary.

The involvement of members of the Federal bench in this study, I believe, is critically important to assuring that any proposal to place an additional caseload burden on the Federal courts is given careful consideration.

I am glad that my colleague has noted that the study is anticipated to be completed 18 months after the empaneling of the Tribal Judicial Conference, rather than 18 months following enactment of this measure, as the language of the amendment currently provides. Because we cannot anticipate funding for at least 12 months following the date of enactment of this measure, if the language of the amendment is not corrected in conference, we will have authority for a study to proceed but no funding to enable its undertaking. With that technical correction, I believe that there will be support amongst the members of the select committee for the study.•

COMMEMORATING THE CAREER OF SISTER GENEROSE GERVAIS

• Mr. DURENBERGER. Mr. President, life often takes us down unexpected paths. We set our sights on goals we believe we can reach, and begin our journey. So it was with Sister Generose Gervais, who, seeking a life of austerity in service to God, set out from the small farm community of Currie, MN, and went on to become a leading hospital administrator in my home State.

Sister Generose began her journey at the Community of Sisters of Saint Francis in 1938. She went on to earn a teaching licentiate at the College of Saint Teresa in Winona in 1941, and next earned a bachelor of science degree in home economics from the University of Wisconsin—Stout.

It soon became evident that Sister Generose was destined to serve in ways she had not foreseen during her youth in Currie. Her decision to enter the hospital administration program at the University of Minnesota was a milestone, leading her to become, in 1971, executive director of Saint Marys hospital in Rochester. She was only the fourth administrator in the 82-year history of Saint Marys, and as it turned out, she would be the last sister to serve as administrator of the hospital.

I met Sister Generose in 1977 during my campaign for Governor, and I have sustained a dialog with her in my acquisition of wisdom about what works well in Minnesota medical care.

An excellent article by her friends at the Mayo Foundation chronicles Sister Generose's career, which blends an obvious devotion to service with great leadership abilities. Her friends wrote that the lessons of her early years served her throughout her life:

> Her childhood familiarity with common tasks served her well at Saint Marys. As administrator, it was not unusual for her to work a 12-hour day and then continue until midnight, with the assistance of Sister Lucas Chavez, canning pickles, jams and jel-

lies to be sold at the Sisters' Annual Bazaar for the benefit of the Poverello fund.

Milestones of her career include many firsts for women administrators: She was the first woman to serve as a member of the board of directors of the Federal Reserve Bank of Minneapolis, the Rochester Chamber of Commerce, and the First National Bank of Rochester. She received Alumni Distinguished Service Awards from both the University of Wisconsin-Stout and the University of Minnesota. In 1980, the College of Saint Teresa awarded her the Teresa of Avila Award, and in 1985 she received the Pro Ecclesiase et Pontifice Medal from Pope John Paul II.

She continues to serve the hospital as a consultant and as president of the Poverello Foundation. Recently, the Mayo Foundation honored her in a ceremony at the site of Saint Marys newest building, which will bear the name Generose Building.

Mr. President, it is with great pride that I recognize the tremendous contributions of Sister Generose Gervais. In the words of those who know her best, "She is a strong and gentle witness of who woman is and can be in our world, in our time."●

RECOGNITION OF YALE-NEW HAVEN MAKING THE LIST OF THE NATION'S TOP HOSPITALS

● Mr. DODD. Mr. President, I rise today to congratulate Yale-New Haven Hospital for its recognition in a survey by U.S. News & World Report naming the best hospitals in the country.

This is the third year the survey has been conducted in which more than 1,000 randomly selected doctors identified the Nation's leading hospitals in 16 specialty areas. Based on a broad range of qualifications, 43 hospitals were noted as sources of top quality medical care. Among the criteria considered were quality of medical staff, nursing care, availability of state-of-the-art technology, competent discharge planning, and emotional support for patients and their families.

Of the 16 specialty areas Yale-New Haven was listed as one of the 8 best in gynecology and among the leading 10 in psychiatry. This is especially noteworthy considering that this is the first year the hospital was included in the report.

Yale-New Haven is one of Connecticut's finest and most prestigious hospitals. Since 1813, it has been committed to the education of medical professionals and services to patients, as well as the pursuit and advancement of the study of medicine. Throughout its tenure it has led many advancements in research and clinical medicine that have contributed to the improvement of health and health care. Consequently, it has earned itself a reputation as one of the principal medical centers in the country.

As an institution concerned with the changing needs of our society, Yale-New Haven has developed diverse and innovative programs to cope with these changes. Persistent efforts have been directed toward alleviating the challenges posed to the community by AIDS, poverty, and drug abuse. To improve the quality of care available to disadvantaged New Haven residents, health care professionals have volunteered to provide free medical services. Also, the hospital has cooperated with local businesses, community organizations, and government to the revitalization of the community.

I am confident that Yale-New Haven will continue its role as a leader in medicine and health across the Nation. Mention in the U.S. News & World Report as one of the best is illustrative of its invaluable contributions to the community, State, and Nation.●

FEDERAL TRADE COMMISSION ACT AMENDMENTS OF 1992

● Mr. BRYAN. Mr. President, I ask that a copy of my bill, S. 3150, introduced on August 6, 1992, be printed in the RECORD.

The text of S. 3150 follows:

S. 3150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Trade Commission Act Amendments of 1992".

UNFAIR METHODS OF COMPETITION

SEC. 2. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following new subsection:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act (15 U.S.C. 1 et seq.), such method of competition would be held to constitute State action.".

AGRICULTURAL COOPERATIVES

SEC. 3. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 24 and section 25 as sections 26 and 27, respectively, and by inserting immediately after section 23 the following new section:

SEC. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq., commonly known as the Capper-Volstead Act), is not a violation of any of the antitrust Acts or this Act.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

COMPENSATION IN PROCEEDINGS

SEC. 4. (a) REPEAL.—Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is repealed, and subsections (i), (j), and (k) of section 18 are redesignated as subsections (h), (i), and (j), respectively.

(b) CONFORMING AMENDMENT.—Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking "subsection (i)" and inserting in lieu thereof "subsection (h)".

KNOWING VIOLATIONS OF ORDERS

SEC. 5. (a) EXCEPTION FOR CONSENT ORDERS.—Section 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(B)) is amended by inserting ", other than a consent order," immediately after "order" the first time it appears.

(b) REVIEW OF DETERMINATION OF LAW.—Section 5(m)(2) of the Federal Trade Commission Act (15 U.S.C. 45(m)(2)) is amended by adding at the end the following: "Upon request of any party to such an action against such defendant, the court shall also review the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a).".

PREVALANCE OF UNLAWFUL ACTS OR PRACTICES

SEC. 6. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by adding at the end the following new paragraph:

"(3) The Commission shall issue a notice of proposed rulemaking pursuant to paragraph (1)(A) only where it has reason to believe that the unfair or deceptive acts or practices which are the subject of the proposed rulemaking are prevalent. The Commission shall make a determination that unfair or deceptive acts or practices are prevalent under this paragraph only if it has issued cease and desist orders regarding such acts or practices, or any other information available to the Commission indicates a pattern of unfair or deceptive acts or practices.".

EFFECTIVE DATE OF ORDERS

SEC. 7. (a) ORDERS SUBJECT TO PETITION FOR REVIEW.—Section 5(g)(2) of the Federal Trade Commission Act (15 U.S.C. 45(g)(2)) is amended to read as follows:

"(2) Upon the sixtieth day after such order is served, if a petition for review has been duly filed, except that any such orders may be stayed, in whole or in part and subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if (i) a petition for review of such order is pending in such court, and (ii) an application for such a stay was previously submitted to the Commission and the Commission, within the thirty-day period beginning on the date the application was received by the Commission, either denied the application or did not grant or deny the application; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending; or."

(b) ORDERS SUBJECT TO SECTIONS 5(m)(1)(B) AND 19(a)(2) OF FTCA.—Section 5(g)(3) of the Federal Trade Commission Act (15 U.S.C. 45(g)(3)) is amended to read as follows:

"(3) For purposes of subsection (m)(1)(B) and of section 19(a)(2), if a petition for review of the order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of thirty days from the date of issuance of a mandate of the

Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed; or".

(c) DIVESTITURE ORDERS.—Section 5(g)(4) of the Federal Trade Commission Act (15 U.S.C. 45(g)(4)) is amended to read as follows:

"(4) In the case of an order requiring a person, partnership, or corporation to divest itself of stock, other share capital, or assets, if a petition for review of such order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of thirty days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 8. (a) DEFINITIONS.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) in paragraph (2), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission";

(2) in paragraph (3), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "acts or practices or methods of competition declared unlawful by a law administered by the Commission"; and

(3) in paragraph (7), by striking "unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission".

(b) INVESTIGATIVE ACTIONS BY COMMISSION.—Section 20(b) of the Federal Trade Commission Act (15 U.S.C. 57b-1(b)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(c) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)), is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(d) APPLICABILITY OF SECTION 20 OF FTCA.—Section 20(j)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(j)(1)) is amended by inserting immediately before the semicolon the following: ", any proceeding under section 11(b) of the Clayton Act (15 U.S.C. 21(b)), or any adjudicative proceeding under any other provision of law".

DEFINITION OF UNFAIR ACTS OR PRACTICES

SEC. 9. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), as amended by section 2 of this Act, is further amended by adding at the end the following new subsection:

"(o) The Commission shall have no authority under this section or section 18 to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.".

ADVERTISING

SEC. 10. (a) COMMERCIAL ADVERTISING.—The Federal Trade Commission shall have no authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1993, 1994, or 1995 under section 26 of such Act (as amended by sections 3 and 20 of this Act) for the purpose of initiating any new rulemaking proceeding under section 18 of such Act which is intended to or may result in the promulgation of any rule by the Commission which prohibits or otherwise regulates any commercial advertising on the basis of a determination by the Commission that such commercial advertising constitutes an unfair act or practice in or affecting commerce.

(b) EXCEPTIONS TO CERTAIN TITLE 18 RESTRICTIONS.—Section 1307(a)(2) of title 18, United States Code, is amended by striking "and which is" and all that follows through the end of subparagraph (B) and inserting in lieu thereof a period.

SERVICE OF PROCESS

SEC. 11. (a) AUTHORITY TO SERVE CERTAIN PERSONS.—Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served in any district.".

(b) PROCEDURES FOR SERVING PROCESS.—Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) Any process of the Commission under this section may be served by any person duly authorized by the Commission—

"(1) by delivering a copy of such process to the person to be served, to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served;

"(2) by leaving a copy of such process at the residence or the principal office or place of business of such person, partnership, or corporation; or

"(3) by mailing a copy of such process by registered mail or certified mail addressed to such person, partnership, or corporation at his, her or its residence, principal office or principal place of business.

The verified return by the person serving such process setting forth the manner of such service shall be proof of the same, and the return post office receipt for such process mailed by registered mail or certified mail as provided in this subsection shall be proof of the service of such process.".

PHYSICAL EVIDENCE AND CIVIL INVESTIGATIVE DEMANDS

SEC. 12. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) REQUIREMENTS OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material" the first time it appears;

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF PHYSICAL EVIDENCE.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

REPORT ON RESALE PRICE MAINTENANCE

SEC. 13. (a) REPORT TO CONGRESS.—The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives the information specified in subsection (b) of this section every six months during each of the fiscal years 1993, 1994, and 1995. Each such report shall contain such information for the period since the last submission under this section.

(b) CONTENTS OF REPORT.—Each such report shall list and describe, with respect to instances in which resale price maintenance has been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include the sum total of matters in each category specified in paragraphs (1) through (10) of this subsection, and copies of all such consent agreements and complaints executed by the Commission. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The description required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint or those complained about or those subject to investigation that have not otherwise been made public.

REPORT ON PREDATORY PRICING PRACTICES

SEC. 14. (a) REPORT TO CONGRESS.—The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives the information specified in subsection (b) of this section every six months during each of the fiscal years 1993, 1994, and 1995. Each report shall contain such information for the period since the last submission under this section.

(b) CONTENTS OF REPORT.—Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all such consent agreements and complaints executed by the Commission referred to in such report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint or those complained about or those subject to investigation that have not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses).

INTERVENTION BY COMMISSION IN CERTAIN PROCEEDINGS

SEC. 15. (a) LIMITATION ON USE OF AUTHORIZED FUNDS.—The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal years 1993, 1994, and 1995, for the purpose of submitting statements to, appearing before, or intervening in the proceedings of, any Federal or State agency unless the Commission advises the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives, at least sixty days before any such proposed action, or, if such advance notice is not practicable, as far in advance of such proposed action as is practicable.

(b) CONTENTS OF ADVANCE NOTICE TO CONGRESS.—The notice required in subsection (a) of this section shall include the name of the agency involved, the date upon which the Federal Trade Commission will first appear, intervene, or submit comments, a concise statement regarding the nature and purpose of the proposed action of the Commission, and, in any case in which advance notice of sixty days is not practicable, a concise statement of the reasons such notice is not practicable.

RESOURCE ALLOCATION STUDY

SEC. 16. The Federal Trade Commission shall conduct an evaluation of the level of its personnel resources and the manner in which such resources are allocated. The Commission shall study—

(1) whether overall resources at the Commission are adequate to fulfill the Commission's responsibilities in the areas of competition and consumer protection;

(2) the distribution of personnel to individual offices of commissioners, departments, bureaus, and other units within the Commission, and whether the current allocation of personnel most efficiently enables the Commission to fulfill its statutory mandate;

(3) the number of personnel in supervisory positions, contrasted with those personnel in non-supervisory positions; and

(4) whether the amount of workyears devoted to research activities should be increased, and what results (if any) such an increase would produce.

The Commission shall transmit the results of such study, together with any recommendations that the Commission determines appropriate, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this Act.

FEDERAL-STATE COOPERATION

SEC. 17. The Federal Trade Commission shall review its statutory responsibilities to identify those matters within its jurisdiction where Federal enforcement is particularly necessary or desirable, and those areas that might more effectively be enforced at the State or local level. In identifying such areas, the Commission shall—

(1) consider the resources available to the Commission and the States, as well as particular rules that have been promulgated by the Commission;

(2) consult with the attorneys general of the States, representatives of consumers and industry, and other interested parties; and

(3) consider such other issues as will result in more efficient implementation of the statutory responsibilities of the Commission.

Not later than six months after the date of enactment of this Act, the Federal Trade Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information identified in paragraphs (1) through (3) of this section, together with specific recommendations for methods of achieving greater cooperation between the Commission and the States.

REPORT ON AUTOMOBILE REPAIR FRAUD

SEC. 18. (a) INVESTIGATION.—The Federal Trade Commission shall conduct an investigation into the practices of the automobile repair industry. In particular, the investigation shall address the nature and extent of automobile repair fraud.

(b) REPORT.—Within 9 months after the date of enactment of this Act, the Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the investigation conducted under subsection (a). The report shall include the Commission's recommendations on how the Commission and other Federal agencies can assist the States in combatting automobile repair fraud.

CREDIT REPAIR ORGANIZATIONS AND LOAN BROKERS

SEC. 19. (a) DEFINITIONS.—In this section, the following terms apply:

(1)(A) The term "advance fee" means any fee (including any advance payment of interest or other fees for any extension of consumer credit) which is assessed or collected by a loan broker from any person seeking the consumer credit before the extension of such credit.

(B) The term "advance fee" does not include—

(i) any amount that the loan broker can demonstrate is collected solely for the purpose of payment to unaffiliated, third party vendors for actual expenses incurred and payable before the extension of any consumer credit; or

(ii) any application fee or other charge assessed or collected—

(I) by a retail seller of property that is primarily for personal, family, or household purposes or automobiles; and

(II) in connection with a consumer credit transaction in which a purchase money security interest arising under an installment sales contract (or any equivalent consensual security interest) is created or retained against any such property or automobile being sold by the retail seller to the person seeking the extension of credit.

(2) The terms "consumer" and "credit" have the meanings given to such terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

(3)(A) The term "credit repair organization" means any person who sells, provides, or performs, or represents that such person can or will sell, provide, or perform, in return for the payment of money or other valuable consideration, a service for the express or implied purpose of—

(i) improving a consumer's credit record, history or rating; or

(ii) providing advice or assistance to a consumer with regard to the consumer's credit record, history, or rating.

(B) The term "credit repair organization" does not include—

(i) a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board, or a depository institution chartered by State;

(ii) any nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code;

(iii) a licensed real estate broker acting within the course and scope of that license;

(iv) a licensed attorney at law rendering services within the course and scope of that license;

(v) any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission

acting within the scope of the Securities and Exchange Commission or the Commodity Futures Trading Commission regulations;

(vi) any consumer reporting agency acting within the course and scope of this title; or

(vii) any debt collector as defined in section 803 of the Fair Debt Collection Practices Act (15 U.S.C. 1692a), acting within the course and scope of that Act.

(4)(A) The term "loan broker" means any person who—

(i) for, or in expectation of, a consideration, arranges or attempts to arrange or offers to find for any individual, consumer credit;

(ii) for, or in expectation of, a consideration, assists or advises an individual on obtaining, or attempting to obtain, consumer credit; or

(iii) acts or purports to act for, or on behalf of, a loan broker for the purpose of soliciting individuals interested in obtaining consumer credit.

(B) The term "loan broker" does not include—

(i) any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act; 12 U.S.C. 1813(c)(2)), any insured credit union (as defined in section 101(7) of the Federal Credit Union Act; 12 U.S.C. 1752(7)), or any depository institution which is eligible for deposit insurance under the Federal Deposit Insurance Act or the Federal Credit Union Act and has deposit insurance coverage provided by any State;

(ii) any lender approved by the Federal Housing Administration, Farmers Home Administration, or Department of Veterans Affairs;

(iii) any seller or servicer of mortgages approved by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(iv) any consumer finance company, retain installment sales company, securities broker or dealer, real estate broker or real estate salesperson, attorney, credit card company, installment loan licensee, mortgage broker or lender, or insurance company if such person is—

(I) licensed by and subject to regulation or supervision by any agency of the United States or by the State in which the person seeking to utilize the services of the loan broker resides; and

(II) is acting within the scope of that license or regulation.

(b) PROHIBITED PRACTICES OF CREDIT REPAIR ORGANIZATIONS.—A credit repair organization shall not charge or receive any money or other valuable consideration prior to completion of the services that the credit repair organization has agreed to perform for the consumer and that are described in subsection (a)(1).

(c) PROHIBITED PRACTICES OF LOAN BROKERS.—(1) No loan broker may receive an advance fee in connection with—

(A) arranging or attempting to arrange consumer credit;

(B) offering to find for any individual consumer credit; or

(C) advising any individual as to how to obtain consumer credit.

(2) No loan broker may—

(A) make or use any false or misleading representations or omit any material fact in the offer or sale of the service of a loan broker; or

(B) engage, directly or indirectly, in any act that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a loan broker, notwithstanding the absence of reliance by the person to whom the loan broker's services are offered or sold.

(d) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Any violation of this section shall—

(1) be treated as a violation of a rule of the Federal Trade Commission issued pursuant to section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)); and

(2) be subject to enforcement by the Federal Trade Commission under the enforcement and penalty provisions applicable to violations of such rules.

(e) CRIMINAL PENALTY.—(1) Whoever knowingly violates subsection (b) or (c) shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(2) Section 981(a)(1)(C) of title 18, United States Code, is amended—

(A) by striking "title or a violation" and inserting in lieu thereof "title, a violation"; and

(B) by inserting ", or a violation of section 19 (b) or (c) of the Federal Trade Commission Act Amendments of 1992" immediately before the period.

(3) For purposes of section 3005(a) of title 39, United States Code, a violation of subsection (b) or (c) of this section by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations.

AUTHORIZATION OF APPROPRIATIONS

SEC. 20. Section 26 of the Federal Trade Commission Act, as so redesignated by section 3 of this Act, is amended—

(1) by striking "and" after "1981,"; and

(2) by inserting immediately before the period at the end the following: "; not to exceed $87,300,000 for the fiscal year ending September 30, 1993; not to exceed $90,100,000 for the fiscal year ending September 30, 1994; and not to exceed $92,900,000 for the fiscal year ending September 30, 1995, and such additional sums for the fiscal years ending September 30, 1993, and September 30, 1994, as may be necessary for increases in salary, pay, and other employee benefits as authorized by law".

EFFECTIVE DATE; APPLICABILITY

SEC. 21. (a) IN GENERAL.—Except as provided in subsections (b), (c), (d), and (e) of this section, the provisions of this Act shall take effect on the date of enactment of this Act.

(b) APPLICABILITY OF SECTION 2.—The amendment made by section 2 of this Act shall apply only with respect to proceedings under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of enactment of this Act. This amendment shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. This amendment shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(c) APPLICABILITY OF SECTIONS 7 AND 9.—The amendment made by sections 7 and 9 of this Act shall apply only with respect to cease and desist orders issued under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), or to rules promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(d) APPLICABILITY OF SECTION 6.—The amendment made by section 6 of this Act shall apply only to rulemaking proceedings initiated after the date of enactment of this Act. The amendment shall not be construed to affect in any manner a rulemaking proceeding which was initiated before the date of enactment of this Act.

(e) APPLICABILITY OF SECTION 8.—The amendments made by section 8 of this Act shall apply only with respect to compulsory process issued after the date of enactment of this Act.•

AMY GOSSELIN

• Mr. DODD. Mr. President, I rise today in recognition of a Connecticut college student named Amy Gosselin. Amy was awarded the 1992 Public Service Scholarship by the Public Employee Roundtable for her essay on "Why I Have Chosen to Pursue a Government Career." I applaud Amy for her sincere commitment to public service and look forward to her generous efforts on behalf of the people of Connecticut. I ask that Amy Gosselin's essay be included in the RECORD following these remarks. The essay follows:

WHY I HAVE CHOSEN TO PURSUE A GOVERNMENT CAREER

(By Amy Gosselin)

Last summer I was employed as an intern at the United Way of the Capital Area in Hartford, CT. My main project involved working with human service agencies to help them design campaign literature so that they could receive funds from the United Way. I had no idea how difficult this project would be, however, until I drove to a women's shelter in the North end of Hartford and felt the fear an 18-year-old white woman from a rural town feels when she is driving alone in a city where even the junior high school students carry guns. Business executives joke about Hartford, the nation's fourth poorest city, as being a doughnut: all of the "dough" is on the outside, and there is nothing but a big hole in the middle. I was able to see the needs of our urban community first-hand last summer, and I have no intention of turning my back on the problems that our society faces today.

Throughout high school and college, I have been interested in the issue of substance abuse. As a high school sophomore I began working with my town's Drug and Alcohol Council, designed primarily to promote substance abuse prevention education in the high school. I served on the United Way of the Capital Area's Youth Leadership Committee, and our task was to allocate funds to high school substance abuse prevention programs. As a junior in high school, I developed a Big Brother/Big Sister program called "Friends" where high school students volunteered to be big brothers and big sisters to incoming seventh-graders. From this pro-

gram, I coordinated the formation of another service program in Canton High school called "Esteem," a substance abuse education performance troupe that performed skits, dances, and songs for grade school children in Connecticut. Presently, I am involved with S.A.U.C.E. (Substance Abuse/Use Campus Educators) at Mount Holyoke College and am also the Student Assistant at the Mount Holyoke Alcohol and Drug Awareness Project. My career goal is to work with the Office for Substance Abuse Prevention.

The reason I have chosen a public service career is that I know I simply will not be happy unless I am in a position where I will be able to help other people. I have exposed myself to the problems of our urban communities. I have dedicated time and energy to alleviating substance abuse problems among youth. My concentration in my first major, Sociology, is urban social problems (my second major is French). I know the history of social problems such as substance abuse in urban environments, and I am aware of the possible solutions that the government could begin to implement in our communities. Therefore, because of my own personal experience, my experience with substance abuse prevention programs, and my education background, I know that I very much want to continue with my intention to work for the government in the future in order to alleviate the urban substance abuse problems in the United States. I realize that I am young and probably a little idealistic, but I have hope for the future of the United States in terms of solving some of our more difficult social problems. I would like to be an employee at the Office of Substance Abuse Prevention and work toward improving our nation's urban areas by alleviating the substance abuse use problem among young people.●

CITIZENS RECYCLING COALITION OF SOUTHERN ILLINOIS

● Mr. SIMON. Mr. President, I would like to recognize Citizens Recycling Coalition of Southern Illinois for its service to the environment and the community.

Citizens Recycling Coalition of Southern Illinois is a nonprofit public education group, that promotes recycling and waste reduction throughout southern Illinois. By sponsoring meetings, conferences, and forums, they have heightened public awareness to the immediate importance of a wide range of environmental concerns.

The Citizens Recycling Coalition News, is a periodical newsletter produced by the group to provide information on a number of environmental issues. The information includes: Recycling options throughout southern Illinois, environmental legislation updates, and information on environmentally sound products.

Citizens Recycling Coalition prides itself for being a strictly nonpartisan organization. Their goal is to achieve a cleaner Earth by maintaining a workable balance between business and environmental concerns. Their board of directors includes numerous area business people and representatives of area environmental groups. This balance is a refreshing change, and serves as an example to both business and environmentalist throughout the Nation.

Mr. President, to achieve a healthy environment much more needs to be done. That is why I am proud to recognize Citizens Recycling Coalition of Southern Illinois, for their work toward furthering environmental awareness.●

THE TRAGEDY AND RISKS OF CHERNOBYL-TYPE REACTORS

● Mr. RIEGLE. Mr. President, I rise to express my concerns about the dangers of the former Soviet nuclear complex, and the necessity of Western assistance to improve the safety of these plants. These Chernobyl-styled RBMK reactors are still in operation all across Eastern Europe and the newly independent nations of the former Soviet Union. The tragic accident at Chernobyl over 6 years ago has done more to raise public consciousness on issues of international nuclear safety than any other event. Chernobyl has driven home the point that we live in a fragile, interconnected world and that we must cooperate on issues of nuclear safety. I commend the Energy and Natural Resources Committee for holding a hearing June 16 about this issue. We are trying to ensure that another Chernobyl will never happen again—not just for us, but for the sake of our children and the children in the new nations of Eastern Europe and the former Soviet Union.

There are over 40 reactors of Chernobyl vintage scattered around the territory of the former Soviet Union and Eastern Europe. Calls for their closing have come from a wide range of international figures. International experts on both sides of the nuclear debate are in agreement over this issue; people such as Maurice Strong, Secretary General of the U.N. Conference on Environment and Development, and Percy Barnevik, president of ABB Brown Boveri, one of the world's principal nuclear contractors.

The longer they continue to operate, the greater the risk that one of these aging RBMK powerplants will experience an accident. The possibility of an explosion and release of nuclear material on the scale of Chernobyl endangers the lives of hundreds of thousands of people in Lithuania, Ukraine, Russia, and other nations in Eastern Europe. According to the latest reports from medical conferences in Kiev and Moscow, there have been over 8,000 confirmed deaths as a result of radiation exposure from the Chernobyl accident. This figure is considered conservative, given that most cancer fatalities from radiation do not occur until 10 to 15 years following exposure. This makes Chernobyl the single most devastating environmental accident in history. Even the death toll from the cyanide release by the Union Carbide plant in Bhopal, India, will be exceeded by at least several thousand in Ukraine and Belarus alone.

The current death toll does not take into account the long-term genetic damage caused by massive radiation exposure. Children born to the families of some 600,000 nuclear cleanup workers living throughout the former Soviet Union are showing signs of severe birth defects, immune deficiencies, genetic malformations, and other types of extensive chromosomal damage. For example, in 1991, the mortality rate in the Ukraine exceeded the rate of live births—by 40,000—for the first time since the famine of 1932–33 and World War II. Additionally, the rate of miscarriages has tripled since 1986. Other Republics of the former Soviet Union have been similarly affected. According to the Lithuanian Union of Chernobyl Veterans, several hundred people have died there of cancer, rare blood disorders, and other medical causes, all linked to radiation exposure.

The concern about future risks from Soviet-designed reactors is justified. The safety record of the 62 nuclear reactors in the former Soviet Union, Central and Eastern Europe has not been good. Inspections by the International Atomic Energy Commission [IAEC] have identified 26 reactors with serious defects and 16 with considerable problems. The most dangerous reactors include the RBMK-style powerplants at Ignalina, Lithuanina, Kursk, Smolensk, St. Petersburg, Russia, and Chernobyl, Ukraine.

Hazards at the RBMK-type reactors stem from a variety of sources, including inherent design flaws, such as lack of a containment structure, improper safety and shutdown procedures, and faulty graphite control rods—which was recently found to be one of the main causes of the Chernobyl accident in 1986. Additionally, training and management of nuclear plant workers has been hurt by a lack of coherent government policy, uncertainty about their employment futures, shortages of spare parts and supplies, and a deficiency of technical knowledge. Together, these factors make for a serious deterioration in maintenance performance at plants that are already dangerous due to construction and design flaws.

The problem that former Soviet and East European Governments face is that these unsafe reactors cannot be shut down without depriving these countries of essential electrical power supplies. The former Soviet Union currently produces about 12 percent of its total electrical output through nuclear plants, 15 of which are RBMK graphite reactors. In Ukraine, 14 nuclear reactors produce over 20 percent of Ukrainian total electrical output. Chernobyl alone has provided about 10 percent of the nuclear-generated electricity in Ukraine, but Kiev has now imposed a

moratorium on the building of nuclear reactors, and is scheduled to shut down the remaining three reactors at the Chernobyl plant by 1995. Additionally, from 1986 until recently when the Russian Government restarted a nuclear program, the former Soviet Union had effectively halted the expansion of its nuclear power program by closing or abandoning 62 new reactors. As a result of these actions there exists an energy deficit in the countries of the former Soviet Union and Eastern Europe. This power deficit, and the possible shutdown of unsafe plants, could weaken the already fragile economies of the newly independent nations.

Despite knowledge of safety problems and warnings of acute risks, the governments of these countries continue to operate their plants at or near full electrical production capacity to maintain energy supplies. At present there are virtually no alternative energy technologies, other nonrenewable energy supplies or development of plans for energy conservation available to compensate for the decline of energy output from the nuclear powerplants. A recent Russian Government directive has in fact ordered the resumption of nuclear powerplant construction and increased production capacity at existing plants. This directive called nuclear power a top priority for 1992. Ironically, it was signed just 2 days after an accident at the Sosnovy Bar reactor just outside St. Petersburg.

Clearly, we are reaching a critical point at which some internatioal action and technical assistance is vitally needed. Some of the most dangerous reactors remain in operation near Kiev, and other large industrial centers in Russia, Ukraine, and Lithuania. The contamination of vital watersheds like the Danube and Dnieper Rivers, or the forced evacuation of huge urban areas such as Kiev, St. Petersburg, or Vilnius could permanently cripple the recovery of these regions.

Therefore, it is crucial that the U.S. Department of Energy, the Nuclear Regulatory Commission, and large American engineering firms such as Bechtel and General Electric become intimately involved in technical assistance and plans to improve the safety of the nuclear plants. U.S. engineering firms have a great deal of experience to offer former Republics in formulating alternative sources of energy, making current facilities much safer, and providing assistance in current and future cleanup operations. This is particularly necessary in Lithuania, Ukraine, and Belarus, which have endured years of Soviet rule and are heavily dependent on nuclear power.

Finally, Mr. President, I believe that this issue is one that must be addressed with international cooperation and understanding on all sides. My concern is to ensure that the United States is involved in this effort early, and can assist private organizations, such as the Children of Chernobyl Relief Fund, U.S. engineering companies, the International Atomic Energy Commission, and governments of newly independent Republics to formulate common policy to deal with the dangers of nuclear power in former Communist nations. Working together, I believe that it is still possible to reduce the profound danger we all face from another nuclear accident like Chernobyl.●

REGARDING SCORING OF S. 3001

● Mr. DOMENICI. Mr. President, I rise today to set the record straight on a matter which I brought to the attention of the Senate 2 weeks ago. I introduced S. 3001, a bill to provide for the temporary prohibition on the reduction of food stamp benefits, which passed the Senate by unanimous consent on July 28.

Mr. President, it came to my attention that there was an impending reduction in the basic monthly food stamp allotment to poor families as a result of low inflation and the actual reduction in the cost of the market basket measure called the thrifty food plan.

As a result of this downward adjustment, the maximum monthly food stamp allotment would have been reduced by $4 for a family of four, beginning October 1.

With a number of my colleagues, I introduced, and the Senate passed, S. 3001. That bill would prevent the downward adjustment for fiscal year 1993 only, afterwhich the benefit levels would resume as under current law.

I understand that both the Congressional Budget Office and the Office of Management and Budget assumed an increase in the benefit levels for fiscal year 1993 in their baselines, developed at the beginning of this budget cycle.

There has been some question as to scoring of similar bills in the past, where actual program adjustments resulted in savings as measured against baseline assumptions. The scoring record is mixed.

In this instance, I was led to believe that OMB would score no cost to the bill and that there was no danger of a sequester as a result of enacting this bill.

Mr. President, I am now told that the bill will be scored costing $320 million next year, according to preliminary OMB estimates.

If enacted, S. 3001 would not trigger a sequester because of the current pay go balance.

Mr. President, my only intent in bringing this to the attention of the Senate is to set the record straight and play by the rules.

I would note that this is a tougher standard than what has been imposed in the past. I would expect it to be applied in the future as we work to control mandatory spending.●

REAUTHORIZATION OF THE REHABILITATION ACT

● Mr. SIMON. Mr. President, the chairman of the Subcommittee on Disability Policy has once again brought about a consensus that is a major victory for our citizens with disabilities. S. 3065, the Rehabilitation Act Amendments of 1992, with broad bipartisan and disability community support, extends and improves the programs that are necessary to make the goals of the Americans with Disabilities Act a reality.

This comprehensive act offers the best opportunity for our citizens with disabilities to build productive lives as full participants in society. The key to this is the focus on an outcome of meaningful employment, with independent living and a range of other vital services supporting and complementing that goal. Vocational rehabilitation is a dynamic and growing field, dependent on continuing research and on developments in areas such as assistive technology. And the success of these programs depends on the availability of highly skilled, well-trained personnel. This bill recognizes and addresses the importance of each of these elements.

In addition, S. 3065 responds to the recognition of individuals with disabilities themselves that they must be more involved in the decisions that shape their lives. The bill clarifies that the rehabilitation client has the right, the opportunity, and the responsibility to be actively involved in making the decisions about the services he or she will receive. More than ever before, rehabilitation counselors and consumers will be partners in making the rehabilitation process work.

There is no doubt that the Rehabilitation Act is important for what it does for our Nation as well as for what it does for the individuals it serves, and it has been rewarding to work with these programs over the years. In 1979, I asked the Director of the Congressional Budget Office if spending on the Rehabilitation Act saves the Federal Government money and, on the other hand, if reductions in expenditures for rehabilitation would result in additional costs to Government. The response was a resounding "yes" to both questions.

In 1992, the Rehabilitation Act is estimated to serve 931,000 individuals with disabilities, a small proportion of those we know are in need of services. As we place higher priority on having the program serve persons with the most severe disabilities, we must also make a commitment to significant increases in funding for this program or be prepared to see the number of persons receiving services go down—a tragic result for all of us. I know that our chairman shares my belief that we need to be training and placing into jobs more rather than fewer persons

with disabilities, and I look forward to working with him to increase funds for this cost-effective program.

I want to thank our chairman for his skillful and committed work on this legislation. I am grateful particularly for his support for an amendment I requested to authorize grants to increase the numbers of rehabilitation and education personnel who are trained in the use of braille.

The use of braille has been declining dramatically in recent years, and there are a variety of explanations offered for the decline. Some point to the development of technology and others cite the difficulty in using the braille code. But there are many who recognize that the only way a person with a visual impairment can read and write—the definition of literacy—is through the use of braille. The New York Times reported recently in an article about illiteracy among those who are blind,

* * * Illiteracy is not caused by problems with the code itself but because too few blind people are learning braille at all. In 1963, 52 percent of blind students could read braille, compared with about 12 percent now * * *.

This indicates that approximately 88 percent of students with visual impairments graduating today are braille illiterate.

There are many problems facing anyone who wants to learn braille—and many additional problems facing students who want to learn other subjects through the use of braille. These problems were brought home to me by an Illinois resident, Erika Musser, whose blind daughter Heidi is a student of classical piano at Northeastern Illinois University. Mrs. Musser discovered early in Heidi's life that she would have to be Heidi's teacher much of the time because there were not enough qualified teachers for Heidi.

Through her effective advocacy, Mrs. Musser has made a number of us aware that we have a severe shortage of teachers of braille. Today, although braille is still the primary medium for teaching individuals who are blind, literature, math, foreign language, music, and computer use, there are still no standards for teaching braille in colleges and universities and there are no refresher courses for after graduation. There are only about 8,500 teachers of braille in our country; an estimated 1,400 additional certified teachers for unserved and underserved blind and visually impaired children are needed.

According to the American Foundation for the Blind, the majority of braille teachers work under an itinerant program in which they travel over large areas but do not stay long enough at one place to sufficiently teach braille and other necessary skills. There are teaching programs in only 16 of our 50 States; thus, more than two-thirds of States have no programs for teaching braille. Of the existing programs, 63 percent have only one full-time faculty member.

It should be noted that there is a clear connection between knowledge of braille and the ability to find and keep a job. A recent study in Illinois shows that 91 percent of employed persons who are blind know braille while only 64 percent of unemployed adults who are blind know braille. With the lower rate of students learning braille today, we must all be connected that the unemployment rate among persons who are blind will rise above the estimated 70 percent unemployment rate today. The provisions contained in this reauthorization bill can help make braille literacy possible for many more adults and children who are visually impaired, increasing their ability to live independent and productive lives.

The programs authorized under the Rehabilitation Act are the means to the end we sought in enacting the Americans with Disabilities Act. If we do not give adequate support to the Rehabilitation Act, we close the doors we intended to open. Again, I congratulate our colleague Senator HARKIN and his staff for putting together a bill that is one more step forward on the road to equal opportunity for all Americans.●

ORDERS FOR MONDAY, AUGUST 10, 1992

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m., Monday, August 10; 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 for morning business not to extend beyond 9:30 a.m. with Senators permitted to speak therein for up to 5 minutes each, with the first 15 minutes of morning business under the control of Senator BENTSEN and the next 30 minutes under the control of Senator SYMMS; that at 9:30, the Senate resume consideration of Calendar No. 582, S. 3114, the Department of Defense authorization bill.

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

RECESS UNTIL MONDAY, AUGUST 10, 1992, AT 8:45 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:18 p.m., recessed until Monday, August 10, 1992, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate August 7, 1992:

THE JUDICIARY

ROBERT W. KOSTELKA, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE THOMAS E. STAGG, JR., RETIRED.

RAILROAD RETIREMENT BOARD

GLEN L. BOWER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM OF 5 YEARS FROM AUGUST 29, 1992. (REAPPOINTMENT)

JEROME F. KEVER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1993, VICE ANDREW F. REARDON, RESIGNED.

VIRGIL M. SPEAKMAN, JR., OF OHIO, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1994, VICE CHARLES J. CHAMBERLAIN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. JAMES D. ENGLISH, [redacted] 4/1/92
MAJ. WILLIAM V. ETCHISON, [redacted] 4/4/92
MAJ. CHARLES F. FELT, JR. [redacted] 3/17/92
MAJ. DONLEY R. HOOVER, [redacted] 4/4/92
MAJ. FEAGIN JOHNSON, JR. [redacted] 4/13/92
MAJ. MARK R. JOHNSON, [redacted] 4/17/92
MAJ. WILLIAM J. JORGENS, [redacted] 3/15/92
MAJ. JOHN R. KIRKPATRICK, [redacted] 4/1/92
MAJ. MORRIS E. MCCORMICK, [redacted] 4/21/92
MAJ. STANLEY L. OLSON, [redacted] 4/5/92
MAJ. JAMES E. PARKER, [redacted] 3/16/92
MAJ. RICHARD D. RADTKE, [redacted] 3/31/92
MAJ. GARY F. SHUTT, [redacted] 4/15/92
MAJ. DEVERON M. WILCOX, [redacted] 3/22/92

MEDICAL CORPS

To be lieutenant colonel

MAJ. RANDALL M. FALK, [redacted] 3/31/92
MAJ. WESLEY K.W. YOUNG, [redacted] 4/4/92

NURSE CORPS

To be lieutenant colonel

MAJ. BARBARA J. NELSON, [redacted] 4/11/92

IN THE AIR FORCE

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING GROUP FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

ANDREA D. BEGEL, [redacted]
TRAVIS A. BRYAN, [redacted]
WILLIAM C. CANNON, JR., [redacted]
RICHARD R. COONS, [redacted]
DANIEL F. DAILEY, [redacted]
DONALD S. DEREBERRY, [redacted]
SCOTT A. FAUSCH, [redacted]
CLARK M. GROVES, [redacted]
DANIEL J. LOGAR, [redacted]
WAYNE P. MAGNUSSON, [redacted]
STEVEN P. WEBBER, [redacted]
STEVEN D. WILLIAMS, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10 UNITED STATES CODE.

JUDGE ADVOCATE GENERAL CORPS

To be colonel

JOEL D. MILLER, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

HAROLD B. MCINTOSH, III, [redacted]

MEDICAL CORPS

To be major

*RALPH W. MORALES, [redacted]
*YOLANDA RAMIREZ, [redacted]
*THOMAS P. WINKLER, [redacted]

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 593(A) AND 3385:

ARMY PROMOTION LIST

To be colonel

LANDRY K. APPLEBY xxx-xx-x...
JOHNNY U. BASINGER xxx-xx-x...
THOMAS G. KEMP xxx-xx-x...
JERRY L. NEFF xxx-xx-xx...
FEDERIC J. RAYMOND xxx-xx-xx...
ROBERT S. SCHNURR, JR. xxx-xx-xx...
WILLIAM A. SERIE xxx-xx-xx...
LARRY W. SHELLITO xxx-xx-xx...
JAMES V. TORGERSON xxx-xx-xx...
WILLIAM D. WOFFORD xxx-xx-x...
FRANKLIN M. YOUNG xxx-xx-x...

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

GERALD A. DICKERSON xxx-xx-x...

MEDICAL CORPS

To be colonel

THOMAS G. MERRILL xxx-xx-x...

ARMY PROMOTION LIST

To be lieutenant colonel

JAMES A. ADKINS xxx-xx-x...
CARMEN D. ANDERSON xxx-xx-x...
WAYNE APPLEBY xxx-xx-x...
JAMES M. BENNINGTON xxx-xx-x...
GRAIG E. BRASFIELD xxx-xx-xx...
MICHAEL T. BURK xxx-xx-x...
ANTHONY J. CARLUCCI xxx-xx-x...
CARL M. DOZIER xxx-xx-x...
DANIEL L. FUELING xxx-xx-xx...
RUDOLPH S. HORNUS xxx-xx-x...
LARRY L. JOHNSON xxx-xx-x...
WILLIAM W. KNOX, III xxx-xx-x...
JOHN W. SMITH xxx-xx-x...
TIMOTHY J. SWOPE xxx-xx-x...
ROBERT S. TEMPLETON xxx-xx-xx...
TOMMY D. THOMPSON xxx-xx-x...
GEORGE D. TURNER, II xxx-xx-xx...
GEORGE M. WALLER xxx-xx-x...

CHAPLAIN CORPS

To be lieutenant colonel

ROBERT G. WILEY xxx-xx-x...

MEDICAL CORPS

To be lieutenant colonel

ELAINE B. BAXLEY xxx-xx-x...
RICHARD G. FOUTCH xxx-xx-x...
VINCENT A. VISCOMI xxx-xx-x...

MEDICAL SERVICE CORPS

To be lieutenant colonel

FRED A. KARNIK, JR. xxx-xx-xx...

ARMY NURSE CORPS

To be lieutenant colonel

DUANE R. OPP xxx-xx-x...

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10; UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

ALFRED F. LIVAUDAIS xxx-xx-xx...

To be major

*DAVID R. DULL xxx-xx-x...
JOHN A. MARRIOTT xxx-xx-x...
*ROBERT M. MCCALL xxx-xx-x...
*SHERRI L. MITCHELL xxx-xx-xx...

CONFIRMATIONS

Executive nominations confirmed by the Senate August 7, 1992:

DEPARTMENT OF STATE

ROBERT F. GOODWIN, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NEW ZEALAND, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO WESTERN SAMOA.

HENRY LEE CLARKE, OF CALIFORNIA, 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 UZBEKISTAN.

DONALD BURNHAM ENSENAT, OF LOUISIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

EDWARD HURWITZ, 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 KYRGYZSTAN.

JON M. HUNTSMAN, JR., OF UTAH, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SINGAPORE.

RICHARD MONROE MILES, OF SOUTH CAROLINA, 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 AZERBAIJAN.

JOSEPH S. HULINGS III, OF VIRGINIA, 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 TURKMENISTAN.

RICHARD H. SOLOMON, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE PHILIPPINES.

JOHN STERN WOLF, OF MARYLAND, 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 MALAYSIA.

WILLIAM HARRISON COURTNEY, OF WEST VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

NANCY M. DOWDY, OF THE DISTRICT OF COLUMBIA, TO BE SPECIAL REPRESENTATIVE FOR ARMS CONTROL AND DISARMAMENT NEGOTIATIONS.

DAVID HEYWOOD SWARTZ, OF VIRGINIA, 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 BYELARUS.

MARY C. PENDLETON, OF VIRGINIA, A CAREER MEMBER OF THE FOREIGN SERVICE, CLASS ONE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

STANLEY TUEMLER ESCUDERO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

KENT N. BROWN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GEORGIA.

GENTA HAWKINS HOLMES, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE.

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.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING GENE ERNEST BIGLER II, AND ENDING CHARLES B. WOODWARD, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 1992.