SENATE—*Thursday, September 9, 1993*

(Legislative day of Tuesday, September 7, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. The prayer will be led this morning by the Reverend Richard C. Halverson, Jr., of Falls Church, VA, the son of the Senate Chaplain.

PRAYER

The guest Chaplain, the Reverend Richard C. Halverson, Jr., of Falls Church, VA, offered the following prayer:

It is written: *For promotion cometh neither from the east, nor from the west, nor from the south. But God is judge: he putteth down one, and setteth up another.*—Psalm 75:6,7.

And again, as God * * * changeth the times and the seasons: he removeth kings and setteth up kings * * *.—Daniel 2:21.

Eternal God, we are reminded that all authority comes from You. Though each Member of the Senate is elected by the people, they are ordained by You. Teach us to know that You have chosen us to fulfill a special purpose and that we are ultimately accountable, not just to the public, but to our Heavenly Father. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 9, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 1298, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1298) to authorize appropriations for fiscal year 1994 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.

The Senate resumed consideration of the bill.

Pending: Byrd modified amendment No. 782, to limit the involvement of Armed Forces in Somalia.

Mr. COATS. Mr. President, we hope this morning to clear a number of agreed-to amendments. I think we will be doing that shortly. We are waiting for the arrival of some other Members. In the meantime, let me proceed with just a few remarks in general about the legislation that is before us.

Mr. President, this year's defense budget, as it stands, shows good intentions confirmed by good judgment. Our changing world allows some reductions in military spending. Our dangerous world still demands American strength. On the Armed Services Committee, we have wrestled with the need for both realism and readiness. The budget before us manages to cut without crippling.

I think Senator NUNN and Senator THURMOND deserve a great deal of credit for continuing to focus our attention on the needs of the real world. We understand the restrictions and the limitations of the budget. We understand the need to redefine our mission and our roles in this post-cold-war era, but we also understand that the world we face continues to offer many challenges and many threats.

This budget authorizes an active duty strength of 1,622,200, which is 1,600 above the administration's request. It authorizes a military pay raise of 2.2 percent, effective January 1, 1994. It increases funds for readiness and training programs. It establishes a firm legal foundation for a DOD policy on homosexuality. And it authorizes a total of $89.4 billion for operation and maintenance programs, $300 million more than the budget request.

Secretary of Defense Aspin has called this a "treading water budget" and in many ways he is correct. It is not a radical departure from the recent past—the Bush administration's sustained but careful defense reductions. Last week, the Clinton administration released its preliminary outline of the bottom-up review. A close analysis of that review, along with more specific information, will be needed in an attempt to determine the President's broader vision for defense policy. I know Senator NUNN intends a thorough review of that proposal.

This budget is acceptable this year, but future defense spending plans will demand our very careful scrutiny and attention. The outlines of that future are very sketchy at this point, but have begun to emerge. There are signs of warning and danger, and we have heard some important words of caution.

Secretary Aspin himself has declared that there is "increasing and anecdotal evidence of softness" in military readiness. He says we can detect "early warning signs" that the force might be losing its combat edge.

Adm. Frank Kelso, the Chief of Naval Operations, has commented, "we are, I think, at the ragged edge of readiness."

Gen. Gordon Sullivan, the Army Chief, has said that the Army is "at the razor's edge." Readiness, he has argued, "is not only flying hours and moving trucks around, it is the civilians who support the force, it is the base structure, ammunition to train with, and maintenance."

What is the fear that we are looking at? Why the reservation? Why the caution? The fear is that we will return to a hollow force—slipping back into the military nightmare of the 1970's. Resources stretched and overextended. Morale in decline. Shortages of spare parts. Longer and more frequent deployments.

Former Secretary of the Navy Sean O'Keefe commented in a speech in April of this year,

Force structure—this is the area of maximum danger * * * because excessive cuts here will lead us straight to the "strategy-resources mismatch" of the late 1970's—too big a strategy for our limited resources. We've been there. We've done that. And * * * we don't want to return.

"Too big a strategy for our limited resources."

We discussed that issue last night in what I thought was one of the most important debates the Senate has engaged in in several months. Senator BYRD'S amendment forced that debate. It was a necessary debate. It continues to today. It is a debate that I think this body should undertake until it is

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

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determined, along with the administration, how to fashion a policy for the nineties that will address the role of the United States and the role of the U.S. military.

Combat readiness is built with the work of years, even decades. But it can be undermined in a matter of months, or even with an amendment on this floor. With disruptive personnel policies and job insecurity, with drastic, politically motivated cuts, with funding for operations at the expense of readiness, with cutbacks in military health care.

We are starting to get a glimpse of some of the these concerns in the administration's 5-year defense budget. We do not want to take America's military closer to the edge of readiness.

I have a particular concern for military personnel issues. The quality and motivation of our people is central to our success. Even high-technology battles are ultimately won by individual skill, nerve, courage, and morale.

Men and women in the armed services risk their lives; are frequently forced to move; endure separation from their families for long periods of time; are stripped of their privacy; work long hours without extra pay; and often must return to the civilian job market in midlife. Under these circumstances, morale becomes a serious issue. Soldiers need to be convinced that civilian leaders understand their lives and speak for their interests.

It is deeply disturbing that the primary accomplishments of the 1994 defense budget debate are reversals of former administration's personnel policies. The pay freeze that the President proposed would have widened the gap between military and civilian pay, making retention of our best people all the more difficult and attraction of new recruits more difficult. Lieutenant General Boles, the Army Personnel Chief, comments,

> When the Nation moved to an all-volunteer military force in the early 1970's, it was acknowledged this would require a significant financial commitment to improving and sustaining military compensation programs * * * the lesson of the late 1970's is that too many good people leave if their pay and benefits lag too far behind for too long.

The President's policy on homosexuals in the military would have undermined morale and prevented commanders from dealing with problems in their units. Make no mistake. The legislation before us does not codify the administration's flawed approach—it overturns it. In fact, this Defense bill is primarily a success because the President was forced to retreat on several key issues.

There were some problems in this budget which were largely resolved. But the outlook is far more disturbing in the President's future years spending plan. It was adopted earlier this year without details on where cuts will come or what their effect might be.

The President has engaged in a bidding war over defense cuts. He started with $60 billion in defense reductions over 5 years during his campaign. The cuts he now proposes are more than double that amount. President Clinton has set a force level target of 1.4 million in 1995, 200,000 below President Bush's goal.

This comes layered on top of substantial reductions already made by President Bush. As the distinguished chairman of the Armed Services Committee commented during an earlier debate,

> Those who claim that defense has not been substantially reduced since the end of the cold war are flat out wrong * * * The Defense Department in the past few years has carried more than its share of sacrifice for lowering the deficit. Indeed, the Defense Department seems to be the only part of the Federal Government that has carried its fair share.

How will an additional $120 billion in Defense cuts proposed by the President effect the military? Will our technological edge be dulled? Will the quality of life and morale of our soldiers be undermined? Will we compromise the speed and effectiveness with which we can respond to aggression?

Will we be able to meet the challenges of the future? Will we be able to define a role for the military that will help us accomplish important foreign policy objectives?

We are waiting for answers to these questions. This is not just a matter of numbers on paper or political dealmaking. Our future choices will determine the quality of our force, the safety of our soldiers, and our ability to act in the world. And the President's direction and suggestions are not encouraging in this respect.

So, it behooves us as a Congress to address these questions seriously. Because these decisions are vital even after the end of the cold war.

We have had compelling proof of this fact in the 5 years since the fall of the Berlin Wall. Emergencies have followed, one on another. Who can forget the euphoria that existed in this body and across the Nation and around the world when the Berlin Wall fell; when the Russian revolution overthrew nearly 70 years of dictatorship and totalitarianism? Many were looking at a changed world, a whole new world order.

But emergencies have followed, one after another. Zbigniew Brzezinski talks of the "whirlpool of violence" erupting among 30 countries in early stages of nation building.

A recent center for naval analysis study shows that the United States has used military force more than 240 times since 1945. In spite of the focus on the former Soviet Union and Warsaw Pact countries during the cold war, well over 80 percent of these conflicts had nothing to do with cold war powers.

In defense policy, the future comes quickly. History can move with the speed of tanks. News travels with the speed of light. But morale and readiness must be carefully constructed over years. Short-term choices will have far-ranging consequences.

When readiness declines, isolationism advances. The limits on our power set the limits on our influence, our will and our vision. The trend of Clinton defense spending is clear—and it will constrict the range of America's future actions.

America stands at a pinnacle of world influence—influence that is not unlimited, but is still unprecedented. Yet in 5 years, if we follow the President's path, we may well be left with no other choice than to accept under Secretary of State Tarnoff's doctrine:

> We simply don't have the leverage, we don't have the influence, we don't have the inclination to use force and we certainly don't have the money to bring to bear the kind of pressure that will produce positive results any time soon.

The central lesson of five decades, under both Republicans and Democrats, is that American leadership works. Without our example and effort—without our readiness and capability—vast portions of the world might still remain in endless oppression. Berlin taken without an American airlift. Greece conquered by Guerrillas, without American help. Central America, imprisoned like Cuba. Hussein in control of half the world's oil supply.

New threats now replace old enemies—unstable dictatorships seek weapons of mass destruction; violence is unleashed by decaying empires; regional power grabs become global threats. And still it is America alone that can preserve the peace by preserving its power.

President Clinton inherited a military that is strong and ready. Those qualities were pursued in a military buildup and preserved through the careful spending reductions of recent years. That inheritance must not be wasted, because it is not easily regained.

I will conclude by stating there are warning flags flying. There are bells and whistles that are sounding. If our readiness is compromised by drastic cuts or undermined by disruptive policies; if American foreign policy in the future is paralyzed by American weakness, if the morale of American troops is undercut so when their needs are ignored; the responsibility will be clear. We will have squandered a precious resource that we took a decade to rebuild. We need to understand the value of this resource for a world that is troubled by a number of conflicts, and conflicts we cannot even anticipate. We cannot and should not allow this to happen, and I hope we do not.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

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Mr. NUNN. Mr. President, just a brief report of where we are on the bill. We made good progress on the Defense bill yesterday. We completed action on two very controversial amendments; one related to DOD support for research and development on metalcasting. That one had a good debate before we did settle it. It was originally to go to a rollcall vote but there was a settlement worked out that I think was basically a big improvement on what was in the bill.

And then we also had a very controversial and difficult amendment on antitheater ballistic missiles and the ABM Treaty. That one was also worked out I think in a sound fashion.

We made a good start on a long overdue debate in the Senate on United States policy in Somalia. Senator BYRD offered an amendment on that and we had a good debate on it. We are still determining if we can come up with a substitute that represents a consensus that would basically uphold the United States' position, leadership in terms of the United Nations and in terms of coalition working together in Somalia, but at the same time narrow the scope of the mission so we do have a clarity of what it is we are undertaking. Not so much, as far as I am concerned personally, in terms of length of time because I think it is always a mistake to define a military mission based on the calendar, but rather in terms of the mission itself and the scope of the mission.

We have hopes that one may be able to be at least crystallized to the point that we can reach a rollcall vote on it later today.

This morning we have a series of amendments that have been cleared on both sides, working together yesterday, which we hope to act on in the next few minutes. At 9:30 this morning, underthe agreement reached last night, Senator BOXER from California will be recognized to offer an amendment concerning the issue of gay men and lesbians in the Armed Forces.

We have provisions in our bill relating to that subject. It is my understanding the amendment will be in the nature of a motion to strike the provisions in the bill with a substitute proposed by our colleague. We will have a debate on that.

I hope we can reach a time agreement on that subject which would not allow any second-degree amendments on the subject, because I think the issue is very clear between the motion to strike and the provisions in the bill. But, if we do get permission from the Senate to enter into that time agreement it is my hope we will debate that subject within 2 or 3 hours.

Once we get action on the Boxer amendment, which I will hope will be somewhere in the neighborhood of 12 or 12:30, then we will return to the Byrd amendment. By that time it will be my hope we could at least come to some conclusion in terms of a vote on that amendment or substitute thereto.

It is then my hope, although there is no agreement on this, it will be up to the Senate—I hope we will then turn to a series of amendments on strategic defense initiative, which is another matter of considerable interest and concern and controversy. I hope we could say stay on that subject until we complete all amendments on that. There is no time agreement, but it seems to me that is the orderly way to proceed, to stay on that subject and complete action on all of those amendments relating to SDI funding or relating to other parts of SDI sometime late this afternoon or early evening.

The majority leader said he wants to complete action on the bill this week. Certainly I share that. If we put in a good day today, if we do not have any unexpected interruptions—and I use the word "unexpected" cautiously because I have gotten to the point here that I do not unexpect anything. I expect that the unexpected may occur.

If we were to have an unusual day in the Senate, without unexpected interruptions, then I hope we would be within sight of finishing this bill late tomorrow afternoon or tomorrow evening so we would not have to go into a Saturday session. That would be my hope.

That remains to be seen. Mr. President, that is where we are now. Does the Senator from Indiana have any observations from a Republican viewpoint?

Mr. COATS. Mr. President, I will just concur with the sentiments of the Senator from Georgia. I think the hope of committee members on both sides is that we can proceed with due diligence and get through a number of amendments and hopefully bring the bill to resolution this week. I know the majority leader and the minority leader are committed to that. We, on our side, are committed to that, so we will do everything we can to expedite that process.

Mr. NUNN. I thank the Senator from Indiana.

Mr. President, we do have some amendments that have been worked out. I see the Senator from Michigan on the floor. It would be my intention to take up several amendments at this point. It will not take long. Does the Senator have an amendment?

Mr. RIEGLE. Mr. President, I do have an amendment that I want to offer at the appropriate point that relates to the gulf war syndrome problem and some work that we have done that sheds new light on that. It is an amendment to provide medical research money. But I think the thrust of the analysis, the investigation we have done is significant enough and important enough that at an appropriate time today, I want to lay it out. It will take me about 15 minutes.

I think it is something every Member will be interested in knowing. So I would like to do that at a convenient time, both for the manager of the bill and for myself. We have other activities going on today.

Mr. NUNN. I thank the Senator from Michigan. That is a subject of considerable interest to members of our committee. I look forward to hearing from you on that subject. Has that amendment been submitted to us to determine if we can accept it?

Mr. RIEGLE. Yes, it has. We have made some adjustments to it, but you have that. My hope is it will have the support of the committee. One relevant part relates to earlier work that was done with respect to one weapons explosion condition that affected a number of troops from Alabama. Senator SHELBY, for example, a member of your committee, has been very much concerned about that particular element. But that fits into a larger story here.

In any event, I know the committee has had a chance to look at it. I want to make sure the committee is fully aware of it, and I hope to have the committee support at the appropriate time.

Mr. NUNN. I also will be alerted to any kind of window we may have here where the Senator will have a schedule convenience so he can come over.

Mr. RIEGLE. Before, if I may just for one additional minute indicate——

Mr. NUNN. I yield to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator. What I would like to do at an appropriate point—and I think this will be of keen interest generally—is I would like to be able to take about 15 minutes, lay this analysis out. It will be, as I say, the foundation for the amendment, and I think it is a very important matter. I would like to do it as soon as possible because there is very strong interest in it. I think the sooner we can lay it out for everybody's information the better.

Mr. NUNN. I thank the Senator from Michigan. If we have any kind of lag in this proposed schedule we are talking about right now, I will be glad to get in touch with the Senator. Of course, he has the right to get the floor at any time in any event, but we will certainly try to accommodate him as best we can.

Mr. RIEGLE. This would not be a good time?

Mr. NUNN. We are supposed to start at 9:30 on the amendment of the Senator from California. That schedule has been laid down and has not been changed. It would be my preference we really have to get started on that one if at all possible.

Mr. RIEGLE. I wonder, would it be appropriate, as long as we are here and set to go, if I begin this. I may well be able to get through most of it before she arrives.

Mr. NUNN. Why not go ahead and do that, and I will defer these amendments.

Mr. RIEGLE. I appreciate that.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, over the last several months, I have heard from Michigan veterans of the gulf war about various unexplained illnesses that many of them are suffering.

For example, I was contacted by Brian Martin of Niles, MI, a gulf war veteran of the 37th Combat Airborne Engineer Battalion, 20th Airborne Brigade, 18th Airborne Corps, who arrived in Saudi Arabia on October 8, 1990. According to Martin, in late January 1991, while assigned to an area between Raffa and Naryian, about 6 miles south of the Iraqi border, he recorded in his journal and on videotape that chemical false alarms were going off almost every day. At first, the alarms were explained as being caused by vapors coming off the sand. Later, since the alarms kept going off, the troops no longer believed that they were being caused by the vapors. Martin said they were then advised that the alarms were sounding because of minute quantities of nerve agent in the air, released by the coalition bombing of Iraqi chemical weapons facilities. The troops were assured that there was no danger.

Martin also claims to have witnessed a Patriot intercept of an incoming Scud missile between Kafji and Wahdi Albatin during the air war period. Martin was given the antichemical warfare medication pyridostigmine, and suffered some adverse side effects. According to Martin, the drug made him jittery and made his vision jiggle. Since returning from the Saudi Arabia, Martin has experienced memory loss, swollen and burning feet, joint disorders, muscle weakness, heart palpitations, shortness of breath, rashes, fatigue, headaches, insomnia, bleeding from the rectum, chronic coughing, running nose, burning eyes, and uncontrollable shaking on his right side extremities.

After I heard his story, I asked my staff to look into this, and, with great care, to try to track this down. I now believe that there is a significant body of evidence to suggest that United States and coalition forces may have been exposed to chemical warfare agents and other hazardous substances during direct enemy attacks and as a result of downwind exposures during the bombing of Iraqi chemical, biological, and nuclear facilities.

So today, I am releasing in full a report detailing the coincidence of symptoms which suggest that these exposures may be causing many of the illnesses that have become known as gulf war syndrome. I now believe there is sufficient evidence to warrant a full investigation by the Department of Defense, and I will be offering an amendment, as I have just said, later in the day, calling for such an investigation as part of this bill.

In advance of the gulf war, there was a great deal of speculation about whether Iraqi Forces might resort to using chemical warfare agent loaded missiles in their attacks on United States Forces. We know, for example, that Saddam Hussein was capable of using these types of weapons.

Two United States-based human rights organizations have confirmed that they found residues of chemical weapons used by the Iraqi Government against Kurdish villagers in northern Iraq in 1988 and at least four people were killed in that attack. Physicians for Human Rights, and Human Rights Watch, using advanced analytical techniques, determined the presence of mustard gas and a nerve gas called Sarin in a Kurdish village. Five U.N. reports confirmed the use of chemical warfare agents in the Iran-Iraq war.

Nerve agents, of course, disrupt the metabolic process and inhibit the proper functioning of the nervous system. Exposure to chemical agents may cause drooling, sweating, cramping, confusion, irregular heartbeat, convulsions, loss of consciousness, coma and, obviously, people can die from these effects either immediately or over a longer period of time.

Little is known about the consequences of nonlethal exposure to these toxins. Thousands of American service men and women who served in the gulf war are reporting memory loss, muscle and joint pain, intestinal and heart problems, teeth problems, rashes, sores, and runny noses. Physicians have been unable to diagnose the cause of these disorders.

Weapons inspectors from the United Nations confirmed that Iraq manufactured mustard gas, as well as Sarin, and Tabun, nerve agents, in a major chemical weapons facility. One facility is described as the third-largest chemical weapons plant in the world. During the allied bombing in the early days of the gulf war these facilities were a priority target. They were repeatedly attacked and production sites were believed to be destroyed. Much of Iraq's chemical arsenal was destroyed, but many chemical weapons were removed to other locations before the gulf war started. Thousands of chemical artillery shells, bombs, missiles and other chemical weapons of mass destruction and hundreds of tons of mustard gas and nerve gasses survived the coalition bombings.

U.N. inspectors are now attempting to destroy Iraq's remaining chemical weapons arsenal. For example, 28 warheads for Scud missiles loaded with 5 gallons of the deadly nerve agent Sarin were drained and destroyed by the U.N. inspectors.

In testimony earlier this year before the Senate Committee on Armed Services, several gulf war veterans told what they believe are chemical weapons attacks. During the early morning hours on January 17, 1991, in an area of eastern Saudi Arabia south of Kuwait, there was a large explosion followed by the sounding of chemical alarms. Soldiers ran to the bunker and their faces began to burn. One member of the unit collapsed. About 10 minutes later, the unit's first sergeant came by and told everybody to go to the highest level of alert. The unit, an Army National Guard ordnance company, remained on chemical alert for 24 hours.

Two or three days later, several soldiers began feeling ill and had blood in their urine and rectums. The soldiers were later ordered by their commanders not to discuss the incident. Of the unit's 110 soldiers approximately 85 suffer from medical problemstoday, one has died, and another is totally incapacitated.

S. Sgt. Willie Hicks, a former teacher and Vietnam veteran, now carries a notebook with him everywhere because he has a severe problem with memory loss. He has quit his job because he keeps passing out and getting lost. He and other members of the unit believe they were exposed to chemical warfare agents.

That day—the day of this event out in the war zone—the Associated Press reported that Iraqi ground forces in southeastern Kuwait fired FROG missiles across the border into Saudi Arabia. Some of the missile batteries were destroyed shortly afterward by United States helicopter gunships. That same day the official Government newspaper in Baghdad announced Iraq would unleash a secret weapon "which would astonish our enemies and fascinate our friends" and release "an unusual force."

Three days later on January 20, 1991, during the early morning hours, members of the naval construction battalion in the area south of the Kuwaiti border reported they heard the sound of an explosion overhead. Chemical alarms went off and everybody started running toward their bunkers. They smelled the sharp smell of ammonia. Their eyes burned and their skin was stung. Members of the unit donned full chemical gear for nearly 2 hours until the all-clear was given.

Later, the unit was told what they heard was a sonic boom. Many discounted it was a sonic boom because they had seen a fireball when the explosion occurred. They were ordered not to discuss the incident.

Today, PO Sterling Symms suffers from fatigue, sore joints, runny nose, a chronic severe rash, and open sores which have been diagnosed as an itching problem. Of this unit of 725 Seabees about 100 now suffer from medical problems. That same day, up to five FROG missiles were launched into the area south of the Kuwaiti border in Saudi Arabia. These missiles fell into the desert near U.S. Marine positions and, according to an issued report, several marines were wounded during the attack.

When my staff contacted the Department of the Army and the Department of Defense regarding the possibility that U.S. service men and women may have been exposed to chemical warfare agents, they were repeatedly told, despite recounting the events cited above, that there was no evidence the coalition forces were exposed to chemical warfare agent attacks. Yet several statements made by DOD officials concerning the shooting down of a C-130 in late January 1991, which resulted in the death of 14 airmen and the performance of the JSTARS Program, however, confirmed that chemical munitions, particularly FROG rockets fitted with chemical munitions were deployed to the front by Iraqi forces.

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 a.m. having arrived, the Senator from California is to be recognized to offer an amendment.

Mr. RIEGLE. If the Senator from California would permit, I think I can finish rather quickly here.

Mrs. BOXER. Without objection.

Mr. RIEGLE. I thank the Senator. I ask unanimous consent to proceed.

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

Mr. RIEGLE. This, of course, directly contradicts other statements made by the Department claiming that these weapons "never got distributed down to the battlefield" from storage sites north of the Euphrates River. Iraq reportedly followed Soviet chemical weapon and warfare doctrine which, according to the Centers for Disease Control, recommend the use of mixed agents and chemical warfare attacks.

These are these kinds of chemical cocktails that they talk about, that is, several types of these agents are used together. This sort of attack might carry a variety of nerve agents, blister agents, blood agents, and even biotoxins. The stinging and burning and smell of ammonia can be explained by a chemical agent such as lewisite. Other symptoms such as bleeding in the urine and rectum could occur from exposure to a biotoxin. The ability of chemical agents to penetrate a gas mask filter described by other members of this unit could be explained by the use of cyanogen which is another one of these agents.

According to CDC, different individuals would have different sensitivities to the effects of neuro and biotoxins administered in nonlethal doses, yet despite that fact 77.3 percent of the members of one unit and 13.8 percent of the other unit currently exhibit symptoms consistent with what has been called the gulf war syndrome, despite the fact that the Centers for Disease Control has advised that the military should be aware that Iraqi military doctrine advocates using these mixed agents or cocktails containing a variety of nerve-blister-blood agents as well as biotoxins.

So we have here this pattern beginning to fit together. Despite the fact that the stinging and the burning and the smell of ammonia described by the members of these units that I have cited are the very sensations that are consistent with the use of these kinds of chemical agents; yet we are told there is no evidence that chemical warfare agents were used.

According to the CDC, in order to develop proper diagnosis and to establish whether these illnesses are the result of the chemical warfare agent attacks, specific advanced neurological studies using computer enhanced EEG analysis and viral and other toxin searches using electron microscopes would need to be performed.

We know how to do this, but it is complicated and it takes some money, and we are not going to have the answer until that work is done. We certainly know we have a lot of walking wounded out there that come out of the field with the very symptoms we are describing.

U.S. military medical officials concede that they are notcurrently performing these tests because it is the position of the Defense Department that U.S. service men and women were not exposed to these agents.

In July, Senator SHELBY requested a Defense Department inspector general's investigation. As of last week, the Department of Defense informed my staff that this investigation has not yet even been started. I believe there is significant evidence that a chemical warfare agent attack could have occurred and that investigations into these events should be set in motion without any further delay.

A second group of veterans is exhibiting similar symptoms which could also be the result of exposure to chemical warfare agents and other hazardous substances. Gulf war veterans have reported that in January 1991, along the Iraqi-Saudi and Iraqi-Kuwaiti border, chemical alarms were going off almost every day. As Mr. Martin indicated, the alarms were first explained as being caused by vapors coming off the sand. Later, when the alarms kept going off, they were told that the alarms were sounding because of minute quantities of nerve agent in the area of coalition bombing of Iraqi chemical weapons facilities. They were assured there was no danger.

In late July 1993, the Czechoslovakia Minister of Defense confirmed that a Czechoslovak Federal Republic military decontamination unit that was stationed near the Saudi-Iraqi border detected chemical nerve agent Sarin in the air during the early stages of the gulf war. In this unit, 10 of the 185 individuals are believed now to be suffering from gulf war illnesses.

Weather reports during this period confirm that southeasterly winds could have carried these agents across the Saudi and Kuwaiti borders. The chemical warfare agent production plants, nuclear facilities, and other facilities bombed by the coalition forces during this period were located in Iraq northwest of coalition troops.

Yet despite the reports of our service men and women that chemical alarms sounded and troops were actually put on chemical alert, despite the unofficial confirmation of U.S. military personnel and the Czechoslovakian Government disclosure that the chemical alarms were sounding as a result of the nerve agent detection and despite the weather condition, the volume of agents released and the fact that chemical nerve agents are known to have cumulative effects, still the Defense Department claims there is no evidence that the U.S. troops were exposed to chemical warfare agents.

Finally, a third group of individuals may also beexhibiting symptoms as a result of side effects of taking medications designed to prevent the effects of chemical warfare agents. Nerve agent pretreatment drugs administered to U.S. service men and women also disrupt metabolic and nervous system processes in a way that interferes with the action of the nerve agent. Several veterans suffering from gulf war illnesses, including some who are medical officials, testifying before the House Veterans Affairs Committee earlier this year, claim that their illnesses are related to adverse side effects of these drugs they were given before they were even sent into the situation.

Little is known about the long-term consequences of exposure to low levels of nerve gas and even less about complications which might come from using combined agent weapons, but we need to understand how this can interfere with the neuro transmission process because that seems to be what is going on in many cases.

We do know that nonlethal exposure to pesticides, which would be somewhat relevant here, have manifested themselves in memory loss. Nearly every bodily process requires a properly functioning nervous system to operate. And there are sound neurological and biological diagnoses which could explain these symptoms and trace them back to these kinds of exposures.

But the research into the exposure of U.S. forces to chemical and biological warfare agents is not being conducted because, as I say, the Department has decided that there is no evidence that they were exposed to chemical warfare agents.

I say again I believe that, based on the examination of the facts cited above—and there is a longer report that buttresses this—there is sufficient evidence that members of the U.S. Armed Forces may have been exposed to mixed chemical warfare agents and possible biological toxins that an investigation is warranted, and it needs

to get underway now before another day passes. There is just really no excuse for any further delay. The investigation should go into the issue of exposure of our service men and women to these hazards. I think we need the latest advanced medical research applied to this problem, and we need to track this down now.

There have been other possible causes for gulf war disorders that have been suggested, such as exposure to pesticides, petrochemicals, burning landfills, oil well fires, depleted uranium from antitank emissions, and things of that kind.

Some of these possibilities have been discounted. Others may explain some of the illnesses. And all of this ought to be thoroughly researched.

So with the courtesy of the chairman—which I greatly appreciate—I will later be offering an amendment which will require the Department of Defense, in cooperation with the Department of Veterans Affairs, to conduct this research into the effects of exposure of the gulf war veterans to chemical warfare agents, biological warfare agents, biotoxins, and other chemical biological and radiological hazards.

We are going to ask for $5.7 million to conduct this research. I will break it out at a later time in terms of how it would be spent. The amendment requires the Department of Defense to provide a full accounting to the Congress on the nature of these exposures. And I believe in light of the evidence that we have put together and I am presenting today that these steps are fully justified.

Finally, I would like to acknowledge that the analysis was done by a member of my staff, Mr. James Tuite, who served as a special agent in the forensic service of the Secret Service, who is a specialist in counterterrorism and who was a medical specialist in the United States Army during the Vietnam war. He has done this with very great care.

So this work is important work that needs to be studied by every Senator.

I thank the Senator from Georgia for his courtesy, and also the Senator from California for bearing with this time.

Mr. President, I ask unanimous consent that the staff report to which I have referred be printed in the RECORD at this point.

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

GULF WAR SYNDROME: THE CASE FOR MULTIPLE ORIGIN MIXED CHEMICAL/BIOTOXIN WARFARE RELATED DISORDERS

(Staff Report to U.S. Senator Donald W. Riegle, Jr.)

INTRODUCTION

Over 4,000 U.S. veterans of the Gulf War suffering from a myriad of illnesses collectively labelled "Gulf War Syndrome" are reporting symptoms of muscle and joint pain, memory loss, intestinal and heart problems, fatigue, running noses, urinary urgency, diarrhea, twitching, rashes, and sores.[1]

Over the last several months, a number of disclosures have been made which sparked this preliminary investigation. On June 30, 1993, several veterans testified at a hearing of the Senate Committee on Armed Services. They related details of events which they believed to be chemical warfare agent attacks. After these events, many veterans exhibited symptoms consistent with exposure to a mixed agent attack. On July 29, 1993, the Czech Minister of Defense announced that a Czechoslovak chemical decontamination unit had detected traces of a chemical warfare agent, Sarin, in areas of northern Saudi Arabia during the early phases of the Gulf War. They attributed the traces to fallout from coalition bombing of Iraqi chemical warfare agent production facilities.

In subsequent statements regarding these disclosures, Department of Defense spokespersons have continued to maintain that it is the position of the Department that there is no evidence that U.S. forces were exposed to chemical warfare agents. After the June 30, 1993 hearing, a Department of Defense Inspector General investigation was requested by Senator Richard Shelby. As of September 2, 1993, the Office of Congressional Liaison for the Director of the Joint Chiefs advised that this inquiry had not yet been initiated.

This investigation was initiated in early August 1993, at the request of Senator Donald W. Riegle. The results of this investigation, while not conclusive, do indicate that there is a large body of evidence linking Gulf War Syndrome symptoms to the possible exposure of Gulf War participants to chemical warfare agents and biological toxins. The evidence supporting this conclusion will be presented in this report as follows:

This report will discuss the relationship between the high rate of Gulf War Illnesses among both Group I individuals, those possibly exposed to a direct mixed agent attack (as high as 77% affected in one unit), and the much lower rates among those in Group II, individuals exposed to the indirect fallout from coalition bombings of Iraqi chemical, biological, and nuclear targets (5.5% affected in the Czech chemical decontamination unit). Despite the varying rates of illness, however, the symptoms are similar. While other possible causes of the Gulf War Syndrome, such as petrochemical poisoning, depleted uranium exposure, and regionally prevalent diseases, have been discussed, no other explanation proves as compelling.

Again, this report is not conclusive. Additional investigative efforts are needed. The medical information which is provided in Part E is not intended to be diagnostic, but is included to demonstrate that this theory provides cause and effect linkages which could explain these illnesses, and to make the case for additional research. Demographic data on those suffering from Gulf War illnesses must be collected. Further advanced medical testing, currently not being performed on these individuals, is absolutely essential.

All of the information provided in this report is unclassified and open to public scrutiny. The discloser of the assembled information, however, was seriously considered. the prospect that the conclusions are accurate and therefore expose a vulnerability in U.S. defensive capabilities was weighed. After thorough consideration, however, since the Gulf War illnesses are part of the public debate, and since the Iraqi government certainly knows whether or not chemical weapon and biotoxins were used in these attacks and would certainly feel free to discuss them with our potential adversaries, there remain only the adverse effects of non-disclosure. Non-disclosure of these events provides the false illusion that we may be prepared to deal with chemical and biological warfare. More importantly, the result of non-disclosure is a continuing failure to provide adequate medical care to thousands of veterans of the Gulf War who may have been wounded in action on the chemical/biological battlefield.

Part A. Iraqi Chemical and Biological Warfare Program

1. Iraqi Chemical and Biological Warfare Capability[2]

Over the last ten years, Iraq, a signatory to the Geneva Protocols of 1925 prohibiting the use of poisoned gas and to the Biological Warfare Convention of 1972 banning biological weapons, has expanded an enormous amount of research and energy and in developing these and other prohibited weapons.

Iraq was believed to have been manufacturing mustard gas at a production facility in Samarra since the early 1980s. Iraq had also begun an extensive program to produce nerve agent precursor chemicals, taking advantage of its own natural resources. Iraq has phosphate mines located at Akashat and civilian-use phosphate industries located in Akashat, Al Qaim, and Rutbah.[3]

The Iraqi Al Falluja gas warfare complex was believed to produce up to 1,000 tons per month of Sarin, as well as the nerve agent VX.[4] In addition, with the assistance of foreign firms, Iraq developed the capability to experiment with hydrogen cyanide, cyanogen chloride, and lewisite.[5]

By the start of the Gulf War, it was suspected that Iraqi forces had developed chemical delivery capabilities for rifle grenades, 81mm mortars, 152mm, 130mm, and 122mm artillery rounds; bombs; 90mm air-to-ground rockets; 216 kilogram FROG and 555 kilograms SCUD warheads; and possible land mines and cruise missiles.[6]

On July 30, 1991, Rolf Ekeus, director of a post-Gulf War United Nations commission overseeing the elimination of Iraq's chemical and nuclear arsenals, told the Security Council that U.N. inspectors had found chemical warheads armed with nerve gas. Mr. Ekeus claimed that some of the warheads found were already fitted onto SCUD missiles.[7]

In April, 1993, weapons inspectors from the United Nations charged with locating all of Iraq's nuclear, chemical and biological weapons by U.N. Resolution 687, confirmed that in Muthanna, 65 miles northwest of Baghdad, Iraq manufactured a form of mustard gas as well as Sarin and Tabun, both nerve agents. This vast desert complex was the nucleus of Iraq's chemical weapons program. During the allied bombing in the early days of the Gulf War, Muthanna was a priority target. It was repeatedly attacked and production sites was destroyed. As United Nations inspectors have attempted to destroy Iraq's chemical weapons arsenal, they discovered bombs, missiles, and chemical weapons of mass destruction spread out across this vast complex. Of particular concern were the chemical warheads of Al-Hussein modified SCUD missiles, each filled with five gallons of Sarin. Twenty-eight of these warheads have been drained and destroyed by the U.N. inspectors. These weapons were not destroyed during the bombings at Muthanna because they had been removed to other locations before the Gulf War started. Their relocation

[1] Footnotes appear at end of article.

and transfer back to Muthanna was described by U.N. inspectors as a painstaking process.[8]

Chemical warfare agents which either survived the allied bombing or were inventoried and returned to the Muthanna facility for destruction include:[9]

13,000 155-mm artillery shells loaded with mustard gas; 6,200 rockets loaded with nerve agent; 800 nerve agent aerial bombs; 28 SCUD warheads loaded with Sarin; 75 tons of the nerve agent Sarin; 60–70 tons of the nerve agent Tabun; and 250 tons of mustard gas and stocks of thiodiglycol, a precursor chemical for mustard gas.[10]

U.N. inspectors have concluded that the Muthanna plant was capable of producing two tons of Sarin and five tons of mustard gas daily. The plant was also capable of manufacturing VX, a nerve gas and one of the most toxic chemicals ever produced.[11]

UNSCOM also discovered, at various locations, evidence of research into certain biological agents, including botulinus toxin, anthrax, and an organism responsible for gangrene. The evidence discovered by the group suggested that this was primarily an offensive program.[12]

2. Soviet Military Chemical Warfare Doctrine and the Use of Combined Agent Warfare.

There is substantial evidence to suggest that in the use of chemical weapons, as in other military areas, the Iraqi military adhered to Soviet military doctrine. Soviet military doctrine suggests that chemical warfare should be conducted with mixed agents.[13] Mixed agents, often referred to as "cocktails," are intended to enhance the capabilities of nerve agents and defeat the precautions taken by the enemy.[14] Use of mixed agents could account for the wide variety of symptoms displayed by the Gulf War veterans. Mixedagents can be made by combining a variety of biotoxins, nerve agents, vesicants, and blister agents, described in detail below.

According to some sources, Iraq used mixed agent weapons combining cyanogen, mustard gas, and tabun in Kurdistan. Saddam Hussein stated on April 2, 1990, that Iraq had "double combined chemical" weapons since the last year of the Iran-Iraq War.[15]

The following is a listing of a number of agents which the Iraqi government could have combined:

Biotoxins:

Biotoxins are natural poisons, chiefly of cellular structure. A distinction is made between exotoxins, given off by an organism while it is alive, and endotoxins, given off after a cells' death. The former cause the injurious effects of biological weapons, but the latter guarantee those of chemical weapons and do not cause the widespread disease outbreaks associated with biological warfare. Some examples of biotoxins include botulinus toxin and staphylococcic enterotoxin.[16] Iraq was also known to be experimenting with the use of anthrax and an organism responsible for gangrene.[17]

Chemical Nerve Agents:

Nerve agents kill by disrupting the metabolic processes, causing a buildup of a chemical messenger (acetylcholine) by inhibiting the production of acetylcholinesterase, a key regulator of neurotransmission. Lethal exposure to chemical nerve agents is generally characterized by drooling, sweating, cramping, vomiting, confusion, irregular heart beat, convulsions, loss of consciousness and coma.[18] Little is known, however, about the long term effects of non-lethal exposure.

Sarin—A colorless and practically odorless liquid, Sarin dissolves well in water and organic solvents. The basic military use of Sarin is that of a gas and a persistent aerosol. A highly toxic agent with a clearly defined myopic effect, symptoms of intoxication appear quickly without any period of latent effect. Sarin has a cumulative effect, independent of its method of entry into the body. The progressive signs of initial Sarin intoxication include myosis (contraction of the pupil), photophobia, difficulty breathing and chest pain.[19]

Soman—A neuro-paralytic toxic agent, it is a transparent, colorless, involitile liquid smelling of camphor. Soluble in water to a limited degree, Soman is absorbed into porous and painted surfaces. Soman is similar to Sarin in its injurious effects, but more toxic. When it acts on the skin in either droplet or vapor form, it causes a general poisoning of the organism.[20]

Tabun—A neuro-paralytic toxic agent, it is a transparent, colorless, liquid. The industrial product is a brown liquid with a weak sweetish smell; in small concentrations, it smells of fruit, but in large concentrations, it smells of fish. Tabun dissolves poorly in water but well in organic solvents; it is easily absorbed into rubber products and painted surfaces. Injury occurs upon skin contact with Tabun vapor and droplets. The symptoms of injury appear almost immediately. Marked myosis occurs.[21]

VX—This colorless, orderless, liquid has a low volatility, is poorly soluble in water, but dissolves well in organic solvents. The danger of pulmonary VX intoxication is determined by meteorological conditions and the delivery method used. VX is thought to be very effective against respiratory organs when in the form of a thinly dispersed aerosol. The symptoms of VX intoxication are analogous to those of other nerve agents, but their development is markedly slower. As with other nerve agents, VX has a cumulative effect.[22]

Vesicants and Blood Agents:

Lewisite—A vesicant toxic agent, industrial lewisite is a dark-brown liquid with a strong smell. Lewisite is a contact poison with practically no period of latent effect. Lewisite vapors cause irritation to the eyes and upper respiratory tract.[23]

According to the Center for Disease Control, lewisite would cause stinging and burning. Its smell, generally characterized as the strong smell of geraniums, could be confused with the smell of ammonia (the reaction to which is regulated by pain fibers rather than smell).[24]

Cyanogen Chloride—The French first suggested the use of cyanogen chloride as a toxic agent. U.S. analysts have reported that is a capable of penetrating gas mask filters. Partially soluble in water, it dissolves well in organic solvents. It is absorbed easily into porous materials; its military state is a gas. Cyanogen chloride is a quick acting toxic agent. Upon contact withthe eyes or respiratory organs, it injures immediately. Lethal exposures result in loss of consciousness, convulsions and paralysis.[25]

Hydrogen Cyanide—A colorless liquid smelling of bitter almonds, hydrogen cyanide is a very strong, quick acting poison. Hydrogen cyanide affects unprotected humans through the respiratory organs and during the ingestion of contaminated food and water. It inhibits the enzymes which regulate the intra-cell oxidant-restorative process. As a result, the cells of the nervous system, especially those affecting breathing, are injured, which in turn leads to quick death. An important feature of hydrogen cyanide is the absence of a period of latent effect. The military state of hydrogen cyanide is as a gas. The toxic and physiologic properties of hydrogen cyanide permit it to be used effectively in munitions—predominantly in rocket-launched artillery. Death occurs after intoxication due to paralysis of the heart. Non-lethal doses do not cause intoxication.[26]

Blister Agents:

Mustard Gas—A colorless, oily liquid which dissolves poorly in water, but relatively well in organic solvents, petroleum, lubricant products, and other toxic agents. The injurious effect of mustard gas is associated with its ability to inhibit many enzyme systems of the body. This, in turn, prevents the intra-cell exchange of chemicals and leads to necrosis of the tissue. Death is associated mainly with necrosis of the tissue of the central nervous system. Mustard gas has a period of latent effect (the first signs of injury appear after 2–12 hours), but does not act cumulatively. It does not have any known antidotes. In military use, it can come in gas, aerosol, and droplet form. it therefore acts through inhalation, cutaneously, perorally and directly through the blood stream. The toxic and physicochemical properties of mustard gas allow it to be used in all types of munitions.[27]

Part B. Gulf War Syndrome—Group I Disorders

Group I Disorders—believed to be the result of a direct enemy attack.

1. The Reported "Chemical Weapons Attacks" on the 644th Ordinance Company and the Naval Reserve Construction Battalion 24*

Attack 1: January 17, 1991, early morning hours:

Mr. Willie Hicks, then with the 644th Ordinance Company, was serving as the non-commissioned officer in charge of arms and ammunitions shipments. Staff Sergeant Hicks testified before the Senate Committee on Armed Services' Subcommittee for Force Structure and Personnel that, at about 2:30 am on January 17, 1991, he heard a loud explosion, which was followed by a sounding of alarms. As Hicks was running to the bunker, his face began to burn. One member of the unit "just dropped." About ten minutes later, according to Hicks, the unit's first sergeant came by and told members of the unit to go to the highest level of alert. The unit remained at that level for 24 hours.

Two or three days later, Hicks began feeling ill and noticed blood in his urine. Several other members of the unit began experiencing "problems" with their rectums. Hicks testified that when members of the unit began to question what had happened. He said they were ordered by their superiors not to discuss it. Of the unit's 110 soldiers, 85 now suffer from medical problems. Hicks identified and described one member of his unit who was in good physical shape and suddenly died. Hicks also identified another member of the unit, whom he described as being mentally and physically incapacitated.[28]

Hicks, a former teacher and Vietnam veteran, carries a notebook with him everywhere. He claims to have a severe problem with memory loss. He quit his job because he kept passing out and getting lost on the way to work. His illness has been classified by the Veterans Administration as post traumatic stress disorder.[29]

FROG Missile Attack—January 17, 1992:

Iraqi ground forces in southeastern Kuwait fired FROG (free rocket over ground) missiles across the border into Saudi Arabia

into the general area where the 644th Ordinance Company was assigned. Some of these missile batteries were destroyed shortly afterward by U.S. helicopter gunships.[30]

While the Army was able to provide details about SCUD launchings on January 20, 1992 to the hundredth of a second, they were not able to provide any details about the location of the 644th Ordinance Company or the time and location of the FROG attacks.

Iraqui Official Announcement—January 17, 1991:

On the same day, the official government newspaper in Baghdad announced that Iraq would unleash a secret weapon, "which will astonish our enemies and fascinate our friends," and release "an unusual force." U.S. experts speculated the reference was to some sort of radiation device.[31]

Attack 2: January 20, 1991, early morning hours:

Petty Officer Sterling Symms, then assigned to the Naval Reserve Construction Battalion 24, in an area south of the Kuwaiti border, testified that between 2:00 am and 3:00 am on January 20, 1991, there was a "real bad explosion" overhead. The alarms went off and everybody started running towards their bunkers. Petty Officer Symms said there was a sharp odor of ammonia in the air. His eyes burned and his skin stung. His unit donned full chemical gear for nearly two hours until the "all clear" was given.[32]

Later, according to Symms, members of the unit were advised that what they heard was a sonic boom. Petty Officer Symms said that he did not believe that it was a sonic boom because there was also a "fireball" associated with the explosion. Symms testified that they were ordered not to discuss the incident. Petty Officer Symms said he has since experienced fatigue, sore joints, running nose, a chronic severe rash, and open sores which have been diagnosed as an "itching problem." He has also been treated for streptococcus infections. In his testimony, Symms stated that 4 or 5 other members of his unit and two of their wives have been treated for similar infections.[33]

Larry Perry of North Carolina, a naval construction worker stationed near the port city of al-Jubayl in Saudi Arabia, says the explosion on January 20, 1991 sent his unit running for the bomb shelter. When they emerged in their gas masks, they were enveloped by a mist.[34]

Roy Butler, another member of the unit, said: "All of my exposed skin was like it was on fire. It was burning like crazy. I couldn't breathe. I had to take my mask off and clear my nose. I immediately thought we got gassed."[35]

FROG Missile Attack—January 20, 1991:

On January 20, 1991, the media reported extensively on the Iraqi Scud missiles streaking towards key allied military sites. The Iraqi missiles were reportedly destroyed in flight by Patriot rockets as they approached Dhahran, Saudi Arabia, from the north.[36]

In addition, however, up to five FROG missiles were launched into the area south of the Kuwaiti border in Saudi Arabia. These missiles fell into the desert near U.S. Marine positions, and, according to initial reports, "did no damage." Later reports confirmed that at least one Marine was wounded during the attack.[37]

One FROG missile landed across the street from a Saudi naval base. A U.S. newspaper journalist subsequently interviewed a Marine holding a silver-colored piece of shrapnel near the facility. The marine claimed that there had been as many as five "gas attack" alerts in a single day.[38]

Iraqi Official Announcement—January 20, 1991:

In a radio address to the Iraqi people, Saddam Hussein declared that his nation would be fighting back with "all the means and potential God has given us." There was no confirmation that the volley of SCUDS carried chemical weapons, but Saddam had reportedly vowed to use them against his enemies.[39]

The map on the following page indicates the areas in northeastern Saudi Arabia which would have been vulnerable to attacks by FROG-7 rockets.

[Map not reproducible in RECORD.]

2. The Relationship Between These Attacks and Gulf War Syndrome (Group I Disorders)

As mentioned above, the Center for Disease Control (CDC), Nerve Gas Division, has advised that Soviet Chemical Warfare Doctrine recommends the use of mixed agents in chemical warfare attacks (using several canisters of agents). Iraq, in this and other areas, followed Soviet doctrine. Based on this doctrine, a chemical warfare agent attack might carry a variety of nerve agents, vesicant and blood agents, blister agents, and biotoxins.

The stinging, burning and smell of ammonia (which is regulated by pain fibers rather than smell) could be explained by a chemical agent such as lewisite. Other symptoms, such as blood in the urine and bleeding from the rectum, could be explained by exposure to a biotoxin.[40] The failure of a gas mask to protect a soldier could be explained by the use of cyanogen.

Ammonia was also recommended in the former Soviet Union as a civil defense measure to neutralize mustard gas and nerve gas.[41] The CDC agreed that ammonia would be a readily available non-toxic alkali which could be used to neutralize exposure to nerve gas.[42]

According to the CDC, if these U.S. servicemen and women were exposed to these types of substances, advanced neurological studies using computer-enhanced EEG analysis and biological agent searches would be required in order to perform a proper diagnosis. A physician probably would not detect the disorders visually, and even a biological agent search would require a suspicion of what to test for.[43] Many of these biological agent searches could only be performed using electron microscopy.[44]

Incidence of Gulf War Illnesses in 644th Ordinance Company: Approximately 85 of 110=77.3% affected.

Incidence of Gulf War Illnesses—Naval Reserve Construction Bn. 24: Approximately 100 of 725=13.8% affected.

The following points illustrate why the chemical attack explanation of the events of January 17, 1991 and January 20, 1991 is consistent with the evidence for exposure in Group I:

These units are believed to have been in areas which suffered FROG rocket or other missile or artillery attack.

Sonic booms are not explosions associated with fireballs and it is unlikely that a commander would order troops not to discuss sonic booms.

Chemical alarms sounded and the servicemen were put on chemical alert.

The smell of ammonia, mist, and stinging of the eyes and skin are all consistent with the use of chemical weapons.

The servicemen who testified before the Armed Services Committee related events and subsequent symptoms consistent with what might be expected from a non-lethal mixed agent attack.

The rate of unexplained illness in both of these units is much too high to be the result of random events.

The CIA estimated one month prior to the war that Iraq had chemical munitions for both the SCUD and FROG missiles; Air Force commanders confirmed the deployment of FROG missiles with chemical munitions near the Saudi border.

As recently as September 2, 1993, it was the official position of the Department of Defense that there was no evidence that chemical weapons were used during the war.

3. Iraq's History in the Use of Chemical Warfare Agents

The fears and the precautions taken prior to the Gulf War were not the product of excessive hysteria. Five United Nations reports have confirmed the use of chemical warfare agents in the Iran-Iraq War.[45] In April 1993, two U.S.-based human rights organizations confirmed that they had found residues of chemical weapons used by the Iraqi government of Saddam Hussein against a Kurdish village in northern Iraq in 1988. These groups, Physicians for Human Rights and Human Rights Watch, said they had used advanced analytical techniques to discover the presence of mustard gas andthe nerve gas Sarin. Those chemical weapons reportedly were dropped by aircraft on August 25, 1988 and killed four people in the Kurdish village of Birjinni.[46]

This was the first time that scientists had been able to prove the use of chemical weapons, and especially a nerve gas, through the analysis of environmental residue acquired years after such an attack occurred.[47]

Soil samples were gathered from the 1988 bombing sites and then delivered to a British laboratory. Chemists at Porton Down found traces of mustard gas and Sarin. Testimony from survivors of the Birjinni bombing, who said many victims of the raids died writhing and coughing blood, led to accusations that Iraq had gassed its own citizens as part of a campaign against rebellious Kurds that killed tens of thousands.[48]

Dr. Graham Pearson, director of the British Chemical and Biological Defence Establishment, verified these results and confirmed the samples were taken from bomb craters near the northern Iraqi village of Birjinni in June 1992. The byproducts of the breakdown of these poisons are so specific that they provide a "unique fingerprint" in chemical analysis that points directly to a poison gas attack.[49]

4. Department of Defense Inconsistent Statements About the Chemical Warfare Capabilities of the FROG-7 Rocket

While some analysts had speculated prior to the Gulf War that Iraq did not have a chemical warhead capability, other events and statements which preceded and followed the attacks of January 17 and January 20, 1991 seem to indicate otherwise.

A month before the war began, then CIA Director William Webster estimated that Iraq possessed 1,000 tons of poisonous chemical agents, much of them loaded in shells, rockets and two types of missiles, the FROG and the SCUD B.[50]

On January 20, 1991, a spokesman for the joint allied forces reported that the Iraqi FROG missiles carried only conventional explosives.[51]

Jane's Strategic Weapons Systems lists warhead types for the FROG-7 missiles as high explosive, chemical, and nuclear.[52]

On January 31, 1991, according to Col. George A. Gray III, a U.S. Air Force Special Operations AC-130 was shot down while supporting Marine units engaged in nighttime operations near Khafji, Saudi Arabia. The Marines had located a FROG missile battery

capable, according to Col. Gray, of launching an explosive or chemical attack. The AC-130 was shot down and its 14 crewmembers killed in the attempt to destroy the FROG battery.[53]

In March, 1991, Molly Moore reported from Jubayl, Saudi Arabia, that Marine commanders said that they found no indications of chemical weapons stockpiles on the battlefields of Kuwait. According to a Washington Post report that day, U.S. intelligence analysts claimed, as one senior officer put it, that these weapons "never got distributed down to the battlefield" from storage sites north of the Euphrates River.[54]

In June, 1991, in an article which appeared in *Air Force Magazine*, Lt. General Gordon Fornell, of Air Force Systems Command, Electronic Systems Division, noted that during the Gulf War, a Joint Surveillance and Target Attack Radar System (JSTARS) aircraft detected an Iraqi convoy carrying FROG missiles fitted with chemical munitions. The convoy was subsequently targeted and destroyed by F-16s.[55]

Part C. Gulf War Syndrome—Group II Disorders

Group II Disorders—resulting from downwind exposure to coalition bombings.

1. The Coalition Bombing of Iraqi Chemical, Biological, and Nuclear Facilities and the Detection of Chemical Agents by Both Czech and American Forces

U.S. Unofficial Reports

During the early phases of the "air war" there was extensive media reporting of the coalition bombing of Iraqi chemical, biological, and nuclear facilities.

Brian Martin of Niles, Michigan, a Gulf War veteran of the 37th Combat Airborne Engineer Battalion, 20th Airborne Brigade, 18th Airborne Corps, arrived in Saudi Arabia on October 8, 1990. According to Martin, in late January 1991, while assigned to an area between Raffa and Naryian,about six miles south of the Iraqi border, he recorded in his journal and on videotape that chemical "false alarms" were going off almost every day. At first, the alarms were explained as being caused by vapors coming off the sand. Later, since the alarms kept going off, the troops no longer believed that they were being caused by the vapors. Martin said they were then advised that the alarms were sounding because of minute quantities of nerve agent in the air, released by the coalition bombing of Iraqi chemical weapons facilities. The troops were assured that there was no danger.

Martin also claims to have witnessed a Patriot intercept of an incoming SCUD missile between Kafji and Wahdi Albatin during the air war period. Martin was also given the anti-chemical warfare medication pyridostigmine, and suffered some adverse side effects. According to Martin, the drug made him jittery and made his vision "jiggle." Since returning from the Saudi Arabia, Martin has experienced memory loss, swollen and burning feet, joint disorders, muscle weakness, heart palpitations, shortness of breath, rashes, fatigue, headaches, insomnia, bleeding from the rectum, chronic coughing, running nose, burning eyes, and uncontrollable shaking on his right-side extremities.[56]

According to another report, on January 27, 1991, near the Saudi-Kuwaiti border, elements of the 82nd Airborne Division went through a chemical alert drill that was more than an exercise. According to ABC News coverage, their sensors actually registered traces of chemicals in the air, the result, it appeared, of allied bombing of chemical plants in Iraq. A U.S. medical corpsman told reporters, "When the Air Force bombers hit all the gas places there in Iraq, there's a lot of contamination in the air. Some may have filtered down and set these things off. They're very, very sensitive.[57]

Czech Government Reports

In late July, 1993, the Czech Minister of Defense confirmed that a Czechoslovak Federative Republic military chemical decontamination unit assigned to an area near the Saudi-Iraqi border had detected the chemical nerve agent Sarin in the air during the early stages of the Gulf War. In this unit, 10 of 185 individuals are believed to be suffering from Gulf War illnesses.[58]

Weather Reports

Weather reports during this period were censored by the U.S. and Saudi governments. But environmental groups monitoring an oil spill in the Persian Gulf indicate that the winds were blowing from northwest to southeast. The chemical and biological warfare agent production plants bombed by the coalition forces during this period are located in Iraq to the northwest of coalition troop deployments along the Saudi-Iraqi and Saudi-Kuwaiti border.[59]

Known Allied Chemical/Nuclear Targets in Iraq: Ar Rutbah, Al Qaim, Al Falluja, Samarra, Salman Pak, Muthanna, Iraqi deployed chemical munitions along the Kuwaiti-Saudi border.

The yellow "downwind zone" on the map only includes the area between the targeted areas and those areas in which chemical agent alarms were sounding. The exposure area may have been much larger depending on a number of conditions reported below.

[Map not reproducible in RECORD.]

2. U.S. and Soviet Doctrinal Estimates on the Use of Chemical Weapons and the Dispersion of Chemical Agents

The utility of chemical weapons and the possibility of exposing one's own troops to indirect chemical weapons effects is an issue which has been seriously debated by both U.S. and Soviet military planners. Soviet doctrine questions the utility of initiating chemical warfare, since chemical weapons produce secondary effects that could obstruct troop advances. U.S. military doctrine warns that, according to its calculations, the use of a nerve agent against a target area of no more than a dozen hectares (a hectare is about 2.47 acres) can, under certain weather conditions, create a hazard zone downwind of up to 100 kilometers in length. Within this downwind area, friendly military units would have to take protective measures.[60]

According to the official military announcements made in the last half of January 1991, and based on the quantity of chemical agents observed by UN inspectors after the war, the scope of coalition bombing against these facilities involved hundreds, if not thousands, of tons of bulk chemical nerve agents, mustard gas, and tens of thousands of pieces of chemical munitions. This quantity of chemical warfare agent vastly exceeds the amounts than might be expected to be deployed by a military force in a single chemical attack. Additionally, the bombing of the Iraqi nuclear facilities during this period also likely resulted in the dispersion of radioactive substances, though that possibility is not addressed in this report.

The dispersal of the chemical agents and other hazardous substances is controlled by factors such as topography, wind velocity, direction, temperature, precipitation, vertical temperature gradient, and atmospheric humidity. These factors all contribute to the size and type of dispersal pattern which will be observed.[61]

Further, in considering the placement of troops in areas downwind, where non-lethal exposure to chemical warfare agents might be expected, it must be remembered that many chemical nerve agents and other agents have cumulative effects.[62]

3. The Relationship Between The Coalition Bombing and Gulf War Syndrome (Group II Disorders)

The following facts provide significant evidence that coalition forces were exposed to mixed chemical agents as a result of coalition bombings of Iraqi nuclear, chemical, and biological facilities.

Chemical alarms sounded and the servicemen were put on chemical alert.

U.S. military personnel and the Czech government confirmed that the chemical alarms were sounding as the result of nerve agent detection.

The combination of prevailing wind directions, the open terrain, the lack of structural impediments, and other factors listed above, indicate that chemical and possibly nuclear and biological agents from allied bombings became airborne and were blown across coalition forces emplacements along the Saudi-Iraqi and Saudi-Kuwaiti border.

Chemical nerve agents, such as Sarin and others, are known to have a cumulative effect.

Incidence of Gulf War Illnesses in Czechoslovak Chemical Decontamination Unit—Approximately 10 of 185=5.5%.

Part D. Gulf War Syndrome—Group III Disorders

Group III Disorders—resulting from the administration of nerve agent pre-treatment drugs and biological warfare inoculations.

1. Administration of Chemical and Biological Warfare Agent Pre-treatment Drugs and Gulf War Syndrome (Group III Disorders)

Another group of individuals is reporting that the antidotes given to US troops to protect them against Iraqi gas attacks may have permanently damaged some veterans' health.

Maj. Gen. Ronald Blanck, commander of the Walter Reed Army Medical Center, has said that, "Military intelligence reports indicated there was a real possibility that Iraqi forces would employ biological and chemical weapons; in response to that threat, anthrax vaccine and botulinum vaccine were administered." The Army also gave soldiers a course of pyridostigmine bromide pills, normally used for neuro-muscular disorders. A public interest group, that Public Citizen, had filed a suit to stop experimental drugs being used on soldiers without their consent, but immediately before the war the suit was dismissed.[63]

Carol Picou, assigned to a combat support hospital during the Gulf War, recalls that when the ground war began, "we were ordered to take the drug pyridostigmine to protect us against chemical attack. Within one hour of taking the drug, I began to experience serious side-effects such as uncontrollable twitching eyes, runny nose, excessive frothing from the mouth, neck and shoulder pain."[64]

Patricia Axelrod, a research specialist whose study of the drug was cited by the House Veteran Affairs subcommittee, said: "This drug is unproven [referring to pyridostigmine bromide]. The use of this drug in a healthy person can lead to a mixed variety of inhibitory and stimulatory responses in the central nervous system"—similar to the symptoms of some veterans.[65]

Dr. Sidney Wolfe, director of the Public Citizen's health research group, who filed a

suit against use of the drug, said it was administered so sloppily that nobody knew who took it. No one in the Food and Drug Administration thought it was a good idea, but they were forced to do it by the Defense Department. Maj. Gen. Blanck said that there was a risk of minor side effects, but that these were worthwhile to be "prepared for exposure to deadly biological and chemical warfare agents."[66]

According to news reports, Ms. Axelrod claims these drugs were given without any real concern for the long-term effect on the soldiers.[67]

As reported above under Group II disorders, Brian Martin also claimed to have had side effects from the drug pyridostigmine. According to Martin, the drug made him jittery and made his vision "jiggle."

Chemically related to pesticides, nerve agents such as Sarin and Tabun kill by interfering with the metabolic processes, and cause a buildup of a chemical messenger in the human metabolic process called acetylcholine, which operates in the gap between the nerve and the muscle cells. A buildup of acetylcholine may cause drooling, excessive sweating, cramping, vomiting, confusion, irregular heart beat, convulsions, loss of consciousness and coma.[68] Little, however, is known about the consequences of non-lethal exposure to these toxins.

Nerve gas pre-treatment drugs such as pyridostigmine bromide, paradoxically, also meddle with these metabolic processes by creating carbamate-inhibited acetylcholinesterase, which interferes with the actions of nerve gas.[69]

Part E. Conclusions

1. Why Wasn't Everyone Affected—The Need for Immediate Advanced Medical Research

The ability of someone to resist an illness, disease, or the adverse effects of a medication varies with each individual. Not everyone who received nerve agent pre-treatment drugs exhibited adverse effects. According to the Center for Disease Control, Nerve Gas Division, not everyone who is exposed to nerve gas will cross a toxic threshold at the same time. Certainly, there is a threshold beyond which such exposure will surely be lethal. This is what has come to be accepted as the effect of nerve gas exposure.

The results of this investigation suggest that there is, in fact, a relationship between dosage and harmful effects. Units who believe they suffered a direct chemical weapons attack report illness rates as high as 77%. The Czech chemical decontamination unit, which suffered only indirect exposure, reports an illness rate of 5.5%. The extent of exposure in the larger population in the Gulf at the time, and the rate of illnesses, is unknown.

Nerve agents like Sarin kill by disrupting the metabolic processes, causing a buildup of a chemical messenger (acetylcholine) by inhibiting the production of acetylcholinesterase, a key regulator of neurotransmission. Nerve agent pre-treatment drugs (NAPP) administered to U.S. service men and women, such as pyridostigmine bromide, also disrupt these metabolic processes by creating a carbamite-inhibited acetylcholinesterase, which preempts the action of the nerve agent. Several veterans suffering from Gulf War illnesses, including some who are medical professionals, testified beforeHouse Veterans Affairs Committee earlier this year that they believe that these illness are related to the permanent adverse side effects from this drug.

Thousands of veterans of the Gulf War are reporting symptoms of memory loss, muscle and joint pain, intestinal and heart problems, fatigue, rashes, sores, and running noses. A number of veterans who have exhibited these symptoms since returning from the Gulf War have subsequently died. Physicians have been unable to diagnose the cause of the disorders.

Little is known about the long-term consequences of exposure to low levels of nerve gas, and even less about complications which might arise from using combined agent weapons. Further, little is known about other difficulties associated with interfering with the neurotransmission process. Non-lethal exposure to pesticides, however, has manifested itself in memory loss. Nearly every bodily process requires a properly functioning nervous system to operate.

Based on the research done on the drug pyridostigmine bromide, one would expect to see differences in the extent of the disorders an individual might suffer from, since pyridostigmine bromide is thought to be a poor penetrator of the central nervous system.[70]

The following is a summary, not offered as diagnostic evidence, suggesting how some of the symptoms noted could be rooted in neurotransmission-related disorders:

Memory-loss: Although neuroscience is a long way from explaining the memory functions of the human brain, considerable strides have been made toward understanding how neurons are modified by experience and how those modifications are maintained for extended periods of time. The ability to remember is regulated, however, by neural processing.[71] On August 25, 1993 a researcher who participated in the investigation of the use of nerve gas by the Iraqi government against the Kurds, suggested that the effects of non-lethal exposures to nerve agents could be similar to those involving non-lethal exposures to pesticides. He said these disorders are generally neuropsychological and include memory loss.[72] This assessment was not however intended as a diagnostic conclusion.

Muscle Pains: Myasthenia Gravis is a disease causing progressive muscle weakness. It has been shown that the disease is an autoimmune reaction to the acetylcholine-gated channels in the neuromuscular junction. Many drugs and toxins, including pesticides and nerve gas, are known to exhibit their effects through specific actions at the neuromuscular junctions, blocking the action of acetylcholinesterase.[73]

Joint Pains: When the force generated by a muscle acts on a load, there is a requisite exchange of energy between the muscle and the load. A failure of the nervous system to send impulses to effector muscles can result in the failure of effector muscles to provide the resistance necessary to protect joints from excessive torque. This failure, and the resultant joint pain, is consistent with the action of any agent or medication which functions by disrupting the communication process operating in the gap between the nerve and the muscle cells.[74]

Gastrointestinal Disorders: As a combined neural operation, the neural signals that control digestive functions, such as in the complex nervous system of the gut, are largely, but not entirely, independent of the central nervous system (CNS). Many of the control functions are conducted by local nerve networks and the endocrine systems. These digestive functions, however, depend on the ability of the CNS and local nerve networks to function properly.[75]

Heart problems, running noses and virtually every other problem lumped under the heading of Gulf War Illnesses can be explained by neuromuscular disorders or exposure to biotoxins. Some of the non-chemical warfare related diseases involving a disruption in the acetylcholine-gated channels in the neuromuscular messenger junctions, such as myasthenia gravis, while treatable, are irreversible. Neurotransmission disorders resulting from disrupted physiological processes, such as those regulating acetylcholines (including toxin acetylcholine and acetylcholinesterase) may be contributing to these disorders. Detection of these types of disorders may only be possible using highly sophisticated, computer-enhanced electroencephalograms (EEG). Further, given the possibility that some of these individuals were exposed to biotoxins and other biological agents, physicians using sophisticated procedures requiring electron microscopy must have some idea of what they are looking for.

12. Conclusions and Recommendations

Thousands of American servicemen and women are reportedly suffering from memory loss, muscle and joint pain, intestinal and heart problems, fatigue, rashes, sores, and running noses as a result of their service in the Gulf War. A number of veterans who have exhibited these symptoms since returning from the Gulf War reportedly have died. Physicians have been unable to diagnose or treat the cause of the disorders.

Despite the Department of Defense's position that no evidence exists for exposure to chemical warfare agents during the Gulf War, this investigation indicates that there is substantial evidence supporting claims that U.S. servicemen and women were exposed to low level chemical warfare agents and possibly biological toxins from a variety of possible sources. This exposure may account for many of the Gulf War Illness symptoms. Little is known about the long-term consequences of exposure to low levels of nerve gas, although most are known to have cumulative toxic effects. Even less is known about complications which might arise from exposure to combined agents and combined agent weapons. Non-lethal exposure to pesticides can result in memory loss, and nerve agents are chemically related to pesticides. Many of the veterans complaining of Gulf War Syndrome illnesses suffer from, among other disorders, memory loss. Many of the identified chemical and biological agents interfere with the body's neurotransmission processes, affecting the regulation of acetylcholine, toxin acetylcholine, and other necessary enzymes required by nearly every bodily process. In order to detect irregularities such as those which might be caused by exposure to nerve gas, computer-enhanced electroencoephalograms are needed; a physician probably would not be able to recognize the abnormalities in during a visual EEG interpretation.

If biotoxins or biological agents were used or released in the Gulf War, detection requires that physicians have some idea of what they are looking for. Further, if mycotoxins or viruses were used or released, they would be difficult to detect without the aid of an electron microscope.

Non-lethal exposure to chemical warfare agents, mixed chemical/biotoxin agents and the administration of nerve agent pre-treatment drugs could explain many of the symptoms of the Gulf War illness, as well as the inability to diagnose the disorders. Other possible causes for Gulf War syndrome have been suggested, such as exposure to pesticides, petrochemicals, burning landfills and oil wells, depleted uranium from anti-tank

munitions, or exposure to other environmental hazards. Many of these possibilities already have been investigated and discounted. Additionally, these types of exposures are not specific to the Middle East or to the Gulf War and the evidence for these hazards causing the large number of unexplained illnesses is less than compelling. Each of these possible cause of unexplained illnesses, however, should be systematically researched.

Recommendations

Recommendation 1: Based on the description of the events, which indicate that Iraq may have deliberately employed chemical and toxin agents against U.S. forces, the inconsistencies in the statements by the Department of Defense as to whether chemical weapons were forward-deployed and about the capabilities of Iraqi FROG missiles and other Iraqi forward-deployed chemical weapons, an immediate investigation into the events of January 17, 1991 and January 20, 1991 is warranted.

Recommendation 2: Based on the inconsistencies between the unofficial reports of U.S. military personnel, the reports of the Czech government, and the Department of Defense official position that U.S. servicemen and women were not exposed to chemical and biological agents as a result of the "air war" bombings of Iraqi chemical, biological, and nuclear facilities, and a determination of the extent of the corresponding "downwind zone" of mixed chemical, biological, and radiological contamination, is warranted.

Recommendation 3: Research to determine if the symptoms exhibited by veterans of the Gulf War result from exposure to a combination of chemical and biotoxin warfare agents is warranted. Without this research, appropriate courses of treatment cannot be determined.

Recommendation 4: Research to determine what, if any, adverse side effects may be linked to the administration of nerve agent pre-treatment drugs and biological warfare agent inoculations is also warranted. Without this research, future policy on their use and appropriate courses of treatment cannot be determined.

FOOTNOTES

*The reporting in this section focuses on the coincidence on both January 17, 1991 and January 20, 1991, between the reported chemical attacks and reports of FROG missiles falling in the areas where these units were assigned. It should be noted, however, that even if the reported attacks do not coincide with the FROG launches, the evidence is clear that these individuals are reporting occurrences consistent with two separate chemical weapons attacks. Iraq had other chemical capable munitions which also could have been employed against these units.

[1] This estimate is based on media and veterans group sources. Other estimates by these groups range from 4,000–11,000 individuals

[2] For a more detailed discussion of Iraqi chemical and biological weapons capabilities see: Anthony H. Cordesman, *After the Storm: The Changing Military Balance in the Middle East* (Bounder and San Francisco: Westview Press, 1993), 494–507.

[3] Task Force on Terrorism and Unconventional Warfare, "Chemical Weapons In The Third World," 2; "Iraq's Expanding Chemical Arsenal," House Republican Research Committee, U.S. House of Representatives (May 29, 1990), 9–10; Anthony H. Cordesman, *After the Storm: The Changing Military Balance in the Middle East* (Bounder and San Francisco: Westview Press, 1993), 498.

[4] Anthony H. Cordesman, *After the Storm: The Changing Military Balance in the Middle East* (Boulder and San Francisco: Westview Press, 1993), 498, 546. According to Cordesman, some of these reports may be exaggerated. "There is no question that Falluja had large scale facilities, but some of these facilities seem to produce nothing but the precursor chemicals for sarin, like phosphorous oxychloride and phosphorous trichloride. Falluja have been concentrating on the production of precursors." For additional views, see Task Force on Terrorism and Unconventional Warfare, "Chemical Weapons In The Third World," 2; "Iraq's Expanding Chemical Arsenal," House Republican Research Committee, U.S. House of Representatives (May 29, 1990), 8.

[5] Peter Dunn, "The Chemical War: Journey to Iran," *NBC Defense and Technology International*, pp. 28–37; W. Seth Carus, *The Genie Unleashed: Iraq's Chemical and Biological Weapon Production*, (Washington: Washington Institute Policy Papers, No. 14) 22–23; Foreign Report (March 31, 1988), 12; *Jane's Defence Weekly* (January 9, 1998), 3; *Jane's Defence Weekly* (February 27, 1988), 336; Anthony H. Cordesman, *After the Storm: The Changing Military Balance in the Middle East* (Boulder and San Francisco: Westview Press, 1993) 498, 546.

[6] Michael Eisenstadt, *The Sword of the Arabs: Iraq's Strategic Weapons* (Washington: Washington Institute Policy Papers, No. 21, September 1990), 7; Seth Carus, "Chemical Weapons in the Middle East," *Policy Focus, No. 9*, Washington Institute for Near East Policy (December 1988), 4; "Iraq's Scare Tactic," *Newsweek* (August 2, 1982); *Washington Post* (April 5, 1988), A1; Dick Palowski, *Changes in Threat Air Combat Doctrine and Force Structure, 24th Edition* (Fort Worth: General Dynamics DWIC-91, February 1992), II-325, II-334; *Jane's Soviet Intelligence Review* (June 1989), 256; *Foreign Report* (March 31, 1988), 1; *New York Times* (November 12, 1991; as cited in Anthony H. Cordesman, *After the Storm: The Changing Military Balance in the Middle East* (Boulder and San Francisco: Westview Press, 1993), 499, 547;

[7] Frank J. Piral, "U.N. Team Finds Chemical Arms Four Times Greater Than Iraq Claims," *New York Times* (July 31, 1991), A1.

[8] "New Method Found to Destroy Iraqi Poison Gas Shells," *Xinhua News Service*, Item No. 0320210, Cairo, Egypt (March 20, 1993); Brent Sadler, "U.N. and Iraqi Teams Work to Destroy Chemical Weapons," *Cable News Network* Transcript #133-5 (October 8, 1992).

[9] "New Method Found to Destroy Iraqi Poison Gas Shells," *Xinhua News Agency* (March 10, 1993); "United Nations Destroying Iraqi Nerve Gas Stockpiles," *Associated Press* (September 24, 1992).

[10] Judith Perrera, "Iraq: Chemical Weapons Program Disabled, Say U.N. Inspectors," *Inter Press Service* (September 29, 1992).

[11] "U.N. Winds Up Survey of Biological Sites in Iraq," *Associated Press* (March 18, 1993), PM Cycle.

[12] Ibid.

[13] Interview with Dr. Sanford Leffingwell, Center for Disease Control, Nerve Gas Division, on September 3, 1993. Dr. Leffingwell advised that Soviet Chemical Warfare Doctrine recommends the use of mixed agents in chemical warfare attacks (using several canisters of agents); Anthony H. Cordesman, *After the Storm: The Changing Military Balance in the Middle East* (Boulder and San Francisco: Westview Press, 1993), 499, 547; Jane's Defense Weekly (January 9, 1988); Jane's Defense Weekly (January 28, 1989); Task Force on Terrorism and Unconventional Warfare, "Chemical Weapons In The Third World," 2; "Iraq's Expanding Chemical Arsenal," House Republican Research Committee, U.S. House of Representatives (May 29, 1990), 10.

[14] Ibid.

[15] Ibid.

[16] Joachim Krause and Charles K. Mallory, *Chemical Weapons in Soivet Military Doctrine: Military and Historical Experience, 1915–1991*, (Boulder, Co.: Westview Press, 1992), 162, 209.

[17] "United Nations Destroying Iraqi Nerve Gas Stockpiles," *Associated Press* (September 24, 1992).

[18] William Booth, "Gas Masks, Antidote Cause Three Deaths and Illness in Israel," *Washington Post* (January 19, 1991) A20.

[19] Joachim Krause and Charles K. Mallory, *Chemical Weapons in Soviet Military Doctrine: Military and Historical Experience, 1915–1991*, (Boulder, Co.: Westview Press, 1992), 208.

[20] Ibid, 209.

[21] Ibid.

[22] Ibid, 210.

[23] Ibid, 205.

[24] Interview with Dr. Sanford Leffingwell, Center for Disease Control, Nerve Gas Division, on September 3, 1993.

[25] Joachim Krause and Charles K. Mallory, *Chemical Weapons in Soviet Military Doctrine: Military and Historical Experience, 1915–1991*, (Boulder, Co.: Westview Press, 1992), 208; V.V. Miasnikov, *Defense Against Weapons of Mass-Destruction: A Guide* (Moscow: Voyenizdat, 1984, 82–83.

[26] Joachim Krause and Charles K. Mallory, *Chemical Weapons in Soviet Military Doctrine: Military and Historical Experience, 1915–1991*, (Boulder, Co.: Westview Press, 1992), 205; V.V. Miasnikov, *Defense Against Weapons of Mass-Destruction: A Guide* (Moscow: Voyenizdat, 1984, 82; Vladimir K. Pikalov, "Toxic Agents," *The Soviet Military Encyclopedia, Volume 6* (Moscow: Voyenizdat, 1978).

[27] Joachim Krause and Charles K. Mallory, *Chemical Weapons in Soviet Military Doctrine: Military and Historical Experience, 1915–1991*, (Boulder, Co.: Westview Press, 1992); Vladimir K. Pikalov, "Toxic Agents," *The Soviet Military Encyclopedia, Volume 6* (Moscow: Voyenizdat, 1978).

[28] Testimony before the Senate Committee on Armed Services, Subcommittee on Force Structure and Personnel (June 30, 1993).

[29] Ibid.

[30] Ruth Sinai, "Pre-Attack Predictions Were Right and Wrong," *Associated Press* (January 17, 1991).

[31] Ibid.

[32] Testimony before the Senate Committee on Armed Services, Subcommittee on Force Structure and Personnel (June 30, 1993).

[33] Ibid.

[34] Patrick Cockburn, "Gulf War Guinea Pigs Tell Senate of Mystery Illness; Experts Point to Experimental Drugs Given to Troops in Case of Gas Attack," *The Independent* (July 2, 1993), 13.

[35] Ibid.

[36] Diane Sawyer, "World News Sunday," *ABC News* (January 20, 1991); "Alert Sounded in Saudi Arabia," *Associated Press* (January 20, 1991), PM Cycle, Richard Pyle, "Patriots Said to Destroy Two Volleys of Iraqi Missiles Over Saudi Arabia," *Associated Press* (January 20, 1991).

[37] "Iraq Fires SCUDS at Saudi Capital—CNN," *Reuters* (January 20, 1991), BC Cycle; Department of the Army, August 31, September 3, 1993; *Boston Globe* (January 20, 1991); Testimony before the Senate Committee on Armed Services, Subcommittee on Force Structure and Personnel, June 30, 1993.

[38] Tarek Hamada, "Allied Men, Supplies Converging on Border," *Detroit Free Press* (January 21, 1991).

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[40] Interview with Dr. Sanford Leffingwell, Center for Disease Control, Nerve Gas Division, on September 3, 1993.

[41] Jane M. Orient, MD, "Chemical and Biological Warfare: Should Defenses be Researched and Deployed," *Journal of the American Medical Association* (August 4, 1989), 644–648.

[42] Ibid.

[43] Interview with Dr. Sanford Leffingwell, Center for Disease Control, Nerve Gas Division, on September 3, 1993.

[44] P.T. Yergorov, I.A. Shlyakhov, and N.I. Alabin, *Civil Defense: A Soviet View*, translated by the Oak Ridge National Laboratory, revised by the U.S. Air Force (Moscow: Vysshaya Shkola, 1970), 65.

[45] Steven R. Bowman, *Congressional Research Service Issue Brief: Chemical Weapons Proliferation: Issues for Congress, IB90084* (Washington, D.C.: Congressional Research Service, Foreign Affairs and Defense Division, Updated August 17, 1993) 2.

[46] "Washington Dateline: Group Offers Evidence Iraq Used Poison Gas Against Own People," *Associated Press* (April 29, 1993), PM Cycle; Deborah Zabarenko, "Scientists: Lab Shows Iraq Used Poison Gas on Kurds," *Reuters* (April 29, 1993), BC Cycle.

[47] Ibid.

[48] Ibid.

[49] Christopher Walker, "Overseas News: Saddam Glories in Birthday Homage," *The Times* (April 30, 1993).

[50] Rick Atkinson, "No Chemical Arms Found on Battlefield: U.S. Says Iraqi Logistics Failed," *Washington Post* (March 7, 1991), A1.

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[52] Duncan Lennox, *Janes Strategic Weapons Systems*, (Surrey, U.K.: Janes Information Group, 1990).

[53] Bill Kaczor, "Commander: Gunship Downed Protecting Marines," *Associated Press* (March 15, 1991); "Airmen Died in Heroic Mission," *Chicago Tribune* (March 17, 1991), News 5; Judi Hasson, "Pensacola Native Buried in Arlington Ceremony," *Gannett News Services* (April 18, 1991).

[54] Rick Atkinson, "No Chemical Arms Found on Battlefield: U.S. Says Iraqi Logistics Failed," *Washington Post* (March 7, 1991), A1.

[55] Peter Grier, "Joint STARS Does Its Stuff," *Air Force Magazine* (June 1991), 38.

[56] Telephone interview of Brian Martin by the author on August 31, 1993.

[57] Sam Donaldson, "This Week With David Brinkley," *ABC News* (January 27, 1991).

[58] Dave Parks, "Czechs: Nerve Gas Detected During Gulf War," *The Times Picayune* (July 30, 1993), A6; Stanislav Mundil, *Czech News Agency and Mlada Fronta Dnes* (July 29, 1993).

[59] Ronald A. Taylor, "Air Masses Battle Over Desert Also," *Washington Times* (January 24, 1991); "Skies Could Clear in Gulf by Sunday," *Reuters* (January 25, 1991).

[60] United States, Department of the Army, Field Manual 100-5, *Operations* (Washington, D.C.: Army, August 1982), 7-13; Joachim Krause and Charles K. Mallory, *Chemical Weapons in Soviet Military Doctrine: Military and Historical Experience, 1915-1991*, (Boulder, Co.: Westview Press, 1992), 142-143.

[61] Ibid.

[62] Joachim Krause and Charles K. Mallory, *Chemical Weapons in Soviet Military Doctrine: Military and Historical Experience, 1915-1991*, (Boulder, Co.: Westview Press, 1992), 205; V.V. Miasnikov, *Defense Against Weapons of Mass-Destruction: A Guide* (Moscow: Voyenizdat, 1984), 78.

[63] Patrick Cockburn, "Gulf War Guniea Pigs Tell Senate of Mystery Illness; Experts Point to Experimental Drugs Given to Troops in Case of Gas Attack," *The Independent* (July 2, 1993), 13; Brian Christie, "Viewers Question Experts About Vets with Gulf War Illness," *Cable News Network* Transcript #267-2 (June 10, 1993).

[64] Ibid.

[65] Ibid.

[66] Ibid.

[67] Ibid.

[68] William Booth, "Gas Masks, Antidote Cause Three Deaths and Illness in Israel," *Washington Post* (January 19, 1991) A20.

[69] Col. Michael A. Dunn, MC, USA, and Frederick R. Sidell, "Progress in Medical Defense Against Nerve Agents," *Journal of the American Medical Association* (August 4, 1989), 649-652.

[70] Ibid.

[71] Lloyd D. Partridge and L. Donald Partridge, *The Nervous System: Its Function and Interaction with the World* (Cambridge, Massachusetts: MIT Press, 1993).

[72] Interview with a researcher from Physicians for Human Rights on August 25, 1993.

[73] Lloyd D. Partridge and L. Donald Partridge, *The Nervous System: Its Function and Interaction with the World* (Cambridge, Massachusetts: MIT Press, 1993).

[74] Ibid.

[75] Ibid.

Mr. NUNN. Mr. President, I thank the Senator from Michigan and I commend him for his interest in this very important problem.

We have been studying this for about 2 years. The Army has looked at it at the urging of our committee. The other military departments are also taking a close look. The Veterans' Administration is. But we do need a coordinated effort.

In our bill that is before us now, we direct the Department of Defense and the Veterans' Affairs Committee to work together on this research.

I think the Senator's amendment, after a hasty reading, would further strengthen and would move us very vigorously in that direction. I would hope we could support the amendment.

There are a couple of things we need to iron out in the wording. We need to make sure we understand exactly the funding sequence and how that would be handled. And there is some language that I know was not the intent of the Senator from Michigan. But we want to make sure it is clarified so that there will be no ambiguity about using any kind of human beings to experiment in this respect. We want to make sure we do not give any kind of indication in regard to that.

So those clarifications can be worked on by our staff, with the staff of the Senator from Michigan during the day. It would be my hope that we could, on both sides of the aisle, work this out. I know Senator COATS indicated to me, the Senator from Indiana, that he would hope also we could work this out.

So we appreciate the Senator's interest. It is a very important problem for a number of people, and has been a matter of a considerable amount of concern. And frankly, there are no easy, quick answers to it. But it ought to be diligently pursued. We owe the men and women who served there our every effort to make sure that we protect any health problems that come out of this conflict.

So I thank the Senator from Michigan.

Mr. RIEGLE. Mr. President, let me thank the Senator from Georgia, the chairman, for his courtesy and his response. My staff and I will be working with him in the course of the day to iron out these questions. It would be very helpful if the committee would support this amendment. I think it is essential that this work start.

I must say, too, that a number of veterans in Michigan contacted me directly on this issue. I think it is important that other veterans around the country that may be experiencing these symptoms also report in to the committee or to me or to their home State Senators so that we can assemble an even more complete body of information. But I have a number of case histories now that fit this pattern that make it clear to me that the logic here works.

So now I think we have to test it with the medical research. We know how to do it. But if there is no serious effort to examine that possibility of cause and effect, if that is a problem, then we are not going to get the answer. I do not think we can afford to wait any longer.

Mr. NUNN. I agree with the Senator.

Mr. President, I believe the regular order would be that the Senator from California be recognized at this point in time. I appreciate the courtesy of the Senator from California in permitting this amendment to be explained. It will help facilitate us later in the day, I hope.

The ACTING PRESIDENT pro tempore. The Senator is correct.

The Senator from California is recognized.

AMENDMENT NO. 783.

Mrs. BOXER. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 783.

Strike out section 546 (page 139, line 20, through page 148, line 8) and insert in lieu thereof the following:

SEC. 546. SENSE OF CONGRESS CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.

It is the sense of Congress that the policy of the Government concerning the service of homosexuals in the Armed Forces is a matter that should be determined by the President, as chief executive officer of the Government and commander-in-chief of the Armed Forces, based upon advice provided to the President by the Secretary of Defense and the military advisors to the President and Secretary.

Mrs. BOXER. Mr. President, as you listened to my amendment, you can see that it is very brief and to the point. That is why I allowed it to be read in its entirety.

It strikes out the language in the bill that deals with gays and lesbians serving in the military, and it replaces that language found in section 546 with a simple resolution allowing the President to resolve this matter with the advice of the Secretary of Defense and other military advisers.

Mr. President, I object to the policy contained in the bill for a number of reasons. I am going to cite four.

First, on the question of codification, there is no historic precedent for the codification of the military personnel policy that prevents a whole class of Americans from serving their country in the Armed Forces. There is simply no compelling reason to believe that we should break with history and codify such a policy. Over the past four decades, Congress has declined to impose restrictive personnel policies on the military.

In fact, even when the Tailhook scandal occurred, Congress stepped back and allowed the military to exercise its professional judgment.

In his report on the Tailhook scandal, the inspector general found that 83 women were sexually assaulted during the course of the 3-day Navy convention in Las Vegas. In total, 117 officers were implicated in one or more incidents of indecent assault, indecent exposure, conduct unbecoming an officer, or failure to act in a proper leadership capacity. And these acts were all committed by heterosexuals.

The report is graphic in its description of the alcohol abuse and sexual abuse within the military. Assaults varied, from female victims being grabbed, groped, pinched, and fondled. Some victims were bitten. Others were knocked to the ground, and some had their clothing removed or ripped.

The report rejects the claim that Tailhook was isolated. The abuses were not significantly different from those of earlier Tailhook meetings and were accepted by too many of the Navy's civilian and military leadership.

The report cites an overall failure of Naval leadership. And yet, in light of that scandal, Congress was content to allow the military to deal with this

issue. Yes, we exerted leadership, and much of that came from Chairman SAM NUNN. Senator SAM NUNN of Georgia exerted tremendous leadership in making sure the military got to the bottom of the Tailhook scandal.

Much leadership came from Congresswoman PAT SCHROEDER, and from the chairman of the Armed Services Committee at that time, Les Aspin, who is now the Secretary of Defense. They pushed and they prodded, and the military is responding.

But nobody at that time, nobody in this Chamber or on the other side, suggested a law that would kick all of the heterosexual men out of the military. Of course not. We did not even move to codify sexual harassment policy, although arguably such a policy would affect far more people than the policy this bill would codify concerning homosexuals.

So we in the Congress said after Tailhook, of those who behaved badly, who betrayed the honor of the military, we said it was behavior, not orientation. We did not condemn a whole class of heterosexual men because of that terrible behavior. Of course not.

We said that the Tailhook scandal was a matter of bad behavior, terrible behavior, on the part of heterosexual individuals and that the military should act to enforce strict behavioral rules. I bring that up, Mr. President, because I truly believe that the Tailhook scandal taught us a lesson, and the issue here is behavior, not sexual orientation.

My second principal reason for moving to strike the bill's provisions on homosexuality is that the policy in this bill before us is not the policy developed by the Pentagon and supported by General Powell, the Joint Chiefs of Staff, and the President. Most Americans saw the don't ask, don't tell, don't pursue compromise produced by the administration as a step forward on this issue. I feel I must correct the misimpression that the bill codifies this compromise. The don't tell provision is codified, but not the don't ask provision. Nor does the bill codify the Pentagon's call for an end to investigations based on mere rumor.

So what the bill codifies are only the most restrictive portions of the administration's compromise, leaving the cornerstones of the President's policy out. So the don't ask, don't tell, don't pursue compromise that most Americans, in polls, thought was a good step forward and a fair step forward—56 percent of the country thought it was a good step forward—that is not what is being codified in the bill before us.

My third reason for moving to strike section 546 relates to my feelings on the policy itself, whether codified or not. As former Senate Armed Services Committee Chairman Barry Goldwater has stated, banning loyal Americans from the Armed Forces because of their sexual orientation is just plain un-American.

I believe Senator Goldwater is correct. The issue is not whether gays and lesbians should be allowed to serve their country in uniform; they do, and they have done so with honor and distinction throughout the history of the U.S. military.

I remember, Mr. President, seeing a cartoon in one of the newspapers during the time that this issue was first raised, and if I remember it correctly—and I do remember the spirit of it—it was a cartoon of the Vietnam Memorial Wall, on which the names of 50,000 dead Americans are listed. And there was a little bit of a cartoon over a few of the names and it said, "Don't ask me now." I think that makes the point, Mr. President, that gays and lesbians have served in the military with honor and distinction. Indeed, many were awarded medals of distinction and, certainly, many have died for their country.

So we know that gays and lesbians have served in the military with distinction. The question is whether we will codify a policy of deceit that forces honest men and women to lie in order to serve their country. The policy contained in the bill is a policy of outright discrimination, which flies in the face of the very American values that the military is sworn to defend.

As I have already stated, Mr. President, military service should be judged on behavior and performance, not on a person's sexual orientation, whether the person is homosexual or heterosexual; the issue is behavior. No one disputes, even the proponents of this legislation, that gays and lesbians have served their country with honor and distinction.

Over the past few months, I have been struck by the courage of those military personnel who have been willing to comeforward to testify before the Congress, notwithstanding the personal risks involved, in the hope that others would no longer be the victims of an unjust, discriminatory policy.

Once more, I want to be clear on my view. No behavior that is inconsistent with military life should be tolerated, be it heterosexual behavior or homosexual behavior; and I support the strictest rules of conduct that would apply equally to all persons in the military, regardless of their sexual orientation.

What better place is there, Mr. President, to control behavior than in the military? All of military life is discipline. Tailhook serves as a glaring example of what is important in evaluating military service. It is behavior, it is performance, it is not sexual orientation.

This view is supported by the findings of the Rand Corp., a conservative defense industry think tank that the Pentagon commissioned to study this issue.

And that leads me to my fourth and final reason for objecting to codification. The policy contained in the bill was formulated without the benefit of the Rand Corp.'s study. This study cost American taxpayers $1.3 million, and its conclusions are being ignored in the bill that is before us today. I want to make that point to all of the taxpayers of this country: You paid, fellow taxpayers, $1.3 million for a study, an objective study, the Rand study, and its conclusions are being ignored.

At this point, I want to officially thank Chairman SAM NUNN, because when I went to him and I said to him, "Senator NUNN, I hope we will not bring up this military bill until I have had a chance to see this Rand study," he agreed, in all fairness—although he does not agree with me on this particular issue—that I had a right and other Senators had a right to see this report. I want to thank him for making sure we could get it.

The Rand experts visited seven foreign countries and the police and fire departments in six American cities seeking insights and lessons from similar experiences of other organizations and institutions. The Rand team considered the historical record, focusing on the military's integration of African-Americans and on the development of the current policy that prohibits homosexuals from serving. The team also reviewed public opinion, including the views of current active duty military personnel.

(Mr. CAMPBELL assumed the chair.)

Mrs. BOXER. Finally, the experts reviewed the scientific literature on group cohesion, sexuality, and related health issues, as well as the literature on implementing change in large organizations. The Rand report states that only one policy option is consistent with its research.

So I say again to the taxpayers of this great country: The Rand study, for which you spent $1.3 million, states that sexual orientation is not relevant to who may serve in the military. Let me repeat that. The findings of a taxpayer-funded study by the Rand Corp. concludes that sexual orientation is not relevant to who may serve in the military.

Without the benefit of the Rand report, the committee found that the mere presence of gays and lesbians is sufficiently disruptive of military order to justify their exclusion from service. The Rand experts did not agree, finding "ample reason to believe that heterosexual and homosexual military personnel can work together effectively."

The bill requires the discharge of people who simply say that they are gay, with nothing more. The Rand Corp. study reveals that such a policy is unfair and unnecessary. The study found that the policy on lesbians and gays in the military should not be

based on sexual orientation but should be built around strict and equal rules governing sexual conduct.

In other words, it is clear that behavior is the issue, not sexual orientation.

The DOD authorization bill that is before us requires the discharge of gay people for private conduct and public displays of affection but does not do so for heterosexual service members. The Rand policy, on the other hand, would establish clear standards of conduct for all military personnel, equally and strictly enforced.

Now I ask you, Mr. President: Is that not the American way? Equal standards, equally enforced, based on performance, based on patriotism, based on behavior, not based on sexual orientation.

Contrary to what is in this bill, the Rand report's findings indicate that gays and lesbians can serve the military, with no damage to unit cohesion.

The study makes the significant point that task cohesion in a unit, the ability to work together to accomplish a mission, is a more important factor in mission success than social cohesion, which relates to personal association.

Unfortunately, the bill ignores the distinction, and that is why I am moving to strike that language.

Section 546, which I hope we strike, states that the—

> * * * presence in the Armed Forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

Let me read that again. The bill states: "The presence in the Armed Forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk," and it goes on.

Talk about opening the door to litigation—a propensity. Who is going to make that decision if someone has a propensity to act in a certain fashion?

And this finding that the committee makes in section 546 is not supported by the Rand study.

Let me read what the Rand researchers found about "unit cohesion." And I am quoting from the Rand report, and I remind everyone it is a taxpayer funded report:

> Concern about the effect that an acknowledged homosexual would have on "combat effectiveness and unit cohesion" has dominated the debate. It also provides the basic rationale for the current policy that "homosexuality is incompatible with military service."

But the Rand experts reached a commonsense conclusion that contradicts that basic rationale. They say:

> It is not necessary to like people in order to work with them, so long as members share a commitment to the group's objectives.
>
> First, research suggests that leaders play an important role in promoting and maintaining unit cohesion.

That is the Rand study. Research suggests, they say, that "leaders play an important role in promoting and maintaining unitcohesion."

> Second, military roles, regulations, and norms all enhance the likelihood that heterosexuals will work cooperatively with homosexuals.
>
> Third, external threats enhance cohesion, provided that the group members are mutually threatened and there is the possibility that cooperative group action can eliminate the danger.

The task brings people together, and that is a very long way of explaining what I was told quite succinctly by an old friend of mine who served in World War II. I asked him, as we were debating this subject, whether they knew of gays in the military way back then. He said, "Of course we did." So I asked him whether it made a difference. And he turned to me and he said, "BARBARA, when you are down there in the foxhole and bullets are flying and you're counting on that guy next to you to save your life, you do not care whether he's gay or straight. You just care if he shoots straight."

The bottom line is they did not care if the person next to them was straight as long as they could shoot straight. And what does that say? And that is from a veteran who served with distinction, who put his life on the line. He is now a physician. It says that behavior, performance, and qualifications are what count. And that is why it is important to strike this language, Mr. President.

The Rand Corp. findings with regard to the experience of other countries is also highly relevant information that was not available to the committee when the bill was drafted. Researchers visited Canada, France, Germany, Israel, the Netherlands, Norway and the United Kingdom, and taxpayers paid their way so that we could find out what was the right thing to do. And what did they find out?

With the exception of the U.K. all of these countries permit known homosexuals to serve in some capacity in their armed forces. According to Rand, and I quote:

> Several broad themes emerged from these visits, with potential implications for the situation facing the U.S. In countries that allow homosexuals to serve, the number of openly homosexual service members is small and believed to represent only a minority of homosexuals actually serving.

So the number of homosexuals that were open was small in these countries.

Second, this is Rand:

> Service members who acknowledged their homosexuality were appropriately circumspect in their behavior while in military situations; they did not call attention to themselves in ways that could make their service less pleasant or impede their careers.

Third:

> Few problems caused by the presence of homosexual service members were reported. Problems that did arise were generally resolved satisfactorily on a case-by-case basis. If a problem developed action was taken to remove the individual, homosexual or heterosexual, from the unit.

Rand researchers also looked at the experience of American police and fire departments with nondiscrimination policies. As with foreign militaries, it was found that the key to successful integration of gays and lesbians was training that emphasized behavior.

Behavior must be the focus of our military personnelpolicy because behavior forms the basis of the qualifications of those who are asked to make the ultimate commitment, those who we ask to risk their lives. We look for competence, we look for strength, we look for courage, we look for patriotism, we look for people who are willing to put their lives on the line.

What is interesting, as Randy Shilts reported in his book, "Conduct Unbecoming," during wartime we have not seen the military make any moves against homosexuals. In other words, in wartime if people are willing to put their lives on the line, we allow them to do that. It is behavior, it is performance, it is willingness to serve, it is patriotism, and that has to be the yardstick.

An individual's sexual orientation, just like hair color, religion, just like their ethnicity, and just like their gender is no measure of their qualifications.

The Senate should not codify a policy that is just plain un-American. But that is what this policy is. It is a policy of discrimination based on status instead of behavior.

The Supreme Court has stated that "the fear and prejudice of others" does not provide a rational basis for a Government-sponsored discrimination. And in my opinion, in my humble opinion, and with great respect to the chairman of the Armed Services Committee, I say that this policy is based on discrimination. It is based on the proposition that, in the military at least, the fear and prejudice of others is all that is necessary to justify blatant discrimination based on status, not conduct.

Our Nation is built on the belief that people have the right to live and work in a world without discrimination. It is built on the belief that individuals, regardless of race, color, or creed, should be able to reach beyond their grasp, serve their country and live the American dream.

Let us not codify what Coretta Scott King has called "this un-American ban, which makes a mockery of civil and human rights in our country."

Finally, it is easy to lose sight of the impact that policies have on people's lives. It is easy to label people that are different from us as "those people." We might be able to temporarily fool ourselves into thinking that those people are not really part of our social fabric—and I am reminded, Mr. President,

of a German philosopher who wrote about World War II.

When the Nazis came for the Jews, I did not speak up because I wasn't a Jew. And when the Nazis came for the gypsies, I did not speak up because I wasn't a gypsy. And when the Nazis came for the mentally defective, I did not speak up because I was not mentally defective. When the Nazis came for me, there was no one left to speak up.

So let us not do this to gay and lesbian people. Let us have a code of behavior that affects us all and does not divide us.

We fool ourselves when we say that those people are not really part of our social fabric, and those people they are not really human, and those people do not really have an effect on our lives. That is not right. We are all God's children and those people are our sons and our daughters.

I have listened to the stories of my constituents whose lives and careers have been damaged by this policy. Take for example Benjamin Dillingham, a San Diegan, who served honorably for 8 years as an officer in the U.S. Marine Corps. He was even decorated by another branch of the military and given the Army Commendation Medal. And, for his service in Vietnam, he was presented with the Bronze Star Medal.

On the citation, they noted that Ben had "repeatedly distinguished himself by his courage and composure during critical situations." Courage. Composure. That is what the military said about Ben. Are these not the qualities that we hope all of our servicemen and women possess? Ben served with distinction. And, during these heroic battles, he witnessed and later told of combat situations where members of his platoon accepted and trusted peers of theirs whose sexual orientation was known.

Sure, it was known. It has always been known that there have been gays and lesbians in the military. But, frankly, it just was not an issue.

Or look at the story of Ruth, one of those interviewed for Randy Shilts' book, "Conduct Unbecoming." A midshipman at the U.S. Naval Academy, she was suspected of being a lesbian. So, what did her peers do? Did they confront her? Did they ignore it? Did they leave her alone? No. Instead, the male shipmen were assigned to ask her out and see if they could seduce her.

And, under the cruel guise of showing her "what it's like," one of these future officers physically attacked her. She escaped from the room, but was unable to file charges of rape. Why? Her career in the Navy depended not upon her skills, but rather upon her not being labeled as a "lesbian."

We need to listen to these human voices. We need to put a face on this issue. Because for these people, gays in the military is a reality, not a question.

We are all God's children. Codifying this restrictive policy on gays and lesbians in the military would simply perpetuate the injustice done to courageous Americans.

I, therefore, urge my colleagues to support this amendment to strike the section that would codify this discriminatory policy.

And I would sum up in 15 seconds the four reasons: First, there is no precedent or reason to codify; Second, it contradicts the Rand study; Third, it is not the compromise most Americans thought it was; and, fourth, in my humble opinion, it is un-American.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, first, I want to thank the Senator from California for her courtesy, both in the timing of bringing up this amendment and being willing to bring it up this morning—which I think is an ideal time from the point of view of the committee, particularly since we had the Somalia matter that was not able to be completed last evening—and for her willingness to enter into a time agreement.

I believe the Senator was willing to originally have about an hour on each side. I am informed there are a number of speakers on our side and probably also on your side. Therefore, we probably would not be able to complete the debate before 12:15, which is in another 2 hours.

I would now like to propound a unanimous-consent request, but I will wait until the Senator from California has a chance to talk to staff about how much more time she would desire.

We wanted to make sure there would be no second-degree amendment, before entering into a time agreement, and I now have an agreement to that effect.

Mrs. BOXER. May I ask the Senator, he is proposing an hour on each side, is that correct, approximately?

Mr. NUNN. That would be fine. I believe we may need about an hour and 10 minutes or an hour and 15 minutes on our side, since you already had one-half hour. But we can discuss it and in a moment I will propound that. I will wait to hear from the Senator.

Mr. President, the Senator from California, Senator Boxer, has been a forceful and articulate advocate of the proposition that gay men and lesbians should be permitted to serve in the Armed Forces. Certainly, I admire her and respect her greatly. We worked together when she was on the House side and we continue to work together here on many matters, so I have great respect for her. And I have respect for the arguments she has presented today. I do not agree with them, but I certainly respect them.

The amendment before us, everyone should understand, the Boxer amendment, does not directly overturn the restrictions on gays and lesbians serving in the military. Instead, this amendment, if it passes, would strike all the provisions in the bill where the Congress addresses this subject and it would leave the President—this President or any future President—with the sole discretion as to the changes, if any, that should be made in the policy.

In other words, this amendment basically says Congress is not part of this. It is up to the President.

The Boxer amendment, as I view it, presents the Senate with a clear choice as to how we should exercise our responsibilities under article I, section 8, of the Constitution which basically says that the Congress—quoting from the Constitution is:

* * * to raise and support armies; * * * to provide and maintain a Navy; [and] make rules for the Government and Regulation of the land and naval Forces.

Now, that is not the Commander in Chief who is given that responsibility and authority under the Constitution. It is the Congress of the United States. That is very clear. Nothing is clearer under the Constitution than our duty under the Constitution,

* * * to raise and support armies; * * * to provide and maintain a Navy; [and] make rules for the Government and Regulation of the land and naval Forces.

That is our duty. It is up to us as to how we exercise that duty. But there is no doubt whatsoever—some pundits to the contrary notwithstanding that I have read from time to time—that the Congress of the United States has the right to act in this area, and the Congress of the United States has the constitutional responsibility to make the rules and regulations governing our Armed Forces.

Some people may not like that. They may not believe that the Congress of the United States has any business putting its nose in what some people believe is only executive responsibility, but that is not what our Founding Fathers thought and that is not how our country has been run for the last 200 years.

So there is no doubt whatsoever that we not only have a right to legislate in this area, in my view and the view of the Constitution of the United States, but we have a responsibility.

The language in the pending bill that the Boxer amendment would strike fulfills our constitutional responsibilities by providing clear standards and procedures for addressing the issue of homosexuality in the Armed Forces. If we adopt the Boxer amendment, however, and strike the language from the bill, the Congress of the United States and the Senate of the United States will be providing no views, no guidance, and no legislation on a subject which has generated intense debate among the public in general and certainly among the members of the Armed Forces of the United States.

In effect, we will be saying to the Armed Forces of the United States: "No matter what your concerns are in this area, we are going to leave it up on the Commander in Chief. We will be silent on the matter which our military and civilian leadership has identified as having great significance with respect to the morale, good order, discipline, and effectiveness of our Armed Forces."

In my judgment, if we adopt the Boxer amendment, it would be an unfortunate abdication of our own obligations and responsibilities under the Constitution.

Mr. President, the background of the committee's action on this issue underscores the need for retention of the language in the committee's proposal. The impetus for congressional action came first from those who proposed a change in DOD's longstanding restrictions on the service of gays and lesbians.

I hope our colleagues will recall that the proponents of lifting the ban were the ones who undertook the legislative initiative. This committee did not pop up and say we wanted to legislate in this area.

The first time this subject came to the attention of the Senate was last year when Senator METZENBAUM, the Senator from Ohio, who is also a vigorous spokesman for eliminating the restriction, proposed a legislative amendment.

If we adopt the Boxer amendment, that would be saying that the Senator from Ohio, when he wanted to legislate on this subject, was getting into an area that only the Commander in Chief should have any voice in.

So I would say that the proponents of the Boxer amendment basically are coming from a totally opposite point of view, from an institutional responsibility perspective, from the original proponents of lifting the ban by legislation.

Last September during the debate on the DOD authorization bill, Senator METZENBAUM proposed an amendment to eliminate the restrictions. I said at that time, quoting from that debate, "I think this subject deserves the greatest care and sensitivity, and I think it deserves a hearing before our committee." I added,

> We will have hearings on this subject next year. We will hear from all viewpoints. We will take into consideration the viewpoints of our military commanders, the viewpoints of those in the homosexual community, the viewpoints of those who are in uniform today who may be homosexual, and we will also consider the men and women in the military who are not in that category * * *.

That ends the quote from last year's debate.

During the 1992 Presidential campaign, then-candidate Bill Clinton said that, if elected, he would take action to change the current policy restricting the service of gay men and lesbians serving in the Armed Forces. Indications that the policy would be changed after the inauguration led to an intense national and congressional debate in January of this year. A number of Senators indicated at that time that they would offer an amendment early in the congressional session that would prohibit any change in policy.

I expressed the view that neither the executive branch nor the Congress should make a significant change in DOD's longstanding policy by Presidential order, or by congressional action, prior to undertaking a comprehensive review and hearings on the subject.

Working with the majority leader, Senator MITCHELL, I discussed this matter in detail with President Clinton. The President, on January 29, directed the Secretary of Defense to complete a study of the issue by July 15. In addition, the President directed that the then-current DOD policy remain in effect with one significant change recommended by the Joint Chiefs of Staff: new recruits would not be questioned about homosexuality during the enlistment process.

The President and others in the Department of Defense accepted my suggestion that the new recruits, who were no longer going to be asking the question, would be given a full briefing not only about homosexual conduct and expectations relating to that conduct in the Uniform Code of Military Justice but it would also include sexual conduct including prohibitions against any kind of sexual harassment.

So we now have and have had in the interim policy and continuing policy, no questions asked about this at the beginning but a clear explanation so all new recruits, men and women, understand their obligations under the Uniform Code of Military Justice relating to all sexual activities, not simply homosexual matters. So that is the policy. That was the interim policy. That has now been part of the new policyarticulated by the President and Secretary of Defense in July of this year.

The issue soon came before the Congress. During Senate debate on February 4 on President Clinton's first major legislative initiative, the Family and Medical Leave Act, the Senate rejected an amendment, on a 62-to-37 tabling motion, which would have frozen in law the policy that was in effect on January 1, 1993. I argued that that motion should be tabled because I felt it was premature and the Congress of the United States should know what we were doing before we legislated.

The Senate then adopted an amendment which expressed the sense of the Congress that the Secretary of Defense should conduct a comprehensive review of this issue. In addition, the amendment directed the Committee on Armed Services to conduct comprehensive hearings on the current military policy and to conduct oversight hearings on the Secretary's recommendations as such are reported.

The Senate also agreed to an order that effectively precluded consideration of any further amendments in the Senate relating to the service of gay men and lesbians in the Armed Forces until July 15, 1993. In other words a moratorium. The President would study it, the Joint Chiefs would study it. Congress would not legislate. That was in effect the deal until July 15, 1993. That deal was respected by all sides and carried through.

The committee recognized that the question of whether changes should be made in the restrictions on the service of gay men and lesbians in the Armed Forces generated intense feelings in the Congress, in towns and communities around this country, and particularly throughout the ranks of the military services. Although the committee received testimony reflecting strongly held religious and philosophical views, the committee's primary focus and concern was on the implications of any change in DOD's policy on the effectiveness of our Armed Forces to carry out their mission to defend our Nation. That was the bottom line. That is where we started. That was our focus and that is the heart of what we have made recommendations on. That is, the ability and effectiveness of the men and women in the military to carry out their mission of protecting the security of this Nation. That is the bottom line.

The hearings, which are described in detail on pages 268 through 270 of the committee's report, enabled the committee to develop a detailed legislative record on this subject.

I will not go into the detail about the hearings but we did have a comprehensive set of hearings. We heard from people on both sides of the issue and we had considerable amount of testimony both in favor of lifting the ban and also in favor of keeping the current policy.

In addition to the eight hearings, the committee received testimony for the record from numerous private citizens and organizations. The testimony presented to the committee represented a wide range of experiences, including those of former and current service members who have publicly identified themselves as gays or lesbians.

The committee received a broad variety of views ranging from recommendations to reinstate the policy in effect prior to January 29, 1993, interim modifications, to recommendations for elimination of the restrictions on homosexual acts.

The committee carefully considered all points of view in developing its recommendation.

These hearings were extensive, and represented a major commitment of time and energy by the committee's

members and staff. As with any controversial issue, we knew from the beginning that a number of people would not be pleased with the outcome. Some thought we should have conducted a major inquiry into the nature of homosexuality itself. Some urged very strongly that we go into the medical, philosophical, and religious considerations of this very sensitive and complicated, as well as controversial, subject.

Others, coming from a different point of view, believed that we should focus exclusively on civil rights. Some even said that focusing on military readiness was not something the committee should consider. It was simply a matter of civil rights. We did not go with either one of those views. We did not exclude any point of view but the committee maintained that our focus and our constitutional responsibility was to provide rules and regulations for the Government of the Armed Forces of the United States.

That focus was clearly recognized by Senator KERRY of Massachusetts, a very articulate and very persuasive proponent of lifting the restrictions. Again, I did not agree with him but I thought he made a presentation from his perspective which was very effective.

Senator KERRY expressed his appreciation, in his testimony before the committee, using his words, for the "sober, serious way" in which the committee approached the issue. Senator KERRY directly said, quoting him:

> While some may disagree with venues or locales or process occasionally, I think you have bent over backwards to guarantee that this is a discussion that is at a higher level than some discussions we have had around here, and I respect that and appreciate it.

Mr. President, Senator KERRY along with others testified forcefully in favor of lifting the restrictions on the service of gays and lesbians in the Armed Forces. Others testified very strongly against that change. The country expects the Congress to fulfill its responsibility on this issue, in my view, and not simply hand it off to the President, which is what would happen if we adopted the Boxer amendment.

The effect of the Boxer amendment would be that the President would have unfettered discretion to establish the rules and regulations on homosexuality in the Armed Forces.

For example, if the President wished to lift the ban in its entirety, he could do so if this amendment passes.

If the President wished to eliminate the requirement for discharge of persons who engage in homosexual conduct, he could also do that.

The President could also tighten the restrictions if he chose to do so. There is after all no guarantee that President Clinton might not adopt a different view on this issue, after he has served a couple of years as President and Commander in Chief. Moreover, President Clinton will not always be President.

I hope he will be President for years to come, but his successor would have the freedom under this law, if the Boxer amendment is adopted, to change the policy on homosexuality. For example, we could have a President who could go in a different direction altogether. He could, for instance, reinstate the pre-1981 policy of discharging service members for "homosexual tendencies."

At that time when we had that policy, there was certainly the possibility and, in some cases, it happened, that there would be separation from the military services even when there was no proof—no proof—of a homosexual act, statement, or marriage; in other words, someone simply coming to the viewpoint that someone had homosexual tendencies, whatever that is.

So there was no definitive standard at that time that, in my view, was sustainable. Another President could come back and say,

> Well, under the Boxer amendment, the Congress did not legislate, so we are going to go back to the old policy, and anyone who has "homosexual tendencies" will be kicked out of the military service.

Another President could replace the rebuttable presumption that an individual who states that he or she is homosexual has an intent or propensity to engage in homosexual acts, by irrebuttable presumption, which would result in mandatory discharge upon any admission.

In other words, under the committee's proposal, we would have a rebuttable presumption, but the individual would also be able to rebut that presumption. But that does not necessarily have to stay if we adopt the pending amendment and abdicate our congressional responsibility to pin down this policy in law.

Another example involves the authority to retain individuals when the conduct is a departure from the individual's customary behavior and is unlikely to recur: Under the committee's proposal, if an individual demonstrates and convinces the convening authority that this is a deviation from their customary behavior, a particular event that was a deviation and is unlikely to recur, then they would not have to be discharged. But if the pending amendment is adopted, a President could come in and say this is no longer the policy.

These examples are not exaggerated. There are many who advocate a policy much more restrictive than the policy that was adopted by the committee. Is this a matter we should leave to the unfettered discretion of this or any future President? My answer is clearly no.

We have had hearings on the subject. That is what we are here for, is to hear from all points of view and to make a deliberate decision: Why should the Congress of the United States not legislate in an area of this importance?

We have conducted comprehensive hearings. We are fully capable of reaching a legislative judgment as to what rules should govern the conduct of members of the Armed Forces in this area. Having undertaken this task, at the urging of those who wanted to lift the ban, it is my view that we should complete this task and legislate where we have the clear authority and responsibility.

Mr. President, the Senator from California has spoken, I think, very effectively about the Rand study. I think she has quoted that study in terms of its contents accurately. I do think, however, there are considerations of context of the Rand study that have to be considered by our Members in determining the weight to give that study in terms of its persuasiveness.

The Senator from California has indicated that the Rand study published by the Department of Defense in late August compels support for a position different from that recommended by the committee. In my judgment, this is a misreading of the context of the Rand study. During the committee's final hearings in July 1993, the committee requested that it be furnished with a study that the Department of Defense had commissioned in April 1993 from the Rand Corp. The study was submitted to the Congress and made available to the public in late August 1993, and the Senator from California was certainly a stimulus in that regard to get that published and released. I think that was entirely appropriate, and I agreed with her completely. The study should have been released, and it has now been released.

The study, of course, does not represent the official views of the Department of Defense or the President of the United States. In fact, they had this study and they analyzed this study. This was part of their deliberative process when they came to a conclusion which was different from the study. So this is not something the President and his people did not consider. They did consider it. Indeed, the senior civilian and military leadership of the Department of Defense concluded that the standards of conduct recommended by Rand were unworkable, and they did not adopt the recommendations in the Rand report.

It is critical to note that Rand did not study the issue that has been before the Congress: Whether the restrictions on service of homosexuals should be changed. What the Rand study did, and they were asked to do this, was:

> . . . to provide information and analysis that would be useful in helping formulate [an executive order] ending discrimination on the basis of sexual orientation in determining who may serve in the Armed Forces.

In other words, the Rand Corp. was asked: How do we do this; they were not asked whether we should do this.

The committee and the Congress has to decide whether we should do this. If the Senate of the United States had told the Committee on Armed Services not to study whether we should do this but how we should implement a lifting of the ban, then if we had been mandated to do that, that is what we would have had to do, if we had been mandated to do that by the Senate. We did not do that.

We first determined the elementary question of whether we should lift the ban. We determined the answer to that is the ban should not be lifted. If you are going to start with the proposition that the ban should be lifted and that you are going to tell the President how it should be lifted, then you could come to any kind of conclusions, as the Rand Corp. did.

I do not criticize the Rand Corp. You get what you pay for. If the executive branch pays a private group to study how you do something, the private group, if they want to get another contract, does not go back and say, "We looked at how you should do it; but, by the way, we do not believe you should do it." That is not what they were asked. If they were that kind of analytical group, then they would not get many contracts.

So you have to look pretty closely at what someone is being paid to do before you use their findings to support a proposition that they were not looking into. In other words, a specific policy outcome that homosexuals should be allowed toserve in the Armed Forces was assumed by the Rand study, and Rand was tasked with assisting in the implementation of that outcome. Consequently, Rand did not undertake an analysis of DOD's longstanding restrictions in terms of whether the interests of national defense would be best served by retention, modification, or repeal of these restrictions.

I would add one other comment on the Rand study. I think that anyone studying this matter would look at one of the most comparable areas, and that is the integration of women into the military. The Rand Corp. did not look into gender integration in the military because they said we did not integrate women into combat positions, and also because we do not integrate women and men in terms of living conditions. So they rejected a gender analysis and basis because they said we do not do this with men and women. So that analysis is not part of this study.

I find that a bit curious because certainly it seems to me when you are dealing with sexual matters that it is relevant as to how you handle gender integration. But it is true, we do separate men and women in living quarters. So when you are dealing with another aspect of sexuality and you are saying we are going to completely integrate and not have separate quarters, I suppose there is some at least loose rationale—I think it is pretty loose—in saying we would not consider that kind of comparison.

In short, the Rand report did not assess the validity of DOD's pre-January 1993 policy. They did not assess President Clinton's July 19, 1993, policy. They did not assess the committee's proposal, and the administration did not adopt the standards recommended by Rand.

The Senator from California has also talked about the general principles of the Dahl case. That is a decision of a district court in California in the case of Dahl versus Secretary of the Navy. That court held that restrictions on homosexuality in the Armed Forces are unconstitutional.

In Dahl, the district court held that a discharge under the pre-January 1993 policy based upon an admission of homosexuality was unconstitutional under the equal protection doctrine because it reflected irrational discrimination based on prejudice.

Mr. President, this decision concerned the pre-1993 January policy, not President Clinton's July 19, 1993, policy or the pending legislation. I think it is very dangerous to cite district court decisions as indicative of what the Supreme Court of the United States is finally going to do, and this matter will finally have to be determined at the Supreme Court level. I do not believe this case will be affirmed on appeal. Of course, that remains to be seen.

I am confident, however, looking at everything the judiciary has done regarding the military in the last 40 or 50 years, that when the judiciary—the Supreme Court and the appellate courts—has before it the legislation, if enacted by the Congress, as well as the full legislative record of our hearings and our deliberations and debates, the courts will give the Congress and the executive branch the historical deference that has traditionally been provided in military litigation.

Indeed, the Dahl case, I think, underscores the importance of rejecting the Boxer amendment.Judicial deference in military matters is at its highest when Congress and the executive branch are in accord. And if we pass this legislation, we will be in accord with the President's order and the executive branch policy. If the Boxer amendment is adopted, the actions of the executive branch will be assessed without the benefit of expressed congressional findings, standards, and procedures. The impact of the pending legislation on any litigation should not be underestimated, and it would be unwise for us to deny the Justice Department the important support that this legislation provides for the President's July 19, 1993, policy.

Before leaving the Dahl case, however, I would like to specifically address the issue of whether this policy is based upon prejudice. Perhaps the best response was framed by Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, whose personal background has provided him with a very keen understanding of the concept of prejudice. I think he understands what prejudice means better than most of us.

General Powell made it clear that DOD's policy was based upon military requirements and not stereotypes, or prejudice, or religious views, or moral judgments. Quoting from General Powell:

> Our concern has not been about homosexuals seducing heterosexuals or heterosexuals attacking homosexuals. It is not our place as uniformed leaders in the armed forces to use our official position to make moral or religious judgments on this issue.

General Powell clearly distinguished the issues raised by homosexuality from the issues raised by racial or sexual prejudice.

General Powell said, and again quoting him:

> Unlike race or gender, sexuality is not a benign trait. It is manifested by behavior. While it would be decidedly biased to assume certain behaviors based on gender or membership in a particular racial group, the same is not true for sexuality. We have successfully mixed rich and poor, black and white, male and female, but open homosexuality in units is not just the acceptance of benign characteristics such as color or gender or background. It involves matters of privacy and human sexuality that, in our judgment, if allowed to exist openly in the military, would affect the cohesion and well-being of the force.

Mr. President, the committee specifically addressed the issue of prejudice in its report on page 284, and I am quoting from the committee report. By the way, this report was adopted by a 17-to-5 vote in the committee, a majority of Democrats and a majority of Republicans joined together. Quoting from that report:

> Some have suggested that the policy is based upon irrational stereotypes, such as the view that homosexuals are predators or that all homosexuals inevitably are attracted to all persons of the same sex.
>
> The committee, in recommending codification of restrictions relating to homosexuality, does not rely upon such stereotypical views. The committee notes that some individuals may view themselves as "homosexual," "gay," or "lesbian" based upon intentions that are never acted upon, just as there are persons who view themselves as heterosexual who remain celibate. Likewise, the committee notes that not every gay or lesbian person will find every person of the same sex to be sexually attractive, just as not every heterosexual person finds every person of the opposite sex to be sexually attractive.
>
> It would be irrational, however, to develop military personnel policies on the basis that all gays and lesbians will remain celibate or that they will not be sexually attracted to others. When dealing with issues involving persons of different genders, for example, the armed forces do not presume that service-

members will remain celibate or that they will not be attracted to members of the opposite sex. On the contrary, the military specifically provides men and women with separate quarters in order to ensure privacy because experience demonstrates that few remain celibate and many are attracted to members of the opposite sex.

Similar considerations apply to the development of policies with respect to homosexuality. The committee agrees with the view of the Department of Defense that it is appropriate to take into consideration that when a person indicates that he or she has a propensity or intent to engage in a homosexual act, the armed forces are not required to wait until the person engages in that act before taking personnel action.

Mr. President, I believe it is important that the Congress as a whole affirm that the policy of homosexuality is based upon prudence, not prejudice, by supporting the legislation recommended by the committee. I urge that the Boxer amendment be defeated and that the legislation recommended by the committee remain in the bill.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. METZENBAUM. Mr. President, I had hoped that I would not have to be in this Chamber today on this subject. I had so hoped because in November, or sometime last year when this matter was before the Senate, I indicated my concern about being fair, nonprejudicial, and unbiased with respect to homosexuals in the military. I was prepared at that time to offer an amendment. My colleague from Georgia, in whom I have great respect, urged me not to go forward with the amendment at that time on the understanding that the committee would conduct hearings on the subject, and he certainly has lived up to his word on that.

But what is disappointing to me is that the President of the United States has made it clear what his position is with respect to the right of homosexuals to serve in the military of their country and for our military not to be discriminatory,provided, of course, the homosexual not create any particular problem by reason of his or her homosexuality.

Then the President enunciated his policy, which he had worked out with the military commanders, and I thought at that point, well, it was not all that it might have been but I thought the President had taken a middle-of-the-road position and that there was some reason to recognize the realities of the situation and go along with it.

But then along came the Armed Services Committee and they inserted the language that the Senator from California has addressed in her amendment. I commend her for her leadership in offering this amendment. It is an important amendment, as important as any civil rights legislation to come before this body. And I hope my colleagues will think of it in that regard.

I am concerned that too many will think about this amendment on the basis of its political consequences: Will it help me get elected or reelected? But that is not the issue. We have gone down that road over a period of many years with respect to civil rights legislation, and too many have voted on the basis of the political consequences instead of voting on the basis of what is the right thing to do.

In truth, I had hoped the issue of whether homosexuals would be able to serve in the Armed Forces had been settled when President Clinton issued his policy statement before the Joint Chiefs in July. As I previously stated, I was not completely satisfied with that position. I do not believe he was either. My personal belief was and is now that there should be no restriction on homosexuals in the military as long as they follow the military code of conduct. I believe that was the President's feeling as well.

Unfortunately, that was not possible given the opposition of the military and the possibility of a congressional override. The President did the best he could given the difficult circumstances. I wish I could say that I feel the same way about the action of the Armed Services Committee.

This committee provision, section 546, which purports merely to codify what the President has already done, in this Senator's view is a sham. It is far more restrictive to homosexuals than the President's position. It is a gratuitous slap in the face to courageous young men and women who have served their Nation. It is payback to the homosexual community for having had the effrontery to think they could serve openly in the military, for having had the audacity to believe that their substantial contributions to this Nation in war would ever be fully recognized.

It is a fact that the job performance of homosexuals in the military has been superb. That fact is indisputable because every time a gay man or lesbian is discharged from the service for reason of being a homosexual, his or her service record becomes part of the official investigative process. In nearly every instance, the job performance of these individuals has been substantially above average. Four times over the past year I have stood here on the Senate floor and spoken about the incredible cost of the military's prejudice against homosexuals.

Mr. President, I happened to have had a meeting with somebody yesterday concerning the matter of civil rights. I pointed out to him at that time, the first time I ever introduced a bill dealing with civil rights went back to 1943—1943, over 50 years ago.

I remember when I was in the State legislature at that time and I introduced that which was called an FEPC bill, Fair Employment and Practices Commission, how there was literature distributed around the House of Representatives that I was in in Ohio which accused me of being a Communist because I had come up with this unbelievably audacious proposal that no person should be discriminated against by reason of their race, color, creed, or national origin.

It took 7 or 8 years in order to get that legislation passed in Ohio. Nobody today ever remembers the term FEPC. But I remember how that which was out of sync with so much of the thinking politically has come to be accepted as a reality in our Nation regarding discrimination based upon race, color, creed, or national origin. But now we have this question of discrimination based upon sexual orientation.

I think that what has happened to some of the young men and women in the military is enough to make you cry. It is enough to sadden you and say what kind of Americans are we? Lt. Tracy Thorne was a 26-year-old navigator-bombardier. He finished first, first, in his flight training class. Then he received top honors from the Navy. And then he was busted out of the service for being gay.

Did he do anything wrong? Did he harass somebody? No. He did not do any of that. He merely said he was gay.

Last year the Army dismissed Col. Margarethe Cammermeyer, one of the finest nurses in the military. Colonel Cammermeyer served 14 months in Vietnam. She won a Bronze Star. She was named the Veterans' Administration Nurse of the Year in 1985. She had a magnificent record. But her crime was to acknowledge, during an interview, that she is a lesbian.

Lieutenant Thorne and Colonel Cammermeyer are just the most recent casualties of a policy that has destroyed thousands of careers and lives.

I say to my colleagues here in the Senate; do we have the political courage to recognize the reality of this situation, or will we hide behind some kind of concept that the committeeprovision is doing the right thing? The fact is the President's policy was a middle-of-the-road policy, accepted by the Joint Chiefs of Staff. And yet now the Senate has to come in and tighten up and make it tougher.

Some of these individuals who have already been fired would still be fired under the Clinton plan. All of them, all of them, would face dismissal under the committee provision. There was really no need for the committee to include this provision in the bill. It is a fact that our military leaders were satisfied by the President's proposal. They did not ask for codification. In fact they are probably against Congress intervening in matters that have always been under their jurisdiction, specifically military personnel policies.

This so-called codification is a return to the status quo ante as it existed prior to 1993 when homosexuals were routinely hunted down and kicked out of the military simply because they were gay.

Just compare the two. The President's announcement versus the committee provision. Under the Clinton plan, homosexuals are permitted to serve as long as they keep their sexual orientation to themselves.

The practice of questioning new recruits about their sexual orientation is abolished. Military commanders are directed to cease conducting witchhunts against suspected homosexuals. Violations of the Uniform Code of Military Justice are to be handled in an evenhanded manner without regard to whether the conduct alleged is heterosexual or homosexual. Harassment or violence against service members is not to be tolerated.

The spirit of the Clinton plan is protective of people's rights, their right to serve, there right to equal protection under the law, their right to privacy.

The Armed Services Committee provision, on the other hand, is brutal—brutal. It starts right out with a series of findings that culminates in the ambiguous sweeping and never-substantiated claim that homosexuals in the military create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion.

Let me read it to you.

> The presence in the Armed Forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

Where does that come from? What is the proof for that statement? That is contradictory to what the President'sposition has been. Yet the suggestion has been made to us that this is merely codification of the President's program.

I say no way—no way.

Although that statement has oft been repeated throughout this debate, it has never, never, never been proven. Even the Pentagon's own Rand report on sexual orientation in the military said there was no evidence to support the claim that the presence of homosexuals breaks down unit cohesion.

According to Rand:

> No controlled experiment or other research bear directly on this issue.

And I quote further:

> The principal conclusion from an extensive review is the common sense observation. It is not necessary to like people in order to work with them, so long as members share a commitment to the group's objectives.

From there the operative language of the Armed Services Committee provision goes downhill. It says simply that homosexuals will be separated from the military. The Clinton call for moderation in investigations into witchhunts against suspected homosexuals is completely absent from the committee bill. There is nothing in the bill about evenhandedness in investigations of allegations of heterosexual misconduct.

Is heterosexual misconduct OK in the military, but homosexual misconduct is totally forbidden and you cannot even get close to the line? But heterosexual misconduct, that is fine. Don't worry about that, despite the fact that sexual harassment of women in the military continues to be a far greater detriment to morale, a far greater embarrassment to the military, a far greater impact on unit cohesion than any other sex-related issue including homosexuality.

But what is the Armed Services Committee doing about sexual harassment? Nothing that I know of. Nothing. I need only mention the Tailhook party in which hundreds of drunken naval aviators sexually assaulted and harassed their female colleagues.

Top Navy officials, including the Secretary of the Navy, lost their jobs for botching the internal investigation of Tailhook. They tried to cover it up. Many thought they were simply doing the job of covering up for the boys. They were taking care of the boys in the military.

There is nothing in the committee language that deals with harassment or violence against other service members, with sexual harassment, or any of the abuses of Tailhook. It is astounding, Madam President. Even the question asked of new recruits about their sexual orientation is brought back in this committee provision. The committee provision contains sense-of-the-Congress language permitting the Secretary of Defense—the Congress is doing all this great work and we are going to put something into the legislation, and when they get all done they provide that the Secretary of Defense may "reinstate that questioning with such questions or such revised questions as he considers appropriate * * *"

So as soon as you bring back somebody as Secretary of Defense who wants to really go even further than the committee language or the President's position, it is perfectly OK to do so. We give him or her carte blanche.

Madam President, I want to say that the Armed Services Committee provision is a bad, bad provision. It is discriminatory. It takes us back to the time when we discriminated against African-Americans and when we discriminated against Indians, and when we discriminated against Mexican-Americans and Hispanics. We have tried to move forward in this country with respect to those issues of discrimination. But with respect to discrimination against homosexuals, that is fine. That is OK. We are not going to do anything about that. In fact, we are going to turn the clock back from the position that the United States worked out with the Joint Chiefs of Staff.

This provision is cynical, and it denies reality. It will force thousands of servicemen and women to dishonor themselves, to lie every day to protect their careers and their livelihoods. Furthermore, it will let military commanders off the hook. It will spare them the added task of having to educate and inform the ranks of the truth—that homosexuals serve now and have always served, that they make brave soldiers, and that they have fought and died in all of the wars of this country.

It is a fact that many military organizations throughout the world accept openly homosexuals in their ranks. I saw some television coverage not too long ago where commanders of some of the military forces of other nations said openly that they were homosexual. Their ranks were filled with heterosexuals, and they had no problem being commanded by homosexuals. We have problems in this country, according to the Armed Services Committee, with respect to a homosexual having the right to serve his or her Nation. This provision is gratuitous, and it is mean spirited. It is unnecessary, and it should be struck from the bill.

I commend the Senator from California for offering her amendment. I urge my colleagues to vote for it.

I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from Indiana is recognized.

Mr. COATS. Madam President, the ranking member, Senator THURMOND, wishes to speak at this point, and he is in a meeting right now. He will come to the floor very shortly.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Madam President, I am contemplating an amendment which later today I will send to the desk and ask that it be printed, thereby putting it on the desks of the Members of the Senate for business tomorrow.

I will take this somewhat unusual procedure so that before I make the final decision to proceed with the amendment I can have the benefit of the thinking of other colleagues, most importantly, and the opinions of the Departments of Defense and State.

Briefly, the amendment will require the administration to clarify that policy in effect today whereby the United States is offering former Iraqi military

members the opportunity to settle in this country and thereby compete in the job market and receive benefits being offered to Americans and, most specifically, Americans who fought in uniform for this country in the Persian Gulf conflict.

This is an issue that is terribly troublesome all across our land today. I think it is imperative that the administration clarify its position, and that the Congress have an opportunity to express its views on that policy. That is the purpose of the amendment which I will at some point today send to the desk for printing, so that it will be available for other Members and the various departments and agencies for the Government for comment. I thank the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I will yield to the Senator from Georgia, Senator NUNN.

UNANIMOUS-CONSENT AGREEMENT

Mr. NUNN. Madam President, I would like to propound a unanimous-consent agreement to the pending amendment.

Madam President, let me describe it first, and then I will propound the unanimous consent.

What I would propose to do is to have a vote on or related to this amendment at 12:30, which means we would have the right to move to table if we so chose, with the time equally divided between now and 12:30 between the Senator from California and the Senator from Georgia but with 15 minutes of that time coming to the Senator from Pennsylvania. That would be the intent.

Mrs. BOXER. I am sorry. I did not hear the last part.

Mr. NUNN. We would basically be spliting the hour and 20 minutes between the Senator from California and the Senator from Georgia, but we would work out a way to yield half and half of that time to the Senator from Pennsylvania, 15 minutes.

Mrs. BOXER. I do not object.

Mr. NUNN. Madam President, then I propound a unanimous consent request that the vote occur on or in relation to Senator BOXER's pending amendment at 12:30 p.m.; that no intervening amendments be in order prior to disposition of the amendment; and the time between then and now be divided as follows: 15 minutes under Senator SPECTER's control; the remaining time to be equally divided under my control and under the control of the Senator from California.

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

Mr. NUNN. I thank the Chair, and I thank all Senators.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. NUNN. Madam President, I yield such time as the Senator from South Carolina may desire.

Mr. THURMOND. Madam President, the Armed Services Committee devoted an extraordinary amount of time and effort this year in hearings, research, interviews, visits to units in the field, and deliberations developing a policy on homosexuals in the military. The policy included in our bill and the accompanying language in the committee report is the result of thorough research and careful study after listening to many different views. The underlying premise of all our work was always to determine the best policy for our military forces which would not detract from readiness and overall military effectiveness. I am proud of the policy the committee reported to the Senate. It is very close to the President's recommended policy. In fact, the Department of Defense, the Department of Justice, and the White House have endorsed our policy. I oppose any move to modify or delete the policy.

This policy clearly sets out findings based on the testimony we heard during months of hearings. The policy is stated simply and succinctly.

The findings in the policy clearly state why homosexual conduct and military service are incompatible. The policy goes on to distinctly set out accession and separation policies. It is fair, easy to understand, and preserves unit cohesion and good order and discipline which will maintain military readiness.

Madam President, our hearings were comprehensive and, I believe, very objective. We listened to legal experts, social science experts, experts on foreign military policies, and Members of the Senate on both sides of the issue. We heard from DOD officials, the Joint Chiefs of Staff, and both homosexual and heterosexual service members of all ranks. The hearings were informative, interesting and, at times, shocking. Collectively, the hearings provided a full and complete review of the past policies and every imaginable variation of what the policy might be. The evidence guided the committee to the policy in our bill. It was clear to everyone in attendance that the Government has a legitimate interest in creating and maintaining the most effective and efficient military possible. Homosexual acts or the propensity to commit those acts are detrimental—I repeat—detrimental to an effective, efficient military. For that reason, we have formulated the legislation before the Senate today. It is noteworthy that the Secretary of Defense's working group and advisers came to a very similar conclusion after their own studies and deliberations.

Madam President, this debate began about this time last year when Senator METZENBAUM offered an amendment which would have established a prohibition on discrimination in the military based on sexual orientation. Senator NUNN agreed to conduct hearings this year. The issue surfaced again in the Presidential campaign and, as we all know, shortly after his inauguration, President Clinton issued an interim policy and directed the Department of Defense to recommend a policy by mid-July. In early February the Senate debated two amendments related to service of homosexuals in the military. The Senate Armed Services Committee began the hearings in late March.

The policy included in our bill is clear and straightforward. It is the culmination of a long, careful, thorough review.

Madam President, I urge my colleagues to support the policy concerning homosexuality in the Armed Forces as written in the bill and committee report and defeat any and all attempts to modify it.

Madam President, Senator COATS is a prominent and active and intelligent member of the Armed Services Committee, and he is a ranking member on the Force Requirements and Personnel Subcommittee.

Therefore, I am now going to turn to him to handle the rest of this matter during the debate, and he may allot as much time as he pleases to any one member or divide it to as many as he can to allow as many to speak as possible.

I now turn this matter over to Senator COATS, and he can now come over and take my place here.

Mrs. BOXER. Madam President, under the previous order, it is my understanding I would control approximately 30 minutes of time; is that correct?

The PRESIDING OFFICER. Thirty-two and one-half minutes.

Mrs. BOXER. I yield 5 minutes to the distinguished senior Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I thank you, Madam President, and I thank my colleague from California. I am pleased to support her amendment.

Real candidly, I think a brandnew President came in and did not handle this as well as it might have been handled. I think it would have been better if a commission were formed and you had General Powell and the Secretary of Defense and others there handling it, and it could have been handled more smoothly. But that does not get to the merits of the issue.

First of all, my own experience. I served in the Army. It has been quite a few years ago. It was in something that no longer exists called the Counter-intelligence Corps. Among other things, we had responsibility for screening people for security clearances.

At that point, anyone who was known as a homosexual wouldnot get a clearance for secret or top secret, but

nobody talked about kicking them out of the service—and you may agree or disagree. I happen to think at least at that point the security clearance question was a legitimate one, that people could through threats be forced to give classified information.

But, in World War I, in World War II, in the Korean war, in the Vietnamese war, people served whatever their background was, and we did reasonably well in all those periods.

There is this kind of fundamental rule that we ought to apply in politics no matter what the situation, and that is that discrimination is wrong in whatever form it takes.

Let me give you a hypothetical situation—and it is not that hypothetical. Let us say someone wants out of the service today and you cannot get out through the usual means and that person says, "I am gay; I want out." Do we just let people out because they say they are gay?

Well, it just seems to me we are creating all kinds of problems. Or let me pose a question to those who oppose this amendment. Let us say that we have—and I see my friend from Indiana here and maybe he would want to answer this question. Let us say that we have a national emergency and that we have a draft —and I would love to say we are never going to have that in the future, but I think we may—are we going to say that anyone who says "I am homosexual" is not going to be drafted? If we say that, let me tell you we are going to have a lot of gays in our society. You know, let us be realistic.

And then I have, in town meetings, people get up and say "What about the Bible?" It is interesting in the Bible you have a number of things condemned. I have not counted them. But they say adultery is condemned 40 times as often as homosexuality. Are we going to eliminate anyone from the service who commits adultery? My recollection from my Army time is that would dwindle our ranks appreciably.

I think we have to be realistic. I think people ought to be judged on their conduct, not their genes. And if people misbehave, whether they are heterosexual or homosexual, they ought to be disciplined. But to set up separate categories for people entering the service, I just do not think makes sense.

Are the American people that much different from the people in Canada, in Australia, in Germany, in France, in other countries where there is no such discrimination?

I do not think so. I think we ought to use common sense and I think the amendment offered by the Senator from California makes common sense. I am pleased to support it.

I yield back to her the remainder of my time.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. May I inquire as to the time remaining on this side?

The PRESIDING OFFICER. There are 26 minutes remaining for opponents of the amendment, and 27 minutes and 11 seconds for the proponents.

Mr. COATS. Madam President, I know the Senator from California has two or three speakers waiting. We have some on the way. If she would like to go ahead and yield some additional time, we will pick it up and try to keep it equal after that.

Mrs. BOXER. I yield 5 minutes to the distinguished senior Senator from California, Senator FEINSTEIN.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Madam President.

I rise to add my humble words of support to my colleague and friend, Senator BARBARA BOXER from California, and for the sense-of-the-Senate resolution that she has introduced today.

I do so, Madam President, because it is my belief that the code that is before us is really barking up an unconstitutional tree. This code is not "don't ask, don't tell." This code is "don't be."

And people cannot help what they are. Whether you are black or white, male or female, gay or straight, you are what you are. And the beauty of our country is that we function under a constitutional right to be what we are.

I am not a lawyer, but I have watched the law in this area. When I spoke on the floor some time ago, I mentioned a Federal court case in California which held that these laws were unconstitutional. Since then, there has been a new finding by a U.S. district court in Sacramento, CA. That finding was produced on August 30 of this year, just a few weeks ago. It is described in an editorial in the Sacramento Bee. I would like to quote, if I might, from that editorial and then enter the whole editorial for the RECORD.

It speaks about a ruling and says:

The ruling offers a glimpse of the legal morass the administration may face as challenges to the new policy are heard.

In his decision, (Federal Judge) Schwartz allows that military lives must be lived under special and strict rules. But, he writes, while "individual autonomy is not as great within the military community as it is within the larger civilian community, individual constitutional rights nevertheless remain intact."

The central questions the judge then considers are these: If the military is going to use its latitude to discriminate against a class of enlistees, can it prove it has good reason to do so? Is there a rational basis for treating them differently, or does the policy stem only from prejudice?

On that point, Madam President, I ask unanimous consent to have printed in the RECORD a whole list of statements from former military personnel who indeed say that it is prejudice, not policy, that prevails in any prohibition against being gay in the U.S. military.

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

MILITARY LEADERS SPEAK OUT IN FAVOR OF A NONDISCRIMINATION POLICY

Contrary to popular belief that the military is adamantly opposed to lifting the ban on lesbian, gay and bisexual servicemembers, a significant number of military leaders have expressed their support publicly and in letters to President Clinton and members of Congress. the following examples are representative, but hardly exhaustive.

Admiral William J. Crowe, Jr., U.S. Navy retired. "Arguments against allowing homosexuals in the armed forces are 'generated more by emotion than by reason' and the military could adjust to their presence just as it has to minorities and women." Washington Post, April 11, 1993.

General Barry Goldwater, U.S. Air Force, retired. "It's no great secret that military studies have proven again and again that there's no valid reason for keeping the ban on gays.* * * We have the strongest military in the world because our service people respect chain of command and know how to follow orders. The military didn't want blacks in integrated units, or women, and now it doesn't want gays. Well, a soldier might not like every order, or every member of his or her unit, but a good soldier will always follow orders—and in time, respect those who get the job done." Washington Post, June 10, 1993.

General Benjamin O. Davis, Jr., U.S. Air Force, retired. "When there is discrimination—it's the same as women in combat—it's all the same thing. They are related, you can't get away from it." Buffalo News, December 2, 1993.

Major General Vance Coleman, U.S. Army, retired. "In listening to the Congressmen, the Senators talk about this issue, I really don't understand. They talk about equality and that is not equality. Gays and lesbians can perform. There's no reason why they shouldn't be given the opportunity to perform.* * * It's the same arguments put forth with African Americans." MacNeil/Lehrer Newshour, March 29, 1993.

Brigadier General Evelyn P. Foote, U.S. Army. "We should clear the air once and for all, and permit people to be honest.* * * If you stigmatize a whole class of people, that's not appropriate leadership." San Francisco Chronicle, April 6, 1993.

Captain Lawrence Korb, U.S. Navy, retired. "In final analysis, the military exists to serve society and must be a reflection of that society.* * * Opening up the military to gays will not undermine military readiness any more than did opening it up to blacks and women or ending the draft." Atlanta Journal and Constitution November 22, 1992.

Captain William K. Yates, U.S. Navy, retired. "Scientists are almost universally agreed that homosexuality is neither a choice or a disease. It is a matter of civil right and simple justice. * * * The morale and fighting effectiveness of the military will be undiminished." New London Day, June 2, 1993.

Colonel Karl Cropsey, U.S. Army, retired. "I can say without reservation that the military ban on gay and lesbian service personnel rests on prejudice and fear, not fact. * * * Like every soldier, gay men and women fought for America because we believe what this nation stands for—fairness, equal treatment under the law, civil justice. All we're asking for is the right to serve with dignity, nothing more, nothing less." Kansas City Star, May 30, 1993.

Colonel Ronald C. Anderson, U.S. Army, retired. "The ban on homosexuals in the military is blatant discrimination against good, dedicated, high-achieving soldiers who are just as ready to give their lives for our country as the next and who have no intention of breaching the military's discipline or code of justice." May 13, 1993 letter to Senate Armed Services Committee.

Chaplain (Colonel) Charles Dunlap Brown, U.S. Army, retired. "Gay and lesbian soldiers are not asking for special rights, only those rights and freedoms provided by our Constitution for all citizens. * * * The current policy of discrimination denies able bodied men and women the opportunity to serve our country and costs taxpayers millions of dollars each year." April 20, 1993 letter to President Clinton.

Colonel Sam J. Turnbull, U.S. Army, retired. "I served in several units that included both gays and lesbians. They were accepted by others in the unit because they performed their jobs well under competent leaders." June 10, 1993 letter to Members of Congress.

Colonel Richard A. Littlestone, U.S. Army, retired. "Suggested compromises of which we hear would confirm the status quo. It has not worked. The current policy is just plain wrong. Morale and effectiveness is hurt by it now!" June 12, 1993 letter to President Clinton.

Colonel Robert Guida, U.S. Army, retired. "Mr. President, we know you are under tremendous pressure to compromise on your commitment to lift the ban. We urge you not to vacillate at this critical juncture—you are right. We have led our Nation's troops in peacetime and war. Not withstanding some potential difficulties, we believe strongly that the military is more than capable of implementing such a policy. Troops are concerned fundamentally, and should be, with having leaders and soldiers who know their jobs. Competence and dedication are the issue, not sexual orientation." Letter to President Clinton, June 30, 1993.

Commander William R. Bryant, U.S. Navy, retired. "There is no genuine reason that gays cannot serve openly and effectively in our military forces. * * * Most gays simply want to be open and honest and to keep their private lives private, just like you and me. * * * There should be a clear set of rules for sexual conduct for both service men and women." May 16, 1993 letter to Senate Armed Services Committee.

Colonel William L. Hauser, U.S. Army, retired. "The problem is not status, but behavior, and the military can enforce rules of behavior." New York Times, April 4, 1993.

Commander Beth Coye, U.S. Navy, retired. "Remember the bottom line: Notwithstanding complexities involved in implementation, to lift the ban on gays and lesbians is right for the military and the country. * * * Only with clear direction and unwavering leadership will President-elect Clinton's vision be manifested * * * and will the healing begin." The Mail Tribune, January 10, 1993.

Lieutenant Colonel James R. Letchworth, U.S. Army, retired. "I knew many gays in the military during my twenty year career. They covered all enlisted and officer ranks and served with distinction and were an asset to the military." May 13, 1993 letter to a Senator.

Lieutenant Colonel Beverly L. Trevor, U.S. Army. "Your committee on lifting the ban contains the same ridiculous rhetoric I have heard for barring women from combat positions." May 13, 1993 letter to Sam Nunn.

Lieutenant Colonel Charles H. Mixon, U.S. Air Force, retired. "They are talented, reliable, tolerant and enthusiastic. In my experiences in * * * Europe, Korea, Vietnam, and in the Cold War, as a jet bomber pilot and commander, their performance has been flawless." International Herald Tribune, June 25, 1993.

Lieutenant Colonel Ken C. Williams, U.S. Army, retired. "Changing the policy will not degrade military effectiveness any more than integration of blacks did in 1948. Gays are Americans, and if physically and intellectually qualified, should be allowed to serve. * * *" May 12, 1993 letter to Campaign for Military Service.

Lieutenant Colonel Chuck Magness, U.S. Army, retired. "We're talking about discrimination against a class of people because of their status and I'm surprised that it's taken the president of the United States to teach us all the difference between status and behavior." CNN Newsmaker's Saturday, January 30, 1993.

Lieutenant Commander Timothy L. Davis, U.S. Navy. "The ban on gay men and lesbians in the military is silly. * * * Civil rights are like gun powder. You can't stop people from getting them." May 13, 1993 letter to Campaign for Military Service.

Major William Schneider, U.S. Army National Guard, retired. "We should be judged by our ability, our competence. Gay men and women are not a threat." Chicago Tribune, May 16, 1993.

Captain Michael Clarkson, U.S. Army. "I believe the integration of homosexual men and women in the armed forces is more a challenge to leadership and understanding than to discipline and morale." Gannett News Service, April 12, 1993.

Captain Thomas W. Ratliff, U.S. Air Force. "I would like you to realize that there are many members of the United States military who support ending the discriminatory ban on gays and lesbians from serving in the military." May 14, 1993 letter to Sam Nunn.

Lieutenant David Zeni, U.S. Navy, retired. "Having served on a 400 foot long nuclear submarine along side 135 men, I can report to you that sexual orientation was never an issue.* * *I am surprised at military leaders who fear that gay service personnel will be beaten, "fragged," and murdered. Are they saying that our military's command structure is so poor that no one has control of the troops? We have an expression in the Navy Community—it goes—'There are no bad ships in the Navy, only bad wardrooms.' This speaks to leadership." May 19, 1993 letter to Sen. J. Lieberman.

Lieutenant George Cooper, U.S. Navy, retired. Member of Golden Thirteen. "Ever since we've had a Navy, there've been gays in the Navy, and it has not ruined that Navy. Gays are in every aspect of this society, and they operate effectively. They operate just like anybody else. They operate just as well as blacks do. This is a part of living in our society today, and we have to accept it and find out ways to live with it. NPR February 24, 1993.

OTHER MILITARY LEADERS WHO HAVE EXPRESSED THEIR SUPPORT

(Prepared by Campaign for Military Service Legal/Policy Division)

General William Miranda, U.S. Army National Guard.

Brigadier General Lester L. Lyles, U.S. Air Force.

Rear Admiral Stanley S. Fine, U.S. Navy, retired.

Major General (Adjutant General) Donald W. Lynn, U.S. Army National Guard.

Colonel Lucian Truscott III, U.S. Army, retired.

Colonel Joseph B. Holt, U.S. Air Force, retired.

Colonel George W. Beddingfield, M.D., U.S. Air Force, retired.

Captain William R. Graner, U.S. Navy.

Captain Jim Bush, U.S. Navy.

Commander Gary N. Hess, U.S. Navy, retired.

Commander Hank Carde, U.S. Navy.

Lieutenant Colonel Glenn S. Harman, U.S. Air Force.

Lieutenant Colonel Nancy A. Russell, U.S. Army, retired.

Lieutenant Colonel Werner Braun, U.S. Army.

Lieutenant Colonel Leslie L. Smith, U.S. Air Force.

Lieutenant Colonel Gary E. Carpenter, U.S. Air Force, retired.

Major Linda Morey, U.S. Air Force, retired.

Major C.R. Meyers, U.S. Marine Corps.

Major Elbert C. Legion, U.S. Army, retired.

Major Paul Florentino, U.S. Air Force, retired.

Lieutenant Commander, John Norris, U.S. Navy.

Lieutenant Chris Chop, U.S. Navy.

Lieutenant Matthew Gloss, U.S. Navy.

Justice (Lieutenant) William S. White, U.S. Navy, retired. Member of Golden Thirteen.

Captain Gerald L. Rosanbalm, U.S. Army, retired.

Captain Michael McManus, U.S. Army Reserves.

Sergeant, Forest D. Holycross, U.S. Air Force, retired.

Sergeant, Patrick Arbec, U.S. Marine Corps.

Sergeant, Morton M. Kondracke, U.S. Army, retired.

Senior Chief Petty Officer Christopher Leach, retired.

Senior Chief Petty Officer John W. Kressley, U.S. Navy, retired.

Chief Petty Officer Steven R. Amidon, U.S. Navy.

Mrs. FEINSTEIN. Among these are Adm. William J. Crowe, Jr., U.S. Navy, retired, who says:

Arguments against allowing homosexuals in the armed forces are "generated more by emotion than by reason" and the military could adjust to their presence just as it has to minorities and women.

Gen. Barry Goldwater, U.S. Air Force, retired:

It's no great secret that military studies have proven again and again that there's no valid reason for keeping the ban on gays. . . . We have the strongest military in the world because our service people respect chain of command and know how to follow orders. The military didn't want blacks in integrated units, or women, and now it doesn't want gays. Well, a soldier might not like every order, or every member of his or her unit, but a good soldier always follow orders—and in time, respect those who get the job done.

And this goes on with Capt. Lawrence Korb, U.S. Navy, retired; Col. Karl Cropsey, U.S. Army, retired; Col. Sam J. Turnbull, U.S. Army, retired; Comdr. William R. Bryant, U.S. Navy, retired; and on and on, in statements that say that gays can serve just as well as anyone and the thing that is a deterrent to their service is nothing but unbridled prejudice.

Let me go on with the finding of the court.

The central questions the judge asked, again, is whether the military is going to discriminate against a class of enlistees; if there is a rational basis for treating them differently.

Then the editorial goes on to say:

The military fails to convince the judge on all counts. While the Navy claims that homosexuals are a threat to morale, discipline, and unit cohesion, it offers no evidence to back up the claim. In fact, Schwartz cites Government documents that attest to the opposite. Three separate studies commissioned by the Department of Defense conclude either that the overall performance of gays and lesbians has been satisfactory or that there is no evidence to support the contention that homosexuality is incompatible with service. A 1992 General Accounting Office report concurs. And a 1990 Navy memorandum to its commanders reads * * *

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

Mrs. FEINSTEIN. I ask Senator BOXER, may I have a few moments additional?

Mrs. BOXER. I have so little time, but I will yield to my colleague an extra 15 seconds so she can wrap up.

Mrs. FEINSTEIN. I thank the Senator.

The memorandum reads:

The stereotypical homosexual female in the Navy is hard-working, career-oriented, willing to put in long hours on the job and among the command's top professionals.

Madam President, I can only but object to a policy that is not only "don't ask, don't tell," but "don't be."

In my heart of hearts, I believe that it will be found to be unconstitutional. And I believe that the body of case law that will determine that is now being established in the two Federal court findings in the State of California which have held that the Armed Forces cannot discriminate because an individual happens to be gay or lesbian.

I ask unanimous consent that the text of the editorial be printed in the RECORD.

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

[From the Sacramento Bee, Sept. 3, 1993]

CHALLENGING THE GAY BAN

In a U.S. District Court decision handed down Monday in Sacramento, Judge Milton Schwartz issued a sharp indictment of the military's discriminatory ban on homosexuals and ordered the Navy to reinstate a sailor who was discharged in 1982 after he told his superiors he was gay.

Though the case dealt with a ban that the Clinton administration has since made marginally less strict, the judge's decision has implications for the president's new policy, which requires gay and lesbian members to keep quiet about their orientation and refrain from "homosexual conduct." The ruling offers a glimpse of the legal morass the administration may face as challenges to the new policy are heard.

In his decision, Schwartz allows that military lives must be lived under special and strict rules. But, he writes, while "individual autonomy is not as great within the military community as it is within the larger civilian community, individual constitutional rights nevertheless remain intact."

The central questions the judge then considers are these: If the military is going to use its latitude to discriminate against a class of enlistees, can it prove it has good reason to do so? Is there a rational basis for treating them differently, or does the policy stem only from prejudice?

The military fails to convince the judge on all counts. While the Navy claims that homosexuals are a threat to morale, discipline and unit cohesion, it offers no evidence to back up the claim. In fact, Schwartz cites government documents that attest to the opposite. Three separate studies commissioned by the Department of Defense conclude either that the overall performance of gays and lesbians has been satisfactory or that there is no evidence to support the contention that homosexuality is incompatible with service. A 1992 General Accounting Office report concurs. And a 1990 Navy memorandum to its commanders reads: "The stereotypical homosexual female in the Navy is hard-working, career-oriented, willing to put in long hours on the job and among the command's top professionals."

The judge is equally unconvinced by the Navy's argument that the policy is justified because it protects troops who would be made anxious by the presence of known homosexuals among them, even if the behavior of these homosexuals is disciplined. He writes: "Policies based on or motivated by the prejudice of one group toward another do not further any conceivable legitimate government interest and must be deemed irrational as a matter of law." Prejudice, he's saying, is not reason enough.

Though an 11-year legal battle for the defendant in this case, former Navy cryptographer Mel Dahl (who in the interim got a law degree and argued his own case), may have ended this week in Sacramento, the military's efforts to uphold a still-discriminatory policy looks to be only just beginning.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nebraska?

Mr. COATS. Madam President, let me again see if I can get a handle here on the time remaining.

The PRESIDING OFFICER. There are 26 minutes remaining for opponents, controlled by the Senator from Georgia, for opponents to the amendment.

Mr. EXON. If I could have the attention of the Senator from Georgia, I believe he is about to announce he will yield me 3 minutes?

Mr. NUNN. I will be glad to yield to the Senator from Nebraska 3 minutes.

The PRESIDING OFFICER. The Senator from Georgia has yielded 3 minutes to the Senator from Nebraska.

Mr. EXON. Madam President, I had hoped this amendment would not come up. Certainly those who are offering the amendment have every right to do so. I am pleased a time agreement has been entered into and we will vote on this shortly.

I certainly hope that the Senate will recognize that the Armed Services Committee has put in a great amount of time and effort on this matter and come to what I think is the best possible compromise under the circumstances.

There have been some statements made on the floor of the Senate this morning that I would like to briefly refute. First, the compromise that has been agreed to and codified into law under the armed services authorization bill before us is in total compliance with the final decision of the President of the United States. The Armed Services Committee is walking in lockstep now with the position of the administration on this matter, after the administration had changed, somewhat, its earlier pronouncements on this matter.

Also, it has been indicated that the Armed Services Committee has not been sensitive to what I think are some of the legitimate complaints about the military with regard to women. I thank Senator BOXER, the Senator from California, the sponsor of this amendment, who, I believe, said earlier in remarks on the floor of the Senate that she saluted and thanked the Armed Services Committee for the important role that we played in the Tailhook scandal, which was a scandal. The Armed Services Committee is not deaf to the legitimate complaints that have been raised. Therefore, I come to the defense of the Armed Services Committee, those on both sides of the aisle, if anyone thinks we have been insensitive to all these matters.

We have held some rather lengthy hearings. If there are statements made on the floor of the Senate that there has been no documentation of some of the problems that open homosexual activity could bring to the armed services and national security interests of the United States, anyone making those kinds of statements simply did not hear or read or know anything about the extensive hearings that we held in the Armed Services Committee.

While this debate is in order, I hope that we will recognize a great deal of time, effort, and testimony on both sides of this controversial issue have been recognized and listened to by the Armed Services Committee. The Armed Services Committee overwhelmingly has come out with what we think is a workable compromise, as imperfect as it might be. I hope at the proper time we will lay this matter to rest, either by a tablingmotion on the amendment offered by the Senator from California, or if it comes to an up-or-down vote, I hope the Senate will have the wisdom to lay this matter to rest once and for all as outlined in the thoughtful addressing of this problem that has been given by the Armed Services Committee of the U.S. Senate.

I yield back my time and yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from California.

Mrs. BOXER. I yield 10 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Madam President, leadership is inspiring people to be their own best selves. I support the Boxer amendment because I believe that our approval of the policy in this bill would not meet that definition of leadership.

I am an American Jew, and I know that I would be deeply offended if there was a policy adopted that essentially said that if I was to say to a friend of mine that I was a Jew, I could lose my job, my place of employment. I think what we are trying to codify is the functional equivalent of that, and I think it is truly appalling.

I heard my colleague from Nebraska, whom I respect very much, talk about the deliberations of the Armed Services Committee. I am not here to attack the committee, but I am here to say that there was only one independent outside study. The Department of Defense spent $1.3 million on a Rand Corp. multidisciplinary study: A whole array of experts, focus groups, a study in our country, a study of other countries' policies as well. And after very careful deliberation—and I think it is interesting that not until very late in the game did we really have the opportunity to view this study, despite repeated requests to the Pentagon. The Rand Corp. concluded that "There is no empirical research that supports the contention that homosexuality is incompatible with military service."

Madam President, I ask unanimous consent to have printed in the RECORD at the end of my statement the executive summary of this study.

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

(See Exhibit 1.)

Mr. WELLSTONE. I hope my colleagues will carefully read this, maybe not under the light of the cameras, in a calmer atmosphere free of the fear of the 30-second attack ads, and take this analysis to heart.

Rather than adopting a policy which is historically informed and forward looking, we choose to know what we want to know and we completely ignore the one independent study commissioned by the Pentagon that says we should end the ban and that this could be done without harm to military discipline or morale.

We are today about to codify a policy based on fear and based on prejudice. It is a policy that does not look forward, it looks backward. And it fails to ensure equal protection of the law. It does not meet the most basic standards of justice, or of nondiscrimination. And it does not meet the standard of equalprotection under the law.

Let us be clear. After all the debate points are made and all the fine legal distinctions are drawn out, when all is said and done, the bottom line remains: This codification is a major step backward in our march toward nondiscrimination and equal protection for each and every American. And let there be no mistake: This codification is in fact more restrictive than the Executive order. It seriously weakens the don't ask prohibition in the President's Executive order for those entering the service by giving additional discretion to the Secretary to make changes in the policy as he sees fit.

It removes the requirement in the President's proposal for equal and evenhanded application of the Uniform Code of Military Justice, essentially ensuring that this code will continue to be selectively enforced against gay and lesbian persons.

It leaves effectively unchanged the language which suggests that homosexual orientation is incompatible with military service, by saying that those with a propensity to engage in homosexual conduct, defined by this policy to include even a simple public acknowledgment of one's sexual orientation, represents an unacceptable risk to military effectiveness.

This policy reduces a group of citizens, men and women, to categories, to stereotypes, and it relegates them to lesser treatment under the law. I am disappointed and saddened by this, because when any among us are so diminished, we are all diminished.

I do not think you can compromise on extending basic civil rights to all our citizens. I do not think you can split the difference on a matter of principle. The only standard that ought to be set is the standard of conduct, and we should have the strictest standard of conduct.

Madam President, whatever happened to Martin Luther King's appeal to the Nation that we should judge people by the content of their character? Is that what we are doing with the codification of this policy?

By adopting this pollicy, we put gay and lesbian people in an incredibly difficult position. We present them with a Hobson's choice: Refuse to acknowledge their orientation, lie about it so that they can stay in the armed services, or tell the truth and be discharged for telling the truth.

If there is anything that will erode the honor and integrity and the esprit de corps of the military it is a policy which prevents people from staying in the military unless they lie about it when asked by their colleagues or commanders.

This is a completely untenable position to put people in as Federal policy. The U.S. Senate should not endorse such a policy.

Madam President, after all the agonizing and haranguing and worrying over minor details, let me be crystal clear: This policy has overlooked—I say this to my lawyer friends—one basic principle enshrined in the Constitution: Equal protection under the law. Nondiscrimination against any group of citizens. That is the issue before us. It is straightforward: Will gay and lesbian persons in this country be given equal protection against discrimination?

As the President once said, we should not discriminate against people because of who they are. Rather, the issue is what they do. Sexual orientation is no basis for action against our servicepeople. Sexual misconduct is, whether by homosexual or heterosexual members of our Armed Forces, and the rules on such misconduct should be enforced fairly and evenhandedly.

Madam President, this policy provided a test of the fundamental right of Americans to live in a society regardless of differences in race, creed, color or sexual orientation. We have failed miserably in that test. We have failed to uphold our most precious values of equality, of justice, of fair play, and equal protection. We have abandoned our commitment to an entire group of men and women, of citizens in our country who will remain essentially unprotected against discrimination by Federal law. This policy is a pale shadow of the President's earlier promise to lift the ban.

Madam President, there are men and women who are gay and lesbian who work for U.S. Senators and work for U.S. Representatives, and they work for us with honor. Many do a brilliant job in their work, and we all know it. It must be very painful for them to see us moving toward codifying this policy which treats certain people as less than fully human. And the same is true for virtually every major institution in our Nation.

I would say to those men and women who work right here in this institution, I cannot answer what surely must be your question: Why should not the Government, why should not the Armed Forces be leading the way in ending discrimination? Why should we not be lighting a candle? We can do much better than this.

Madam President, I say to my colleagues, we can do better. And I say to my colleagues, if not today, if not tomorrow, as I look at our country and I look at the march toward ending discrimination and toward treating people with dignity and respect and sensitivity, there will come a day where we will end the ban. There will come a day when there is civil rights protection for all citizens, and there will come a day when the United States of America is all that she can be. I am saddened and angry that day is not yet here. I urge my colleagues to oppose codifying this new policy and to support the Boxer amendment.

EXHIBIT 1

1. SEXUAL ORIENTATION AND U.S. MILITARY PERSONNEL POLICY: POLICY OPTIONS AND ASSESSMENT—STUDY OVERVIEW

INTRODUCTION

On January 29, 1993, President Clinton signed a Memorandum directing the Secretary of Defense to "submit * * * prior to July 15, 1993, a draft of an Executive Order ending discrimination on the basis of sexual orientation in determining who may serve in the Armed Forces." The Presidential Memorandum also directed that the recommendation by the Secretary be one that could be "carried out in a manner that is practical and realistic, and consistent with the high standards of combat effectiveness and unit cohesion our Armed Forces must maintain."[1] In issuing his directive, the President was acting on a campaign pledge to end the prohibition on homosexuals serving in the United States military. Changing policy to permit homosexuals to serve is controversial, and the change is opposed by many in the public and in Congress. The Chairman of the Joint Chiefs of Staff and other senior military leaders have indicated that they believe permitting known homosexuals to serve in the military would undermine unit cohesion and performance.

A series of Congressional hearings, held during the spring of 1993, revealed a broad range of opinion on the subject. Many senior military officials, such as retired Army General Norman Schwarzkopf, stated that they believed current policy banning homosexuals should remain unchanged. Other current and former members of the military supported permitting homosexuals to serve. Expert witnesses and social scientists voiced divided opinions on the issue.

The absence of a political consensus, in Congress or in the country as a whole, combined with divided expert opinion and conflicting views among military personnel, makes the search for an acceptable solution difficult. The Secretary of Defense subsequently asked RAND to provideinformation and analysis that would be useful in helping formulate the required draft Executive Order.

Study Approach

RAND's National Defense Research Institute initiated this effort on April 1, 1993. An interdisciplinary team of researchers considered a wide range of topics potentially relevant to the issue of acknowledged homosexuals serving in the military. Staff members visited military organizations in seven foreign countries and police and fire departments in six American cities, seeking insights and lessons from analogous experiences of other organizations and institutions. The team considered the historical record, focusing on the integration of African-Americans and on the development of the current policy that prohibits homosexuals from serving in the military. It reviewed public opinion data and the data concerning the views of current active-duty military personnel. It also reviewed the scientific literature on group cohesion, sexuality, and related health issues. It examined a number of legal and enforcement issues, as well as the literature that deals with implementing change in large organizations. This chapter brings together the results of the team's research, which is reported more fully in subsequent chapters of the report.

The "Not Germane"/Conduct-Based Policy

In light of this research, the team examined a range of potential policy options. Most of the options were judged to be inconsistent with the President's memorandum, internally contradictory, or both. Only one policy option was found to be consistent with the findings of this research and the criteria of the Presidential memorandum, and to be logically and internally consistent. That policy would consider sexual orientation, by itself, as not germane to determining who may serve in the military. The policy would establish clear standards of conduct for all military personnel, to be equally and strictly enforced, in order to maintain the military discipline necessary for effective operations. The option requires no major changes in other military personnel policies and no change in current law. The "not germane" option could be implemented without any changes to the administrative guidelines for prosecutions under the Uniform Code of Military Justice (UCMJ). However, several considerations lead to the conclusion that the policy would be more legally defensible and less costly and cumbersome to implement if the guidelines were revised to exclude private sexual behavior between consenting adults. This policy option is described in greater detail later in this overview.

Introducing a change of this type in the military requires careful attention to implementation issues. The prevailing attitudes of both the leadership and many military personnel are hostile to any change. Based on the historical experiences of adaptation to change in the military and the research literature on change in large organizations, several key elements of an implementation strategy are identified and discussed.

This overview synthesizes the results of the RAND research and functions as a "road map" to the chapters and appendixes that follow. It begins with a review of the history of U.S. military policy toward homosexuals and of the applicable provisions in DoD regulations and military law that have restricted homosexuals from serving.

U.S. MILITARY POLICY ON HOMOSEXUALITY AND SODOMY

Since World War I, homosexuals have been restricted from serving in the Armed Forces of the United States through either personnel regulations or the application of the sodomy provisions of military law. Sodomy was defined as anal or oral sex between men or between a man and a woman. At the end of World War II, the legal definition was changed to include sexual relations between women as well.

Homosexuality and the Military, 1916 to 1940

Early attempts to regulate homosexual behaviors within the Armed Forces were sporadic and inchoate. The Articles of War of 1916 went into effect on 1 March 1917. As the first complete revision of military law in over 100 years, this new codification was the first legal document to address the incidence of sodomy within the military population. The first mention of sodomy in military law was in Article 93, which prohibited assault with the intent to commit sodomy.[2] In their 1920 revision, the Articles of War included sodomy as a separate offense.[3] This statute did not change until 1951.

Between the two World Wars, the military attempted to screen and exclude homosexuals from service by utilizing contemporary biological theories about the causes and manifestations of homosexuality. In 1921, for example, the Army's "stigmata of degeneration" included men who appeared overly feminine, with sloping shoulders, broad hips, and an absence of secondary sex characteristics, including facial and body hair. Also among the exclusion criteria was the degenerative characteristic of "sexual psychopathy," which included sexual relations between men.[4]

During the interwar period the military discharged homosexuals administratively more frequently than they formally court-martialed them, despite the official stance that sodomists had to be court-martialed under the Articles of War. Individuals suspected of homosexual acts were released under a "Section VIII" discharge for unsuitability. While in theory these could be honorable discharges, in cases of psychopathic behavior, the discharge was normally less-than-honorable, or "blue."

World War II: 1941 to 1946

In an attempt to rationalize policy concerning homosexuals in the months preceding America's entry into World War II, the Army Judge Advocate General tried to assess how existing policy was being applied in the field. In the absence of aggravating factors, the Army removed most sodomists from service through administrative proceedings. Court-martial was indicated, however, in those cases where force was employed, when minors were involved, or when the sexual partner was incapable of consent due to intoxication or other impairing condition.

During World War II, a lively debate took place among military authorities concerning the policies and practices regulating homosexual activity and the exclusion of homosexuals in the Armed Forces. Within the Army alone, for example, there were twenty-four separate revisions of regulations concerning homosexuality between 1941 and 1945, compared with eleven revisions before the war and seventeen between the end of the war and the passage of the Uniform Code of Military Justice in 1950. This debate had several causes. First, there was widespread variance in the treatment of individual cases within the military. Second, military authorities seemed increasingly willing to consult with and accept the recommendations of medical and psychiatric personnel with regard to homosexuals. The American Psychiatric Association's Military Mobilization Committee helped develop the procedures that would be used to evaluate the more than 18 million men who would be examined for induction during the course of the war. By the beginning of the war, Army and Navy Departments, along with Selective Service, had determined that overt homosexual behavior could be used to deny entry into the military.[5]

During World War II, the prewar practice of separating homosexuals from service through the use of the administrative discharge was continued and articulated as part of Army regulations. By the end of the war, military policy concerning homosexuality had undergone several important changes. First and most important, the "homosexual" had replaced the "sodomist" as the focal point of legal concern, although the criminal aspects of same-sex behaviors had been neither eliminated nor elucidated in any clear manner. People who engaged in same-sex behaviors could be separated from the service through their resignation or by administrative discharge. Even if no sexual activity had occurred, a growing body of policy supported the view that a homosexualpersonality could readily be identified, and that such persons were to be barred from military service at induction or separated from the service upon discovery.

[1] Footnotes at end of article.

The Cold War Era: 1946 to 1956

Immediately after the war, in 1946, the Army liberalized policies toward homosexual personnel by increasing the likelihood of their receiving an honorable discharge (AR 615-360). Attitudes shifted soon afterward, however, and, in 1948, the provision for honorable discharge was deleted.[2] On October 11, 1949, the Department of Defense issued a memorandum that unified military policy toward homosexual behavior:

"Homosexual personnel, irrespective of sex, should not be permitted to serve in any branch of the Armed Services in any capacity, and prompt separation of known homosexuals from the Armed Forces be made mandatory."

The Eisenhower Administration, with the signing of Executive Order 10450 in 1953, codified "sexual perversion" as grounds for dismissal from federal jobs. By some estimates, dismissals from federal employment increased tenfold. In the military, the number of discharges for homosexuality remained about the same as it had been during World War II—roughly 2000 per year—but from the much smaller post-war force of 1.4 million. The rate of discharge in the military, therefore, was also approximately ten times greater than it had been during the war.[7]

The Military and Homosexuality in the 1960s and 1970s

Within the military, the separation of homosexuals proceeded unchallenged throughout the late 1950s and early 1960s. DoD policy was revised in 1959, with the issuance of the first version of DoD Directive 1332.14 on the subject of Administrative Discharges. Section VII.I of that directive indicated that among the reasons for discharge for "unfitness" was "sexual perversion," including homosexual acts and sodomy. This remained the policy of the Department throughout the 1960s. (When Directive 1332.14 was revised in 1975, the language was slightly altered to describe "homosexual acts or other aberrant sexual tendencies" as the grounds for determining unsuitability for military service—section G.3).

The 1965 DoD directive revised the regulations surrounding the separation of homosexual personnel. Members facing a less-than-honorable discharge were allowed the chance to present their cases before administrative discharge boards and to be represented by counsel. By liberalizing the rights of service members, the 1965 separation directives marked a turning point in the legal history of homosexuals in the services. Before the 1965 directive, most service members accused of homosexuality cooperated without protest in order to protect others or to avoid more severe punishment.[8] Inconsistency in the standards, in the documentation required, and in administrative procedures, however, led to a review during the Carter Administration of the policy and procedures for discharge.[9]

The results of the review were reflected in the new edition of DoD Directive 1332.14, issued on January 16, 1981. In a memorandum accompanying the new directive, outgoing Deputy Secretary of Defense Graham Claytor, noting that his revision "contains no change in policy," explained that the enclosure on homosexuality (a new Enclosure 8 to the 1976 version of Directive 1332.14) had been completely revised. Thepurpose of the new enclosure was to make it clear that, based on an investigative finding that a person "engaged in, has attempted to engage in, or has solicited another to engage in a homosexual act," discharge was mandatory.

The revised enclosure in 1981 also for the first time stated that "Homosexuality is incompatible with military service" and provided the following explanation for the exclusion of homosexuals:

"The presence of such members [homosexuals] adversely affects the ability of the armed forces to maintain discipline, good order, and morale; to foster mutual trust and confidence among servicemembers; to insure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of servicemembers who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the armed forces; to maintain the public acceptability of military service; and to prevent breaches of security."

The revision also affected policy on discharges by making it clear that homosexuality alone did not require a misconduct discharge. In the absence of other actions (such as violence), the discharge could be under honorable conditions. As promulgated by Deputy Secretary Claytor, DoD Directive 1332.14 and its provisions concerning homosexuality remained the policy governing enlisted separations until January 1993. (Directive 1332.14 was reissued in 1982 and the enclosure regulating homosexuality is now numbered 3H, but the language remained unchanged. Identical language in a separate directive governs officer personnel.)

The Recent Past: 1981 to 1991

The armed services' policies concerning the exclusion and separation of homosexual personnel came under increasing legal challenges after the new DoD policies went into effect in 1981: among the most publicized were *Secora v. Fox, Pruitt v. Cheney, Steffan v. Cheney and Watkins v. United States Army*. In each case, different aspects of the new regulations were contested in federal court.

Between 1980 and 1991, according to a report compiled by the General Accounting Office, there were 16,919 discharges for homosexuality within the Armed Services. These discharges comprised 1.7 percent of all involuntary discharges in the Department of Defense for this period.[10] Like all involuntary separations during these years, the numbers of homosexual-related discharges peaked in 1982 and declined for the remainder of the decade. On average, however, over 1,400 service personnel were separated for homosexuality per year.

Military Law: Homosexuality and Sodomy

The sodomy provisions of the Uniform Code of Military Justice (UCMJ, Article 125) have also been used as the basis for removing homosexuals from the service. Some have argued that a policy allowing homosexuals to serve would be inconsistent with this provision of military law.[11] In fact, DoD Directive 1332.14 and Article 125 of the UCMJ do not use the same definition or standard, nor do they attempt to regulate precisely the same behaviors. Directive 1332.14 defines a homosexual as one who engages in or desires to or intends to engage in homosexual acts. These acts, in turn, are described as "bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires."

A review of the research on sexual behavior suggests that there are many people who call themselves heterosexual, and who are predominantly heterosexual in behavior, who also engage in homosexual acts.[12] Some may experiment with homosexual behavior once or twice. Others may occasionally act on their attraction to people of the same sex, even if they call themselves heterosexual. Still others may recognize their attraction to others of the same gender, but they establish a heterosexual public persona and refrain from acting on these attractions or revealing their orientation to others. Finally, there are people who consider themselves to be "homosexual" or "bisexual" who, for whatever reasons (e.g., health concerns, religious convictions, or simply lack of opportunity), refrain from homosexual activities.

Article 125 of the Uniform Code of Military Justice states that a person engaging in "unnatural carnal copulation" with members of the same or opposite sex is guilty of sodomy. The UCMJ does not define what is meant by "unnatural" carnal copulation in statutory language. This definition is left to the explanation provided in the Manual for Courts Martial (MCM), where the proscribed behavior is defined as oral or anal sex (or sex with an animal). The distinctions between the two regulations governing the sexual behavior of military personnel can be summarized as follows: the DoD directive forbids virtually any type of homosexual conduct; the UCMJ forbids a narrower set of behaviors, regardless of whether they are performed by homosexuals or heterosexuals.

Under military law, the act itself is forbidden under all circumstances, regardless of the nature of the partners to the act. Consequently, heterosexual sodomy is proscribed as well as homosexual sodomy. Contemporary surveys indicate that oral sex, as defined and prohibited by the UCMJ/MCM, is widely practiced by both homosexuals and heterosexuals.[13]

REVIEW OF ANALOGOUS INSTITUTIONS AND EXPERIENCES

To understand the possible effect of changing policy to permit homosexuals to serve and to examine how other institutions have implemented similar changes, members of the RAND team visited a number of foreign militaries and domestic police and fire departments. None of these organizations is an exact model for the U.S. military, of course, but the comparisons can be instructive for assessing proposed changes in U.S. military personnel policy. Besides these analogous institutions, analogous situations such as the experience of racial integration of theAmerican military were also studied for potentially instructive insights.

The Experience of Foreign Militaries[14]

Policy toward homosexuals serving in the military varies widely among countries. Several countries were selected, representing the range of policies toward homosexuals from affirmative advocacy of homosexual rights (the Netherlands) to a ban on service similar to the current U.S. policy (United Kingdom). In addition, researchers visited Canada, France, Germany, Israel, and Norway. In each country researchers interviewed key government officials and, where possible, held discussions with other experts and observers. In some instances, the findings and conclusions reported here (and by the General Accounting Office in its June 1993 report) appear to be at variance with testimony before the Senate Armed Services Committee and with often-recited, commonly held opinion about foreign practices.[15] Every effort was made to elicit from the foreign governmental officials their explanation for these discrepancies.

Each of the militaries visited exists within and reflects its own society and culture, and policies vary accordingly. France, Germany, Israel, the Netherlands, and Norway have conscript forces. Norway essentially trains recruits to serve as a militia that can be mobilized for territorial defense should future situations require it. Norway also contributes forces to international peacekeeping

missions. The Netherlands is changing policy to end conscription and will rely on a volunteer force in the future. Both Norway and the Netherlands follow a nondiscrimination policy with respect to homosexuals serving.

The French policy on homosexuals is not to have an official policy. Unofficially, the issue of homosexuality is dealt with in the general category of medical/psychological issues. Homosexual status is not automatically disqualifying for conscription, but in practice homosexuals are excused from service if they so desire. Among the career force, flagrant homosexual conduct can be the proximate but unofficial cause for separation. In general, the French approach is that private sexual conduct is not relevant to performance of military duties.

Israel, like these European countries, relies on conscription, although in Israel's case the term of service is longer (36 months vs. an average of 10 months in Europe). Like Norway, the ethic in Israel is that all should serve and everyone should remain available for mobilization to defend the country, but Israel goes beyond that purely military notion to include the use of military service as an instrument of national socialization. It is an obligation and a duty to serve in the Israeli military, and the ethic is thus one of inclusion rather than exclusion—the Israeli military will make every effort to permit recruits to serve, accepting some who might otherwise be disqualified on purely military grounds.

Israel has recently (June 11, 1993) reaffirmed its policy of nondiscrimination, removed the requirement that homosexuals undergo a mental examination, and no longer automatically prohibits them from holding top-level security clearances. Israeli officials directly refuted the commonly made assertion that homosexual men are not permitted to serve in combat units, or are treated like women and given clerical jobs and allowed to live at home, stating that all such decisions are made on a case-by-case basis. The recently issued standing order makes it clear that no automatic restrictions will apply to homosexuals and that all members of the force will be judged by the same criteria. Because of the ethic of inclusion in the Israeli military and the concept of citizen-soldier that guides Israeli service, there is a well-developed system of support from counselors, psychologists, and social workers to assist military leaders in dealing with service members' problems of adjustment to military service.

Like the United States, Canada and the United Kingdom do not rely on conscription. Canada maintains a relatively small military that, in addition to its NATO responsibilities, is oriented primarily toward therole of international peacekeeper. In late 1992, Canada's policy was changed to eliminate the ban on homosexuals serving in its military, following court rulings that prohibited discrimination on the basis of sexual orientation in all areas of federal jurisdiction. The Canadian Forces then implemented a new policy that permitted acknowledged homosexuals to serve while prohibiting inappropriate sexual misconduct and personal harassment by all service members.[16] this new policy received strong endorsement and support from the leadership of the Canadian Forces. Thus far, the Canadian Forces report no detrimental effects resulting from the policy change.

The United Kingdom remains the only country of those visited to retain an absolute ban on homosexuals serving. It is the only country visited that will conduct investigations of alleged homosexuality and will expel known homosexuals from the service.

In all the countries visited, sodomy has been decriminalized in the civil law. The military law then followed suit in all countries other than Britain, where the Queen's Regulations still forbid homosexual acts. Even in Britain, however, the policy in practice is to expel homosexuals under provisions of a general administrative discharge, not to charge them with a violation of military law.

Like Britain, Germany will exclude known homosexuals from service. For homosexuals already in the military, German policy tends to be more variable. Conscripts are likely to be expelled if discovered to be homosexual. (Since Germany does not actively investigate these matters, discovery would almost always be associated with an actual incident of conduct, an adjustment problem, or a self-declaration.) In the professional force, an individual who has served less than four years may be expelled, depending on other factors. Individuals would not automatically be expelled if other factors indicated satisfactory performance on the job. After four years of service, the individual almost certainly would not be separated, although it is very possible he would be transferred to a job that is not in a "leadership" position. In Germany these decisions, which are infrequent, are made on an individual basis, and the outcome depends on a variety of factors. Indeed, the best summary characterization of German policy in this regard is the frequently heard explanation "it depends."

While it is generally accepted that homosexuals serve in all of the militaries examined for this study, few serve openly (and none, of course, can be open in the United Kingdom). RAND researchers were frequently told that if a meeting on this subject had not been requested by the visiting Americans, there would be no occasion to have a meeting to discuss the issue. Despite tolerance for homosexuality in the society and the decriminalization of homosexual acts, in none of these societies is homosexuality widely accepted by a majority of the population.[17] (The trend in society at large, however, is toward the expansion of legal rights of homosexuals.) In the Netherlands, easily the most tolerant and encouraging environment for homosexuals to serve, fewer than 1 percent of the men in the Dutch military identified themselves as "predominantly homosexual" on a questionnaire; 3.5 percent of women indicated that they were homosexual; and 4.8 percent of the men stated that they had had homosexual experiences at some time in their lives.

In four of the countries that have policies of complete nondiscrimination (Canada, Israel, the Netherlands, and Norway), no serious problems were reported concerning the presence of homosexuals in the force. While an occasional episode of ridicule or violence has occurred (reported mainly in Norway), these incidents have been sufficiently infrequent that no special measures were taken to prevent future incidents. In Canada, since the ban was lifted in 1992, no member of the Canadian Forces has declared himself or herself to be homosexual, and no incidents of violence against homosexuals or disruption in units have been reported. In the Netherlands, no serious problems have been reported. No effects on recruitment or retention were identified in these militaries.

Generally, the pattern in each of these organizations is to deal with homosexuals as individuals, treating any issues or difficulties that arise on a case-by-case basis. The Netherlands departs from this standard in providing sensitivity training for troops and making active efforts to ensure that homosexuals are integrated into the force. The affirmative action policies and the special status thus accorded to homosexuals as a category distinguish policy in the Netherlands from that in the other countries examined.

None of the militaries studied for this report believe their effectiveness as an organization has been impaired or reduced as a result of the inclusion of homosexuals. With the exception of the Netherlands, no special resources have been expended or programs created to deal with the presence of homosexuals. The Dutch assessment of their own policy has led to the conclusion that the program of promoting open acceptance has not been as successful as they desired. While each of these militaries has a different role to play in its social context, the key finding is that, in all cases where a decision has been made to include homosexuals in the force, the organization's leaders believe that the force's organizational performance is unaffected by that presence.

The Experience of Domestic Fire and Police Departments[18]

Unlike the foreign militaries, domestic police and fire departments function in the American cultural and societal context. Police and fire departments share a number of characteristics with the U.S. military that make them the closest domestic analog. They are hierarchically organized, with a well-defined chain of command. Members work together as teams. A substantial proportion of job time is spent training for short, intense periods of hazardous activity. An inherent feature of the job is putting one's life at risk. They are markedly different, however, in that only the military deploys its members on ships, or routinely engages in field exercises of extended length. Police officers and firefighters return to their homes after periods on duty; they often train and work in smaller units than the military; and they interact with the community at large to a much greater degree—indeed, as a central aspect of the job.

RAND researchers visited six U.S. cities that have policies of nondiscrimination in place: Chicago, Houston, Los Angeles, New York, San Diego, and Seattle. They focused on two main issues: (1) What were the behavioral responses at the individual level of both homosexuals and heterosexuals to the presence on the force of homosexuals? (2) What were the organizational strategies and polices put into place to implement the nondiscrimination policies? Geographic distribution was sought, and cities with atypical cultural climates with respect to homosexuals (e.g., San Francisco) were excluded. Cooperation from the local departments was generally good, although in Houston the police department and in Los Angeles the fire department declined to participate in the research effort. In addition to review of relevant documents and newspaper articles, RAND researchers also interviewed high-ranking leaders, personnel and equal opportunity officers, trainers, unit commanders, recruiters, and counselors. They also interviewed heterosexual rank-and-file members of the force and homosexual members, both alone and in groups ranging in size from three to twenty.

Based on the assessments of the experience in these six cities, it is possible to make some generalizations about the likely behaviors of homosexual members of the force. Virtually all homosexuals who join police and fire departments conform to the norms

and customs of the organization they are joining. These individuals do not fit stereotypes that are inconsistent with the organization—those who join police departments, for example, wish to be "cops," not "homosexual cops." Homosexuals (male and female) declare their homosexuality gradually, and the numbers remain small (see Table 1-1), despite the existence of policies that codify their right to serve.

TABLE 1-1.—NUMBERS AND PERCENTAGES OF OPEN HOMOSEXUALS IN SELECTED POLICE AND FIRE DEPARTMENTS

Institution and city	Total force size	Number of open known homosexuals	Estimated prevalence (percent)
Police:			
Chicago	12,209	7	0.06
Houston	4,100	0	
Los Angeles	7,700	7	.09
New York	28,000	−100	.36
San Diego	1,300	4–5	.25
Seattle	1,300	2	.15
Fire:			
Chicago	4,700	0	
Houston	2,900	0	
Los Angeles	3,200	0	
New York	11,300	0	
San Diego[1]	845	1	.12
Seattle[1]	975	5	.51

[1] All openly homosexual firefighters in these cities were women.

Many more homosexuals were known to each other and to their colleagues than were known to their departments. Some of these individuals were members of confidential homosexual fraternal organizations. In one department, for instance, only seven individuals were known to the department, but more than forty belonged to a homosexual fraternal organization of department members. Moreover, in every city, homosexual officers knew of other homosexual members of the force who had opted not to join such groups, either for fear of being identified as homosexual or for lack of interest.

The number who publicly acknowledge their homosexuality and the pace at which they do it are strongly influenced by the perceived tolerance or hostility of the organizational environment, both in terms of leadership policies and attitudes and in terms of the attitudes and behaviors of fellow members of the force. Anti-homosexual attitudes are widespread within these organizations, and the process of making one's sexual orientation known is thus self-regulating to a large extent. Even in New York City, where the number of homosexuals on the force is highest and where the climate is generally more tolerant than in the other cities visited, fewer than half of the homosexuals belonging to the Gay Officers Action League are known to be homosexual by their supervisors or by the department.

Because of the general desire to conform to the norms of the organization and to "prove one's worth" as a member of the organization, homosexuals seldom engage in behaviors that challenge those norms or that are designed to shock or offend fellow members of the organization. Just as the process of making one's sexual orientation know is self-regulating, most other behaviors also conform to general expectations. Not a single case of an acknowledged homosexual male sexually harassing a heterosexual male was reported. Occasional hearsay reports, usually by commanding officers, were offered of homosexual woman harassing heterosexual woman, but these, too, were recognized as being rate, for less frequent than incidents of heterosexual men harassing woman.

Heterosexual members of these departments often voice sentiments hostile to homosexuals. These opinions did not necessarily result in overly hostile behavior. Some people reported that their opinion of homosexuals shifted after having served with them: Usually the homosexual officer had been know first in the role of policeman or policewoman, and only later as homosexual. Some instances of homosexual officers facing ostracism or being "framed" by fellow officers (e.g., planting false, incriminating evidence) were reported. While this was not a universal experience, it is not unheard of and concerns the leadership of the departments. Acknowledged homosexual members of the departments felt that they had generally been able to manage the hostility, especially if the decision to be open about their sexual orientation was their own. Those who had been exposed as homosexuals by others often experienced more difficulty.

Heterosexuals often voice a fear of AIDS, and the fear is often based on views that would not be supported by scientific data on the nature of the disease and the mechanisms for its transmission. Such attitudes have not been eliminated despite educational efforts regarding the disease. Notwithstanding the presence of concerns or fears over AIDS, no actual incidents where officers refused to work with or come to the aid of a homosexual colleague were reported to the research team.

Among heterosexuals there is widespread fear that homosexuals will be given special treatment or that efforts will be made to "educate" heterosexuals and change the attitudes toward homosexuals. Sensitivity training, special programs for homosexuals, or elements of affirmative action aimed at homosexuals foster deep resentments among the heterosexual members of these departments. Leaders emphasized the importance of controlling behaviors, not attitudes. It is possible for heterosexuals to work with a homosexual, but to ask them to alter fundamental moral or religious beliefs about homosexuality is to ask too much.

The departments visited report that, overall, the effectiveness of the organization has not been diminished by the presence of homosexuals on the force. Morale and discipline have been maintained, and recruitment and retention rates appear to be unaffected by the presence of known homosexuals in the department. Very few formal complaints of harassment are lodged, due in part to the relative rarity of such events but due also to the strong norms in these organizations to work out problems at the unit level—good cops do not "rate" on their fellows, and good units do not expose their problems to outsiders.

In order for a nondiscrimination policy to be implemented effectively, leaders in these departments suggested that the message that a new policy was in place needed to be clear and simple, and it needed to be communicated and enforced consistently. Since anti-homosexual attitudes are present among the rank and file and since sensitivity training and similar programs usually provoke resentment rather than tolerance, the emphasis on training is more successfully focused on leaders. Strict standards of professional conduct and behavior are important. Likewise, it was felt that education on the issues related to AIDS could be effective in helping to overcome some of the fears expressed by heterosexuals.

A final observation on implementation that applied to all departments studied is that the process of implementation unfolds gradually. Homosexuals reveal their sexual orientation over time, in a process calibrated in part to the perceived readiness of the organization to tolerate open acknowledgment. The organizational tolerance, in turn, evolves over time partially in response to the behavior of the members. Because the number of open homosexuals remains small, both as a percentage of the total force and as a percentage ofthe total number of homosexuals on the force, there is little need for policies "regulating" the behavior of acknowledged homosexuals on the force—the behaviors are self-regulating. The self-regulating and evolutionary nature of the process provides time for organizations to adapt to members as well as for members to expand, in a gradual fashion, the boundaries of the organization's tolerance.

The History of Racial Integration in the United States Military[19]

Our review of the military's experience with integrating blacks and women shows that racial integration is the more applicable analogy: women are still largely excluded from combat and, therefore, in a very fundamental way, are treated as a special class. The process of racial integration, begun in the late 1940s, required many years of effort in order to achieve the relatively successfully integrated fighting force of today. While a decision to permit homosexuals to serve is not directly comparable to this historical example, racial integration can serve as a source of potential insights into how the military as an organization has adapted to changing policies on a controversial social issue. The lessons of this experience may prove valuable in devising a practical and realistic implementation plan for changes in the future.

The main theme of those opposed to racial integration in the post-war period centered on the fact that whites were hostile toward serving with blacks. This argument was often accompanied by rhetoric similar to that surrounding the issue of homosexuals serving today. Integration was said to be inconsistent with prevailing societal norms and likely to create tensions and disruptions in military units and to impair combat effectiveness. The effect on combat effectiveness was put to an early test during the Korean War. Spurred in part by critical manpower needs and in part by a concern that the all-black units were not as combat-capable as required in the theater, the Army fielded integrated units for the fighting. The actual experience of these units indicated that the integrated units performed at a standard equal to the all-white units (and much better than the all-black units).

The initial positive experiences in the wartime environment of Korea were followed by further rapid and complete integration of the Armed Forces by the mid-1950s. Until the early 1960s, the military seemed to be moving ahead of civilian society in progress toward integration. Black reenlistment rates were high, and many blacks perceived the military as providing opportunities in some ways more attractive than those provided by civilian society.

This veneer of racial harmony was shattered in the late 1960s. The civil rights movement and the rise in racial tensions throughout the country during the 1960s were reflected in the military. For example, difficulties experienced by black troops in finding off-base housing in certain areas of the country created a significant challenge for the Department of Defense. The Vietnam war added an additional layer of racial tension. Initially, blacks volunteered in disproportionately high rates for combat duty in Vietnam and performed effectively. But as many

civil rights leaders began to be vocal in their opposition to the war, many also began to question whether the draft calls and the casualty rates were falling disproportionately on black Americans from the inner cities. Racial tensions and, ultimately, race riots broke out in all four services. The military was forced to recognize that much still remained to be done to achieve integration, and that the level of racial tensions threatened to interfere with mission accomplishment.

By the end of the Vietnam war a vigorous effort to improve the racial situation in the military had been launched. Aggressive support for equal opportunity accompanied the post-Vietnam drawdown and the development of the all-volunteer force (AVF). Renewed attention from senior leaders and vigorous efforts to enforce policies forbidding discrimination resulted in the integrated, all-volunteer force of today.

While these historical examples can be instructive, they are not directly comparable to the issue of known homosexuals serving in the military. For example, in contrast to the issue of sexual orientation, there were compelling operational reasons favoring integration of blacks into the military. During World War II, many military leaders had begun to recognize that operational effectiveness was impaired by continued segregation in the force. Thus, elements of the military itself began examining ways to utilize black troops more effectively. In contrast, the argument for permitting homosexuals to serve is based on ending discrimination, not on compelling operational advantages.

Although a majority of Americans did not favor racial integration of the military in the late 1940s, public opinion changed over time. The wartime experience and the growing civil rights movement increased the pressure on the military to change. This pressure was a constant and growing factor for change throughout the 1950s and 1960s. Today, public opinion is more favorable to allowing homosexuals to serve than was public opinion favorable to racial integration of the military in the late 1940s.[20]

These distinctions must be kept in mind in evaluating the lessons suggested by the experience of racial integration of the military, but several points are nonetheless pertinent: The experience of integrating the races in the military suggests that civilian and military leadership can effectively overcome the initial resistance to change and can minimize the worst fears of opponents about the damaging effects on unit performance. Despite the presence of racial tensions, fighting performance did not suffer. The experience also suggests that military adaptation to social change does not occur overnight, and that constant monitoring and a clear commitment from top leadership over a substantial period of time will be required. The experience of racial integration also illustrates the length of time often required to put a change in policy into actual practice. Further, the integration of the workplace and the ability to accomplish the mission at hand does not automatically translate into social integration. Off-base and off-duty, blacks and whites customarily associate with members of their own race.

CURRENT AMERICAN ATTITUDES TOWARD HOMOSEXUALS SERVING

The historical lesson of racial integration clearly shows the importance of both general public opinion and the attitudes of service personnel toward homosexuality and toward homosexuals serving in the military.

Attitudes in the General Population[21]

Currently, the American public is divided on the question of whether homosexuality is acceptable as a "lifestyle," with a majority believing that it is not acceptable. Roughly 40 percent of Americans are willing to consider homosexuality as either not a moral issue or as an acceptable alternative lifestyle, a percentage that has remained relatively unchanged over the past decade. If a slightly different question is asked, such as whether homosexuality is "wrong," nearly three-quarters of the American public answer affirmatively. There is no trend toward greater acceptance of homosexuality discernible in these opinion data, either. for the past two decades, 70–75 percent of the public has responded that homosexuality is wrong.

While a majority of the public cannot be said to approve of homosexuality or a homosexual "lifestyle," opinion toward the civil rights of homosexuals is more favorable. Roughly 80 percent believe that homosexuals should not be discriminated against in the workplace (despite a personal preference of half the population not to have to work with a homosexual). On other issues of homosexual rights, such as homosexual marriage or child rearing rights, only about one-third of the American public supports extending such rights to homosexual couples.

On the question of service in the military, the American public is again divided. In a variety of polls, the percentage that favors lifting the ban on service varies from slightly more than 40 percent to slightly more than 50 percent. In the most recent poll, the Wall Street Journal/NBC News poll, published June 11, 1993, only 21 percent of registered voters opposed allowing homosexuals to serve under any circumstances. Thirty-eight percent favored service as long as sexual orientation was kept private, and 40 percent were in favor of homosexuals serving openly (but following the same rules of conduct as all military personnel while on base). While the opinions on removingthe restriction on homosexuals in the military more closely resemble opinions toward workplace and employment issues than opinions on "lifestyle" and morality, no strong consensus emerges from the data in favor of permitting homosexuals to serve. The American public remains divided on this issue.

Attitudes in the Military[22]

The popular press and recent Congressional hearings have provided a window into the military perspective on ending discrimination on the basis of sexual orientation in the military. Whether in opinion surveys or in group discussions the military members who have chosen to speak out on this subject have been overwhelmingly opposed to removing the restriction. However, this opposition has not been universal. Some military members have advocated allowing homosexuals to serve and some have expressed willingness to go along with whatever is decided, while some are strongly opposed to making any changes at all. Some have predicted the demise of the military if the ban is lifted and others have expressed their belief that the military would adjust to this change, as it has adjusted to changes in the past.

Two sources of information on military opinion were consulted by the study team: surveys and focus group interviews. While neither source provides a statistically representative view, together, they provide a reasonably comprehensive picture of contemporary military opinion.

Surveys: The two surveys of military opinion on this topic are by the Los Angeles Times, a survey of 2,346 enlisted men and women (E–1 through E–9) during February 11–16, 1993, and by Charles Moskos and Laura Miller, sociologists from Northwestern University. While these surveys are limited in scope and use convenience sampling methods rather than probability sampling to select respondents, they provide a source of information about a diverse sampling of military members.

The survey results indicate that three-fourths of males and about half of females in the military are opposed to permitting homosexuals to serve. A substantial minority of respondents in the Los Angeles Times poll, about 16 percent of males and 35 percent of females, approved of removing the ban; and 17 percent of males and 44 percent of females participating in the Moskos and Miller survey approved of removing the ban.

Those opposing homosexuals in the Los Angeles Times poll indicated that they feared sharing quarters with homosexuals, that they viewed homosexuality as immoral and contrary to their religious beliefs, and that they were concerned that homosexuals contribute to the spread of AIDS.[23] An overwhelming majority expressed the opinion that homosexuals would be subject to violence if restrictions on them were removed. Those Army personnel responding to the Moskos and Miller survey indicated that, while homosexuals were not generally considered to be desirable unit members, an overwhelming majority of respondents (72 percent of males and 87 percent of females) felt that private sexual behavior was none of their business. Fewer, about 38 percent of males and 29 percent of females, felt that homosexuals would be subject to sexual advances by homosexuals. The ban on homosexuals is not, however, the only important concern of military personnel. The Los Angeles Times survey found that while 48 percent rated removing the ban as the most important problem facing the military, 52 percent picked downsizing of the force; 66 percent felt that attention to removing the ban was "draining attention from other more important issues."

Focus Groups: RAND researchers also conducted 18 focus group discussions as part of this study. These focus groups provided a rich source of information on the diversity of military opinion and on how military members think about the issues and explain their views. Focus groups were conducted with Army, Air Force, and Marine participants at three California installations and with Army and Air Force participants from several installations near Frankfurt, Germany. The interview protocol used was designed to lead gradually into the topic of homosexuals in the military, in order to understand that issue in the larger context of opinion on other aspects of military life. To understand how conflict is managed in the military's workingenvironment, questions were asked about how differences in race and gender might cause problems and how these problems were resolved.

While there was diversity in opinions, some common elements emerged. First, military members felt that they had dealt successfully with racial integration in the military and were proud of it. They seemed to feel that racial integration had strengthened the military's ability to perform its mission. They also seemed to deal well with the low-level interpersonal conflict that happens in the barracks and on the job. Soldiers viewed it philosophically as the price for diversity, which they seemed to value. Officers viewed dealing with it as part of the job they were trained to do and an area that provided considerable challenge.

Most acknowledged that the integration of women into the military was still causing problems, in part because it was incomplete. Still, most group participants viewed women as there to stay and were confident that problems would eventually be worked out to a tolerable degree.

When the issue turned to homosexuals in the military, focus group participants' level of confidence in their ability to cope dropped sharply. While some could view the change with equanimity, many had difficulty imagining the consequences and viewed the problem in stark terms. Concerns centered around fears of special treatment of homosexuals, fears that homosexuals will band together and discriminate against heterosexuals, fears of being subjected to unwelcome sexual advances, and fears about their families and themselves being confronted by evidence of a lifestyle they regard as immoral. These concerns were particularly strong against a backdrop of downsizing and cutbacks in military benefits. Many perceived their own opportunities to be shrinking and resented what they see as extending rights and benefits to an unworthy group that is using the military for political and social advantage. Many predicted violence against homosexuals would result; this was expressed both in the surveys and in the focus groups.

They were unable to see how the conflict management skills they had learned in response to other problems could apply to this new situation, although this was in direct opposition to the "can do" attitude they had articulated earlier in the group sessions. In addition, while they had (for the most part) incorporated the presence of minorities and women into their image of the military, they had much more difficulty seeing how homosexuals could fit into that picture without changing it beyond recognition, compromising the military's ability to carry out an effective national defense.

ISSUES OF CONCERN: VIOLENCE AND AIDS

Focus groups with active-duty personnel, surveys of military personnel, testimony at Congressional hearings, and media reports have raised concerns about anti-homosexual violence and the possibility that AIDS would increase among military personnel if acknowledged homosexuals are allowed to serve.

Violence[24]

The evidence on anti-homosexual violence is almost exclusively restricted to its occurrence in the civilian population and is of limited quality. However, there is sufficient evidence to conclude that it occurs with some regularity in the civilian community. It also occurs in the military under current policy, although there are no data on the relative frequency of that occurrence. Experience in the civilian sector shows that there is a high rate of failure to report anti-homosexual violence. The ban on allowing homosexuals to serve, with the significant penalties for discovery, provides a further disincentive for victims to report anti-homosexual violence or threats of violence.

To the extent that changes in policy resulted in changes in the number of acknowledged homosexuals in the military, the rate of anti-homosexual violence might change, since acknowledged homosexuals are more readily identified targets for such violence. The experience of racial integration in the U.S. military, foreign militaries, and domestic police and fire departments suggests that if leaders make it quite clear that violence will not be tolerated and stern action will be taken, violence can be kept to a minimum.

HIV Transmission and AIDS[25]

DoD's testing program for Human Immunodeficiency Virus (HIV) almost entirely prevents the entry of HIV-infected individuals into the military. Therefore, the only way a change in policy permitting homosexuals to serve could significantly affect HIV infection rates in the military is by increasing the number of service members who are infected while serving. It is not possible to predict whether there would be an increase, much less to estimate its magnitude. However, if there were an increase, it would have little effect on military effectiveness. All military personnel whose health is seriously affected by HIV are discharged. Further, all service personnel must be tested before deployment and those who test positive cannot be deployed. Given the accuracy of HIV testing, very few HIV-infected personnel would ever deploy or serve in combat, the military blood supply would remain safe, and there would be virtually no danger from contact with blood on the battlefield.

Regardless of whether homosexuals are permitted to serve, the military could experience higher HIV infection rates in the future. Available evidence on sexual risk behavior and rates of sexually transmitted diseases among all service personnel suggests the potential for increased HIV transmission under conditions that place personnel in greater contact with infected populations.

UNDERSTANDING UNIT COHESION[26]

Concern about the effect that an acknowledged homosexual would have on "combat effectiveness and unit cohesion" has dominated the debate. It also provides the basic rationale for the current policy that "Homosexuality is incompatible with military service."[27] Most military leaders who have spoken publicly on the issue in the recent months argue that introduction of a known homosexual into a unit, no matter how discreet his or her behavior might be, would seriously undermine thecohesiveness of that unit. Unfortunately, opinion on this issue is intuitive or based on anecdote. There has been no systematic study of this subject, and no controlled experiments or other research bear directly on this issue.

There is a large body of potentially related empirical research in the fields of industrial organization, social psychology, sports psychology, and group behavior, a significant amount of which was sponsored by the military. Other potentially relevant material can be found in the ethnographic and biographical military literature. The principal conclusion from an extensive review of this literature is the commonsense observation that it is not necessary to like someone to work with him or her, so long as members share a commitment to the group's objectives. This conclusion was also borne out in the review of racial integration in the military, as discussed above.

"Cohesion" is a concept with many definitions and sources. While military researchers sometimes refer to "horizontal" cohesion, meaning the bonding of members of a group, and "vertical" cohesion, referring to the bonds between leader and members, these concepts are not widely used in the research literature. Leadership is recognized as an important aspect of military performance (and can have an effect on cohesion), but "cohesion" is generally used to refer to the forces that bond individuals together as a group. This notion of cohesion, in turn, can be generally divided into two important types: social cohesion (intragroup attraction) and task cohesion (commitment to shared goals and objectives). Cohesion can thus also be distinguished from other concepts such as morale, a concept more meaningfully applied to individual attitudes toward a larger group.

Research has shown that many factors can produce social and task cohesion. Simply being assigned to the same unit predisposes the group members to at least a moderate level of cohesion. Length of time together, a history of success experiences, and a sense of shared fate or interdependence all enhance a unit's cohesion. Sharing similar traits or values enhances social cohesion, but it is not necessary for task cohesion, so long as the individuals share a commitment to the group's mission.

In general, research has identified a positive, though not strong, association between cohesion and performance. However, the relationship between cohesion and performance is not a straightforward one. First, the effect of successful performance on cohesion appears to be stronger than the effect of cohesion on successful performance. Second, it appears that the positive association of performance and cohesion is almost entirely due to the influence of task cohesion, not social cohesion. Indeed, excessive social cohesion sometimes interferes with the successful completion of the group's assigned mission.[28]

The lack of direct evidence makes it difficult to predict confidently the effect of the presence of a known homosexual on the performance of the group. Sexual orientation is one dimension on which group members would be dissimilar, and this could reduce social cohesion. Members would share other traits, however, and the precise effect of the presence of a known homosexual on social cohesion is uncertain.[29] While the effect on social cohesion may be negative, the presence of a known homosexual is unlikely to undermine task cohesion, provided that the individual demonstrates competence and a commitment to the unit's mission. Task cohesion, not social cohesion, appears to be what drives successful performance.

Given the high levels of hostility toward homosexuals present in the military ranks today, a range of responses is possible to the introduction of a known homosexual into the group, including ostracism. At least initially, heterosexuals might be reluctant to cooperate or work with homosexuals. However, the reduction in social cohesion would not necessarily lead to the breakdown of the unit. In circumstances where disruptive behavior occurs or where standard leadership techniques are insufficient for preventing dysfunction in the unit, it may be necessary to provide additional resources to the unit leader, such ascounseling support or expert assistance. It may also be necessary to remove individuals (heterosexual or homosexual) from units if their behavior continues to disrupt the unit.

IMPLICATIONS OF THE RESEARCH

Homosexuals serve in all of the foreign militaries and in each of the domestic police and fire departments visited by RAND researchers. They serve with varying degrees of openness, however, and in most of these organizations the number of homosexuals known to the organizations was estimated to be a small fraction of the total number of homosexual members. A variety of factors explain this, including the generally hostile attitudes of many heterosexuals toward homosexuals. In these circumstances, homosexuals tend not to advertise their sexual orientation but rather conform to the mores and norms of the organization in which they serve. These organizations found that incorporating homosexuals into the force created

relatively few problems. They experienced virtually no loss of organizational effectiveness or impairment in performance. Few disruptive incidents or examples of outright hostility were reported. The inherent gradualism of the process of integration accounts in part for the absence of negative effect, as do some of the strategies adopted by the organizations for assuring successful implementation.

Among the strategies for achieving successful implementation of a nondiscrimination policy, those that signaled clear leadership support and insistence on maintaining high standards of professional behavior resulted in relatively few problems. In the opinion of most officials interviewed, the resistance of heterosexuals to the process was dealt with more effectively through leadership training (throughout all levels of the chain of command) than through affirmative action or sensitivity training for the rank and file. Dealing with potential cases of incompatibility or disruptive behavior—as they arose—was generally preferred over special class protections for homosexuals.

It is difficult to predict how including known homosexuals in the military would affect unit cohesion, but some resistance can be expected from homosexuals, given the current state of opinion among servicepersonnel. Research suggests that, at least in the short term, the possible negative effects on social cohesion would not necessarily have a negative effect on task performance or on unit effectiveness. Further, the research indicates that there would be sufficient time for military leadership to use the tools available to enforce discipline and foster task cohesion: As discussed above, the process of integrating acknowledged homosexuals is gradual and self-regulating. The experience of foreign militaries and domestic fire and police departments suggests that few homosexuals would acknowledge their orientation and that they would do so only when they felt the group context was tolerant.

The research conducted by RAND provides evidence that homosexuals can be successfully integrated into military and public security organizations. It also revealed, however, that hostile opinion toward homosexuals is prevalent in the American military and that any effort to introduce a change in current policy must confront the challenges posed by this unique environment. In developing a policy option consistent with the President's criteria (ending discrimination in a way that can be implemented practically and realistically), issues of implementation must, therefore, be examined carefully. An option consistent with the findings of the research and satisfying those criteria is identified and assessed in the following section. A discussion of implementation issues follows the description of the option.

A POLICY THAT ENDS DISCRIMINATION BASED ON SEXUAL ORIENTATION

In light of this research, the team examined a range of potential policy options. In the past and in foreign militaries, policies to end discrimination have generally taken one of two forms:

1. Treat homosexuals as a protected class, with the special treatment or affirmative action such status implies, attempting to change majority attitudes to become more tolerant of the discriminated class.

2. Consider homosexuals on an individual, case-by-case basis, using existing, universally applicable rules and regulations in making personnel decisions.

The first policy of treating homosexuals as a protected class characterizes the experience of integrating blacks in the American military and policies toward homosexuals followed by the Netherlands. A variety of factors suggest, however, that the second approach is likely to be more successful for the American military in this case. First, there is no legal requirement to provide protected class status to homosexuals at the present time. In fact, most courts, at both the state and federal level, have refused to recognize such status. Legislative change is not likely in the near term, and, in recent state and local elections, voters have either turned down or preempted such status. Second, the research reported here consistently suggests that such status, and the special treatment it implies, would clearly foster resentment and arouse hostility toward homosexuals in the very organizations that would be implementing a nondiscrimination policy. By drawing special attention to the issue of sexual orientation, such a policy would in effect place more emphasis on sexual orientation than the current exclusionary policy does. A policy that does not create special class status for homosexuals is likely to be received with less hostility and, therefore, to be easier to implement. Ultimately, however, a decision not to grant protected class status to homosexuals must rest on the ability of other, less drastic policies to end discrimination, the stated goal of the change in policy.

A policy based on the principle that sexual orientation is not germane to military service thus emerged as the most promising option for achieving the President's objectives. This option ends discrimination on the basis of sexual orientation while assuring the requirement that military order and discipline be maintained. It implies no endorsement of a "gay lifestyle," nor does it require any special accommodations to homosexuals, who would be considered as individuals, not as a special class of people. This policy incorporates strict standards of personal conduct, applicable to all members of the force and designed to remove matters of sexual orientation from the professional environment.

A policy based on these premises could be built around the following basic elements:

A single, gender- and orientation-neutral standard of professional conduct.

Strict rules governing personal and sexual harassment, designed to remove such actions from the professional environment.

Elimination of prohibitions in DoD directives on private, consensual sexual behavior among adults, and adjustment of investigative and enforcement practices accordingly.

No changes in other military rules and regulations.

An illustrative Standard of Professional Conduct was designed as part of the research project, with the overarching objective of maintaining the order and discipline essential for an operationally effective military organization.[30] Similar standards have been used effectively in other organizations and foreign militaries[31] and are analogous to the "good order and discipline" and "conduct unbecoming" provisions in military law that have been used effectively by the U.S. military for years. Four features of this standard are central:

A requirement that all members of the military services conduct themselves in ways that enhance good order and discipline. Such conduct includes showing respect and tolerance for others. While heterosexuals are asked to tolerate the presence of known homosexuals, all personnel, including acknowledged homosexuals, must understand that the military environment is no place to advertise one's sexual identity or orientation.

A clear statement that inappropriate personal conduct could destroy order and discipline, and that individuals are expected to demonstrate the common sense and good judgment not to engage in such conduct.

A list of categories of inappropriate conduct, including sexual harassment, fraternization, personal harassment (physical or verbal conduct toward others, based on race, gender, sexual orientation, or physical features), abuse of authority, displays of affection, and explicit discussions of sexual practices, experience, or desires.

Application of these standards by leaders at every level of the chain of command, in a way that ensures that effective unit performance is maintained.

Strict standards of professional conduct and an environment free of personal harassment are critical to the successful implementation of this nondiscrimination option. The conduct-based standard provides military leaders with the necessary frame of reference for judging individual behaviors, just as it provides individuals with clear guidelines. Under this standard, behaviors that impeded the effective functioning of the unit (i.e., that undermine task cohesion) would not be tolerated.

The "not germane"/conduct-based policy does not require extensive revisions to existing military rules and regulations or to personnel policy. On issues such as recognizing homosexual marriages or conferring benefits on homosexual partners, there is no reason for the Department of Defense to change current policy or to become the "lead" federal agency in these areas.

Concerns about privacy are often cited by those who oppose permitting homosexuals to serve in the military. A survey of military facilities shows that in many newer military facilities there is greater privacy in showers and toilet areas today than was common twenty years ago.[32] However, members of the military often find themselves in situations where very little personal privacy is available, such as aboard ships or on field maneuvers. In situations where physical privacy is impossible, standards of conduct to foster personal privacy have already been developed: Individuals act in ways that do not intrude upon and are not offensive to others. For this reason, a strong emphasis on professional conduct conducive to good order and discipline is the key to dealing with privacy issues as well. Freedom from personal harassment and uniform standards of conduct are the best guaranties of privacy.

Legal Issues Regarding a "Not Germane"/ Conduct-Based Policy[33]

The legal implications of adopting and implementing the "not germane"/conduct-based policy were also examined. This policy could be adopted and implemented by the President under his authority as Commander-in-Chief of the Armed Forces and would probably be upheld by the courts as an exercise of executive authority. This policy, including implementing the Standard of Professional Conduct and revising the Manual for Courts Martial to exclude private, consensual sex between adults, is entirely legally defensible.

Implementing the illustrative Standard of Professional Conduct raises several potential issues from a legal perspective, however. First, is the standard itself sufficiently specific to withstand a void-for-vagueness challenge? Second, how specific must a Standard of Professional Conduct be to provide adequate notice that certain behavior violates

good order and discipline? Third, would the code's lack or specific examples make it susceptible to challenges based on unequal enforcement in similar situations? And fourth, if specific examples were to be included, would the standard be susceptible to an equal protection challenge? For the reasons discussed below, we conclude that the Standard of Professional Conduct would likely be upheld against these potential challenges. That is, the Standard of Professional Conduct as drafted would provide sufficient specificity to satisfy prenotice requirements, but more specific provisions could also be sustained.

The Supreme Court has consistently upheld Articles 133 (conduct unbecoming an officer and a gentleman) and 134 of the UCMJ (the General Article, makes punishable "* * * all disorders and neglects to the prejudice of good order and discipline in the Armed Forces * * *") against challenges that they were "void for vagueness" and hence provided no notice of what would be punishable conduct. Although the court ruled that military law need not be as precise as civilian criminal statutes, in most instances, adequate notice has been provided by military custom, rules, and regulations.

Under the Standard of Professional Conduct it is inevitable that the same behavior in different circumstances would be treated differently. Commanders would likely respond differently to certain behavior and might view the consequences to morale and discipline of a particular act differently. Commanders would likely vary in how they would weigh the time, place, circumstances, and purpose of an action relative to its consequences. Thus, some degree of differential enforcement of the Standard of Professional Conduct should be expected, but this alone would not render the standard unenforceable. The result of providing maximum discretion to commanders, which already exists under Article 134, is that not all commanders treat the same situations alike, a result also likely under the Standard of Professional Conduct.

As noted above, the time, place, circumstances, and consequences of the conduct determine if an act would be punishable as disruptive conduct. The same standards would apply whether the conduct takes place on or off base. Thus, the Standard of Professional Conduct would be applicable to behavior that is disruptive to morale or unit cohesion regardless of where the behavior takes place.

If sexual orientation is regarded as not germane in determining who may serve, Enclosure 3H of the DoD regulations concerning administrative separations (DoD Directive 1332.14) should be rescinded. The most problematic regulatory and legal scenario would be to end discrimination without revising portions of the Manual of Courts Martial (MCM) relating to Article 125 (Sodomy) of the Uniform Code of Military Justice (UCMJ).[34] Those portions of the MCM have historically been applied differentially to heterosexuals and homosexuals. Retaining them after rescinding Enclosure 3H would weaken the "orientation-neutral" principle of the "not germane" policy.

A practical approach to dealing with this issue would be to revise the MCM to prosecute only non-consensual sexual behavior or sexual acts with a minor.[35] No changes would be necessary in the sodomy article of the UCMJ itself, because that code does not specify the sexual acts that are illegal. The definition of the offense is in the MCM, an administrative document.

In sum, an option that regards sexual orientation as not germane to military service, accompanied by the Standard of Professional Conduct and revisions to administrative enforcement of Article 125, is legally supportable.

IMPLEMENTATION OF A POLICY THAT ENDS DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION[36]

A policy for ending discrimination on the basis of sexual orientation will present implementation problems that go beyond those created by more usual structural or organizational changes. Like the racial integration, admitting acknowledged homosexuals represents a social change that touches not only on deeply held social attitudes, but on moral beliefs as well. For many, it makes no difference if they come into contact with a serving homosexual; just changing the policy alters their perception of their organization in very fundamental ways. For these people, the primary issue is not unit cohesion, but morality. Some may leave the organization. For those who stay, the challenge will be to implement the change in ways that preserve essential task cohesion and organizational effectiveness.

The manner in which policy change is implemented could have a decisive impact on whether these problems are managed with minimal disruptions or undermine the effort to change. Based on the research conducted in this study, key elements of an implementation strategy can be identified:

The message of policy change must be clear and must be consistently communicated from the top. Given the fact that senior leaders of the military are on record as opposing any change, it will be necessary, if policy is changed, for these and other leaders to signal their acceptance of the change and their commitment to its successful implementation. It must be clear to the troops that behavioral dissent from the policy will not be permitted.

The option selected should be implemented immediately. Any sense of experimentation or uncertainty invites those opposed to change to continue to resist it and to seek to "prove" that the change will not work.

Emphasis should be placed on behavior and conduct, not on teaching tolerance or sensitivity. For those who believe that homosexuality is primarily a moral issue, such efforts would breed additional resentment. Attitudes may change over time, but behavior must be consistent with the new policy from the first day.

Leadership must send messages of reassurance to the force. The military is currently undergoing a variety of other stressful experience, e.g., declining budgets and the drawdown in the force. In such an atmosphere, it is important to signal that the change in policy will not have markedly disruptive effects and that it is not intended as a challenge to traditional military values. This climate of psychological safety is conducive to acceptance of the change.

Leaders at all levels should be empowered to implement the policy, and some special training or assistance for leaders may be a useful device for ensuring that the change is understood and occurs rapidly.

A monitoring process should be established to identify any problems early in the implementation process and to address them immediately.

The option assessed here, a conduct-based set of standards applied under the premise that sexual orientation, as such, is "not germane" to military service, appears to meet the President's criteria and to be consistent with empirical research and historical experience. By following this implementation strategy, the Department of Defense should be able to increase the probability that a policy that ends discrimination based on sexual orientation can be implemented in a practical and realistic manner and that the order, discipline, and individual behavior necessary to maintain cohesion and performance are more likely to be preserved.

FOOTNOTES

[1] Memorandum for the Secretary of Defense, Ending Discrimination on the Basis of Sexual Orientation in the Armed Forces, January 29, 1993.

[2] The Manuals for Court-Martial, 1917, defined sodomy as anal penetration of a man or woman by a man; both parties involved were equally guilty of the offense. In these regulations, penetration of the mouth did not constitute sodomy. In the regulations that accompanied the revision of the Articles of War in 1920, however, The Manuals for Court-Martial redefined sodomy as anal or oral copulation between men or between a man and woman (Jeffrey S. Davis, "Military Policy Toward Homosexuals: Scientific, Historical, and Legal Perspectives." Military Law Review 131, 1991, p. 73).

[3] Ibid. and Manual for Courts-Martial, United States, 1921, para. 443.

[4] Army Regulation 40-105, 1921.

[5] Alan Bérubé, Coming Out Under Fire: The History of Gay Men and Women in World War Two, New York: The Free Press, 1990, pp. 10-18.

[6] Those men and women with good service records, however, were to be separated from the service with a general, rather than a dishonorable, discharge.

[7] Unfortunately, there are no consistently reliable statistics of separations for homosexual behavior across the different branches of the Armed Services, nor are there any internally consistent statistics for any one service over the entire postwar time period. While many analysts make the logical assumption that most separations for moral charges were indeed for homosexual behavior, unfortunately, medical, legal, and administrative statistics within the armed forces were not tabulated carefully enough to be certain.

[8] Colin J. Williams and Martin S. Weinberg, Homosexuals in the Military: A Study of Less Than Honorable Discharge, New York: Harper and Row, 1971, p. 102. The procedures of interrogation are outlined on pp. 100-114.

[9] The directive was issued in response to numerous court challenges, such as Matlovich v. Secretary of the Air Force, 591 F.2d 852, D.C. Cir. 1978, questioning why some open homosexuals were discharged while others were retained. The 1981 directive removed the military's discretion in deciding whether to retain an open homosexual, making such discharge mandatory.

[10] United States General Accounting Office, Defense Force Management: DoD's Policy on Homosexuality, GAO/NSIAD 92-98, Washington, D.C.: U.S. Government Printing Office, June 1992. These figures are calculated from statistics in a supplement to the report, Statistics Related to DoD's Policy on Homosexuality, pp. 22-30.

[11] In the Ben-Shalom case the court moved toward equating status as a homosexual with conduct proscribed under Article 125.

[12] For a more complete discussion, see Chapter 2 on sexuality, as it pertains to the DoD directive and the UCMJ.

[13] For example, the 1991 National Survey of Men, a nationally representative study of 3,321 males age 20 through 39 years of age (Billy et al., 1993) reports that 75 percent have performed and 79 percent have received oral sex. Among those currently married, the numbers were slightly higher. Similar results are reported for homosexual males, e.g., the Pittsburgh Men's Study (Silvestre et al.; 1993; see bibliography for Chapter 2).

[14] See Chapter 3 for a more comprehensive treatment of foreign militaries.

[15] Concurrent with this inquiry, the General Accounting Office also sent teams to Canada, Israel, and Germany. Their findings are reported in Homosexuals in the Military: Policies and Practices of Foreign Countries, GAO/NSIAD-93-215, June 1993.

[16] The Canadian regulations on personal harassment, sexual misconduct, and sexual harassment are contained in Appendix E.

[17] See Appendix D for survey results concerning attitudes toward homosexuality in Canada, the United States, and the United Kingdom.

[18] See Chapter 4 for a more comprehensive treatment of selected domestic police and fire departments.

[19] See Chapter 5 for a more detailed discussion.

[20] See Chapters 5 and 6 for more discussion of these public-opinion issues.

[21] See Chapter 6 for a more detailed treatment of American public opinion. Survey results are presented in Appendix F.

[22] See Chapter 7 for a more detailed discussion.

[23] For a discussion of AIDS in the military see Chapter 8.

[24] See Chapter 9 for a fuller discussion of anti-homosexual violence.

[25] Chapter 8 contains a more comprehensive discussion of health issues, risk behavior, and the military blood supply.

[26] See Chapter 10 for a more comprehensive treatment.

[27] Department of Defense Directive 1332.14, Enlisted Administrative Separations, Enclosure 3H.

[28] Examples where excessive social cohesion could undermine group performance include socializing among the workforce, "rate busting," groupthink, and mutinies.

[29] Acceptance of known homosexuals in police departments appears to be much greater, for example, if the individual is recognized as a "good cop," rather than a "gay cop." See the discussion in Chapter 4 on this topic.

[30] Appendix A contains such a Standard of Professional Conduct.

[31] See Appendix E for the Canadian regulations.

[32] Appendix B discusses the RAND survey of military facilities.

[33] See Chapter 11 for a more comprehensive discussion of the legal issues concerning such a standard.

[34] From the perspective of a homosexual member of the armed services, the policy choice would have both positive and negative consequences. A positive outcome would be the ability to serve openly in the military. But a negative consequences could be that if 1332.14 is repealed without changing Article 125, the only way for the military to discharge a homosexual would be through an Article 125 prosecution. Under current policy many homosexuals are given administrative discharges and are not usually prosecuted under Article 125. By not removing or modifying Article 125, homosexuals would be at greater risk of an Article 125 prosecution.

[35] Appendix C contains an example of such a revision.

[36] See Chapter 12 for a more detailed discussion. The research team also examined the potential effects of a change in policy on recruitment and retention. These findings are discussed in Chapter 13.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I ask the Senator from Indiana if he is ready to speak, or the Senator from Georgia, the chairman of the committee, if he has people to speak.

Mr. NUNN. I yield 10 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I thank the chairman. I want to remind my colleagues of the issue that is before us. The Boxer amendment is a sense-of-the-Congress amendment which states that the matter relative to the service of homosexuals in the military is one that should be exclusively determined by the President based on advice provided him by the Secretary of Defense and that Congress should have no role in that issue.

I would like to remind my colleagues that article I, section 8, clause 14 of the Constitution of the United States specifically assigns to the Congress the authority to make rules for the Government in regulation of land and naval forces. As the Supreme Court stated in the Chapel Wallace case in 1983, and I quote:

It is clear that the Constitution contemplated that the legislative branch have plenary control over rights, duties and responsibilities in the framework of the military establishment, including regulations, procedures and remedies related to military discipline.

In short, it is the Congress, not the President, that has the ultimate power to make the rules regarding this issue: service of homosexuals in the military. I think we would be avoiding our responsibilities and our obligations under the Constitution were we to adopt the Boxer amendment.

So the vote that will take place at 12:30 is on whether or not the Congress has a right under the Constitution and an obligation under the Constitution to determine this policy for the military.

Interestingly enough, the Congress and the executive branch are no longer in disagreement because the President has publicly announced, as have the Joint Chiefs of Staff and the military, support for the language that is provided in the defense authorization bill, as determined by the Senate Armed Services Committee. So there is no disagreement here. The question is, though, whether we are going to forfeit our role in making these regulations.

Having said that, I would like to address an issue that has been raised by a number of the speakers relative to status versus behavior, because this is an issue that the committee deliberated at great length. We held, as our colleagues know, exhaustive hearings over several months of time. We had military experts, sociologists, members from the military, legal experts, and many others who came before us, and we addressed this question over and over and over again, because I think it does go to the crux of the question.

It is something that the Supreme Court has looked at and made determinations on in a whole series of cases over the last 20 years. The Dahl case decision made by a district court judge is exceptional to 20 years of legal history as determined by the highest court in the land.

On addressing this question of status versus behavior, let me start out with a quote from the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell. He said:

Unlike race or gender, sexuality is not a benign trait. It is manifested by behavior. While it would be decidedly biased to assume certain behaviors based on gender or membership in a particular racial group, the same is not true for sexuality. We have successfully mixed rich and poor, black and white, male and female * * *.

And I would state to my colleague from Minnesota, a Jew, a Catholic, Protestant, members of different religious faiths, the comparison I do not believe is a valid one between someone's religious beliefs and someone's sexuality or gender.

As General Powell goes on to say:

We have successfully mixed black and white, male and female, rich and poor, but open homosexuality in units is not just the acceptance of benign characteristics, such as gender. It involves matters of privacy and human sexuality that, in our judgment—

That is collective military judgment—

if allowed to exist openly in the military would affect the cohesion and well-being of the force. It asks us to deal with fundamental issues that the society at large has not yet been able to deal with.

Madam President, sexual behavior is one of the most intimate and one of the most powerful forces in society. In civilian life, people are not compelled to live with individuals who are sexually attracted to persons of the same sex and our committee found no military necessity to compel persons to do so in the military.

The distinction that has not been made here by the proponents of homosexuality in the military is the fact that we are not asking people to work with each other on a 9-to-5 basis in an office building. We are asking people to live together in the most intimate of circumstances on a 24-hour-a-day, sometimes 365-day-a-year basis. And that is far different than showing up at work in a congressional office and working side by side with someone who happens to have a sexual preference different than your own. It would be equivalent to saying not only will you work with that individual until 5 o'clock, but you will go home with them, you will sleep with them, you will dress and shower and live and commune, and everything about your life will be closely associated with that individual. That is what we are looking at in the military. That is far different than a situation that is being suggested on this floor.

Quoting now from the committee report:

While some individuals may view themselves as homosexual, gay or lesbian based upon thoughts that never ripen into propensity or intent to engage in homosexual acts, advocates of gay rights have expressly linked sexual orientation to conduct.

These are not statements coming from individuals who oppose homosexuality in the military. These are statements coming from advocates of gay rights who admit and who even advocate the link between sexual orientation and conduct.

In a brief challenging the constitutionality of sodomy laws in a Supreme Court case, the Lambda Legal Defense and Education Fund took the position:

For gay people, sexuality and their sexual orientation play an especially central role in the definition of self. Sodomy laws impose an added burden on gay people, blocking their sense of self as well as their sexual fulfillment. State regulation of same-sex behavior constitutes the total prohibition of an entire way of life.

One of the individuals, gay individuals, a service person who testified before our committee said you cannot separate status and conduct. Status is

conduct. The military experts, sociologists and others said status is conduct. Therefore, it is reasonable, as courts have held consistently, for the Armed Forces to take into account the potential behavior of persons who define themselves as homosexual, gay, or lesbian.

Now, we are not arguing that there are not individuals who have chosen to declare their sexuality, their sexual orientation as homosexual, but have chosen to lead a celibate life. We are not saying there are not those exceptions. But I think it would be irrational to develop military personnel policies on the basis that all gays and all lesbians will remain celibate or that they will not be attracted to others. Because when dealing with issues involving different genders, we have to assume that in most instances declaration of status, of sexual orientation, is going to result in conduct or at least sexual attraction. And when that happens, according to thousands of pages of testimony from hundreds if not thousands of individuals, that tends to seriously undermine and break down unit cohesion and unit morale.

The courts have consistently held that there is a rational basis for coming to this conclusion. That is the reason why we separate men and women. If we simply operated on a conduct status in the military, then there is no justification to separate men and women. There is no justification for having separate barracks. Women could charge that under equal protection of the law they deserved to not be segregated into separate barracks. No one would advocate having men and women live together on a 24-hour-a-day basis in the same living conditions without the issue of sexual attraction playing a very major role in the morale, in the discipline, in the good order and unit cohesion of the unit.

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

Mr. COATS. Madam President, may I ask how much time is remaining on the amendment?

The PRESIDING OFFICER. There are 11 minutes, 45 seconds remaining for the opponents of the amendment, 8 minutes 30 seconds remaining for the proponents.

Mr. COATS. I yield myself 3 minutes. That does not include the 15 minutes set aside for Senator SPECTER.

The PRESIDING OFFICER. That does not include it.

Mr. SPECTER. Parliamentary inquiry. That excludes the time which has been reserved for this Senator?

The PRESIDING OFFICER. The Senator from Pennsylvania was reserved 15 minutes outside the parameters of the time agreement.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, the question to which we never received a satisfactory answer is the question of separation of men and women and the dynamic of human sexuality.

I think it is irrational to assume that we can totally ignore the element of human sexuality in any situation but particularly in situations where people live together on a 24-hour-a-day basis, where they are deployed together in submarines and ships, tents, field exercises. For that reason, we conclude that we need to have separate living quarters for men and women. The reason is human sexuality.

There is no other reason. The reason is right to privacy. There is no other rational basis to separate men from women—because there is a sexual attraction, and we know through common sense and human experience that attraction is going to lead to behavior.

Now, by definition, homosexuality is sexual attraction to someone of the same sex. And so the only logical conclusion that we can come to is that in order to avoid the sexual tension and the breakdown that occurs between people who are not married but are living together and sexually attracted to each other, the only way we can avoid that is separation. Then the only possible solution to the problem, if you include homosexuals in the military, is to give them separate barracks, but we know that that is not going to solve the problem of unwanted sexual activity.

That is going to exacerbate the problem. And for the reason that we do not employ a conduct standard for men and women by simply saying we are not going to do anything, just make sure—these are the rules. Even though you are living together 24 hours a day, we will not do anything until we seeevidences of unwarranted behavior, it is impossible to do that in the case of a situation where by definition sexual orientation throws people together who are sexually attracted to each other.

That is the rational basis for the conclusion that the committee arrived at based on the testimony provided by service people, not just people from the Pentagon, enlisted people all down through the ranks. In exhaustive hearings, in field trips, in meetings with men, women, those who wear the uniform virtually unanimously come to that same conclusion.

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

The Senator from Pennsylvania.

Mr. COATS. Madam President, the Senator from Pennsylvania may want to wait until the full time has expired on both sides because I believe he has a series of questions he wants to ask relative to this, and if that is the case we can go ahead and conclude I think.

Mr. SPECTER. That would be entirely acceptable and preferable to this Senator, Madam President.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. I would prefer that the Senator from Pennsylvania take his time at this point because I am waiting for some other colleagues to come over. I only have 8 minutes remaining.

How much time does the Senator from Indiana have?

The PRESIDING OFFICER. There are 7 minutes 51 seconds remaining for the opponents of the amendment, 8 minutes 15 seconds for the proponents.

Mr. COATS. Madam President, the only reason I suggest that is I believe the Senator from Pennsylvania has a number of questions which he would like to direct toward the Senator from Georgia, and the Senator from Georgia is not in this Chamber at this particular time. Let me just ask for clarification of that from the Senator.

Mr. SPECTER. Madam President, I thank my colleague. I am prepared to proceed providing Senator NUNN is here.

I had spoken to Senator NUNN earlier and advised him of the nature of the questions that I would be asking, inquiries I would be making. I am ready to go as soon as Senator NUNN is on the floor.

Mr. COATS. Madam President, if the Senator from California does not wish to use time at this time, I would yield myself an additional 2 minutes.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Indiana.

Mr. COATS. Mr. President, I would like to address another question that arose during the debate here this morning. The Senator from Ohio indicated that there were no instances to his knowledge of individuals who were discharged from the military on the basis of their sexual orientation, that there was no indication of any faulty job performance or any lack of effective participation in our military services.

Mr. President, while there certainly have been publicized cases of individuals who have, either through remaining celibate or not evidencing outward expressions of their sexual orientation, performed honorably in our military, the facts relative to the discharges of those individuals who have their own sexual orientation disputed dramatically, the details of these discharges have not been publicized. But in almost every instance there are some exceptions. But in almost every instance discharges are a result of conduct and that conduct is a pretty sordid, pretty sorry tale.

There are tragedies that have occurred to young children that have scarred them for their lives. There are tragedies that have occurred to innocent young individuals who have enlisted in the military believing that it was a place where they would not be subjected to physical or sexual intimidation or violation. Those cases have been documented, and it is reading that I would not want to read on this Senate floor. But I do not want to

leave the impression that individuals are being discharged without cause, that there is not a substantial basis for the military to conclude that we have a serious problem, that there are tragic consequences, that lives have been destroyed, and that the presence of this conduct has seriously broken down cohesion and readiness in units.

General Schwarzkopf, an Army personnel chief for a number of years, said he has never known an instance or knowledge of homosexual incidents that has broken down unit cohesion. Where there is evidence and where we know of the conduct, the results have been pretty grim for sure.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania is recognized for up to 15 minutes.

Mr. SPECTER. I thank the Chair.

Mr. President, as I had noted earlier, I had asked for this time essentially to have a discussion with the distinguished chairman of the committee as to the basis for the conclusion that it harms the military mission. I would like to make a few preliminary comments before coming to those questions.

At the outset, I agree with the distinguished Senator from Georgia that this is a matter for Congress. I respectfully disagree with the distinguished Senator from California on that issue. It seems to me that the matter is laid to rest by article I, section 8 of the Constitution, which gives to theCongress the authority to make rules for the Government and regulation of the land and naval forces. As I read that language, this kind of consideration falls squarely within that purview.

I listened closely to the comments by Senator NUNN, and his arguments were directed to the congressional authority which I agree with. But it seems to me that although this amendment is subject to being defeated—and I intend to vote against it, because it wants to give to the President the exclusive authority to make these rules. And I do not think that is solely a Presidential prerogative or right. It is a congressional prerogative and right.

The underlying question here is what is the impact on acknowledged homosexuals and lesbians in the military? I have reviewed the record and I am in doubt as to whether this record establishes an impact on the military mission.

I note the testimony of Lawrence Korb, former Assistant Secretary of Defense:

> Based on my own military service policy research and Pentagon experience, I find no convincing evidence that changing the current policy would undermine unit cohesion any more than the other social changes that society has asked the Armed Forces to make over the past 50 years.

With respect to the very exhaustive study made by Rand, I heard Senator NUNN's comment that this report was not directed to whether there would be an impact on having open gays and lesbians in the military, but a way to carry out an Executive order; that nonetheless, on page 30, there is a flat statement in this very comprehensive report:

> There is no direct scientific evidence regarding the effects of the presence of acknowledged homosexuals on unit cohesion or unit performance.

General Powell has testified in support of the report of the Armed Services Committee. But I also note from his testimony the following important statement that:

> The challenge we faced was to reconcile the compromise, two sets of conflicting views. On the one hand are those who believe homosexuals should be allowed to serve openly in the military.

This is the important part:

> They note correctly that homosexuals have privately served well in the past and are serving well today.

There have been two recent court decisions which I think are significant on this matter. Earlier this year, on January 29, the U.S. District Court for the Central District of California came to the conclusion that there was no evidence to ban gays and lesbians from serving our country because of the "absence of conduct which interferes with the military mission."

I think that is the essential question, whether there is an interference with the military mission.

I agree with Senator NUNN that this is an issue which is really for the Supreme Court. But the quality of the reasoning of these two district court cases, I think, are worthy of some consideration. And in the case involving Mr. Dahl, the court came to this conclusion. And in this situation the court considered extensively the evidence which was presented at the Armed Services Committee.

The court came to this conclusion at page 34:

> The unsupported distinction between declared and undeclared homosexuals leads to the inescapable inference that the homosexual exclusion policy rests solely on prejudice against homosexuals.

They therefore struck down the distinction.

While Senator NUNN has argued that this decision did not consider the current legislation, the essence of current legislation, the distinction between those who declare themselves to be homosexual and those who do not, the declaration of homosexuality is grounds for exclusion unless there is a showing that this was an inadvertent statement or other extenuating circumstances.

And the question that I have for Senator NUNN at the outset is: What is the strongest evidence in the record which supports the conclusion that there would be harm to the mission of the military by having acknowledged gays and lesbians in the service?

Mr. NUNN. I ask my friend from Pennsylvania if he could repeat the exact question. I heard most of what he said. I want to make sure before I respond.

Mr. SPECTER. What is the strongest evidence in the record which supports a conclusion that there would be an adverse impact on the mission of the military services by having in the service individuals who are known to be homosexual?

Mr. NUNN. Mr. President, I say to the Senator from Pennsylvania, that is the bottom line here, and I think it is a very important question. We have, throughout our report that accompanies this legislation, quoted the direct testimony in evidence before our committee from numerous sources.

I know the Senator does not want to hear, on his time, all of that. But let me just refer to a couple of statements made by the Chairman of the Joint Chiefs, Colin Powell.

He stated:

> Unit cohesion is strengthened or weakened in the intimate living arrangements we force upon our people. Youngsters from different backgrounds must get along together, despite their individual preferences. Behavior too far away from the norm undercuts the cohesion of a group. In our society, gender differences are not considered conducive to bonding and cohesion within barracks living spaces.

The General also goes on to say, quoting him again:

> The presence of open homosexuality would have an unacceptable detrimental and disruptive impact on the cohesion, morale, and esprit of the Armed Forces.

He goes on to say:

> Active military service is not an everyday job in an ordinary workplace. It requires a unique blend of skills, ethics, bonding, and culture to have an effective fighting force. There is often no escape from the military environment for days and weeks and often months on end. We place unique demands and constraints upon our young men and women, not the least of which are eating and sleeping in close quarters. The fact that we as military members serve 24 hours a day under often severely constrained conditions is more than rhetoric, it is a way of life.

I will not take more of the time of the Senator, but the testimony before our committee, plus the record that accompanies this report, is replete with testimony that backs up and goes into more detail than General Powell.

There was General Schwarzkopf, and we have had testimony from a number of enlisted men and women in the services, as well as a number of military specialists from the outside.

Mr. SPECTER. I thank the chairman.

The opening part of the quotation relating to gender differences, I can understand. Of course, it is not an issue, having men and women serve and live in the same barracks, et cetera.

With respect to the testimony of General Powell, I ask my distinguished

colleague about General Powell's statement that homosexuals have privately served well in the past and are serving well today; and I ask Senator NUNN what his basis is for disagreeing, if he does, with the district judge that the distinction between declared and undeclared homosexuals—and these are the Court's words—"leads to the inescapable inference that the homosexual exclusion policy rests solely on prejudice against homosexuals."

Mr. NUNN. I say to the Senator from Pennsylvania that I may not have read that decision as closely as the Senator from Pennsylvania may have. I have seen references to it. So I cannot go into detail about my feeling on the judge's view.

But it is very clear that many people in the military services do not go home at night. Those, obviously, in Congress do. People in the military uniform, in many different assignments, do not have separate quarters. They live in barracks together, and they live through field exercises together. So there is a fundamental difference between private life and military service.

When people are in the military, they in effect give up the right of privacy to a great extent. What we are trying to do is to protect that right of privacy for men and women in the military services to the extent that we can, consistent with military requirements. It is only a very limited right of privacy, but an open environment of homosexuality would have a definite distinct effect, according to all of the testimony we have, on others in the unit, those who are not homosexual. That is a difference between open and private conduct. We make it clear in this report.

There is no doubt about the fact that there are men and women who are gay and lesbian who have served with distinction. They have not done so openly. If they do so openly, they have violated the policy that has been in effect for a long time. So when a court or a Rand report says there is no scientific evidence on this unit cohesion question, the reason is that there has been no open homosexuality in the military.

By the very definition, the policy has been adhered to and complied with, so you have to go by the experts in this area, the people who live and breathe the military life.

So that is my general answer. If the Senator wants to be more particular, I will be glad to follow up.

Mr. SPECTER. I thank my colleague. How much time remains of my 15 minutes?

The PRESIDING OFFICER. One minute forty seconds.

Mr. SPECTER. Well, that is not time enough to propound another question. It may well be that the Senator from Georgia is correct, or it may well be that in fact he is not correct. Within the course of 15 minutes, which I thought was a reasonable amount of time to take from the limited timespan, I have attempted to get into some of the underlying questions.

I expressed my regret that more time has not been spent on the question of what is the evidence and the impact, as opposed to the other discussions as to who has the authority and the premises.

I had intended to pursue a number of other questions, one of which was the evidence relating to the experience in Canada, Germany, France, and Israel of homosexuals in the military, where there is evidence that it has not been disruptive and there has similarly been evidence that it has been disruptive.

This is a very important issue, and while I have no difficulty with the pending amendment, in voting against it, because I think it is the congressional responsibility, I am troubled by the current state of the record and the current evidence.

It had been my hope—and maybe we can do it on this bill—that there would have been a more extensive examination into the issue of impact on the mission.

I thank my colleague for his replies.

Mr. NUNN. Mr. President, I thank my friend from Pennsylvania.

Very briefly, I would say that I think our record here is replete with evidence. We have not had all that kind of discussion this morning, because we have had a limited period of time. Any court or any interested party reviewing the report of the Armed Services Committee will find abundant evidence on every single point that the Senator from Pennsylvania has raised, including the distinction between other countries in the world and their experience and the United States.

There is no other country in the world that deploys forces all over the world. There is no other country that has ships all over the world. There is no other country in the world that has the kind of responsibilities we have.

Most countries in the world that have a different policy on this subject either have just started that policy, where there is not very much evidence as to their own experience, or in the case of countries like Israel and other countries, most of their forces are deployed near home. And those forces, many of them defense forces—for instance, in Israel, and those are among the best in the world—they go home at night.

I would say that is a fundamentally different situation than what we have in this country.

So I do believe that we have evidence that is very abundant here.

I would finally say on the lower court's decision about there being no difference between declared homosexuality and private conduct that is undisclosed, I think any court that makes that finding is not tuned in with real life. I say that with all respect to the Federal court, but I think that an individual who makes such a finding simply has not thought very carefully about the distinct features of military life and the lack of privacy in military life and how open homosexuality affects other people, men and women, in the unit.

It is my view that that decision will be reversed at some point on the appellate ladder, but that is up to the courts to decide.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I ask unanimous consent for 1 additional minute to respond to Senator NUNN.

Mr. GRAMM. Mr. President, reserving the right to object.

Mrs. BOXER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection heard?

Mrs. BOXER. I would like to ask the Senator to yield this side an additional 60 seconds as well. Then I would not object.

Mr. SPECTER. I would be agreeable.

Mr. NUNN. Could the Chair inform us how much time remains?

The PRESIDING OFFICER. Two minutes 45 seconds.

Mr. NUNN. I had 7 minutes the last time. I was answering on the time of the Senator from Pennsylvania. How did I lose the other time?

The PRESIDING OFFICER. The time of the Senator from Pennsylvania had expired, and the Senator from Indiana spoke earlier for 4 minutes.

Mr. NUNN. All right. I defer to the Chair.

Mr. GRAMM. Mr. President, reserving the right to object, I would simply ask 1 minute be added to both sides. That way we would have more time.

Mr. NUNN. Mr. President, I ask unanimous consent we have 5 additional minutes on each side on this question equally divided between the Senator from California and the Senator from Georgia.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. I yield 3 minutes to the Senator from Texas.

Mr. SPECTER. I have a unanimous-consent request for 1 minute.

The PRESIDING OFFICER. The request is for 5 additional minutes of time added equally divided on both sides.

Is there objection?

Mr. NUNN. Mr. President, I would not object to the Senator from Pennsylvania's having 1 additional minute if he wants to propound that.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 additional minute.

Mr. SPECTER. Mr. President, I make a very brief rebuttal to what the distinguished chairman has said.

He may disagree with the conclusion of the district court. The district court may be wrong. What we have to do is analyze the reasoning and the issues.

There was a good deal of testimony before the Senate Armed Services Committee, but I suggest that it is virtually all-conclusive. The specific illustration is anecdotal. I believe that the conclusions and judgments made are to be drawn by the United States Senate.

That is why I say that however replete the record may be, there is a need to have a kind of discussion, debate, and analysis and conclusions here, and when you have a very extensive court opinion of 42 pages, it is worth our consideration.

The issue we have not taken up is what is the impact where someone knows a person is homosexual but not declared.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. I yield 3 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes.

Mr. GRAMM. Mr. President, let me try to remind people how we came to be here and what the choice is.

The President, in a tough campaign, made commitments to special interest groups that, if elected, he would lift the ban on gay service in the military. The President then took office, set up a commission, looked at the hard facts, and came out with a policy that did not make sense to anybody.

The Armed Services Committee, under bipartisan leadership, put together the best workable policy under the circumstance that could be reached, a policy that we have reached a bipartisan consensus on given where the President is. That policy is now part of this bill.

The Senator from California would have us strike that workable policy and give this issue back to the President. There is no evidence the President wants the issue back. There is no evidence that the President is unhappy with what the Armed Services Committee did.

So the question is, Should we override the good work of the Armed Services Committee in making the best out of a bad circumstance in preserving a policy that will maintain recruitment and retention and keep the finest young men and women in uniform that we have ever had in uniform in the history of the country there?

I do not think we ought to put this ball back in the President's court. I do not think the President has asked for it back. I am not aware of an official White House position in support of this amendment.

What the Armed Services Committee has done, under the leadership of Senator NUNN and Senator COATS, is take a bad circumstance and come up with a workable policy, the best policythat could be put together under the circumstance. I think they deserve our support. I hope my colleagues will look at what they have done and recognize that this is a difficult and dangerous circumstance.

I have gone all over my State and talked to the people who really run the military, not the generals, but the sergeants. They tell me they could not have made the President's policy work. They believe they have a fighting chance to make the policy the Armed Services Committee put together work.

I think we ought to support our people in uniform, so I urge my colleagues to reject this amendment. Do not put this ball back in the President's court. The President has not asked for this ball back. The Armed Services Committee did a good job. Let us support them in this effort.

I yield back to Senator NUNN the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. BOXER. May I ask what the time situation is?

The PRESIDING OFFICER. The Senator from California controls 12 minutes 37 seconds. The Senator from Georgia controls 4 minutes 24 seconds.

Mrs. BOXER. Mr. President, I ask unanimous consent that Senators ROBB and FEINGOLD be added as cosponsors of my amendment.

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

Mrs. BOXER. I yield 2 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise in support of the Boxer amendment. It truly reflects the President's policy. It is fair, and, most importantly, it gives the President and the armed services flexibility to implement the new policy on gay men and lesbians in the military.

I commend Senator BOXER for offering this amendment. The committee bill is not the President's policy. It is not the whole policy. It is selective, and it locks the President and the armed services into a policy that they did not propose.

I do not think we should be writing this policy into law at all. We should continue the current practice of allowing the President and the military, through the Uniform Code of Military Justice, the flexibility to implement the policy.

Frankly, we do not know if this policy will work. Suppose it does create a situation where tougher behavior standards are not in place. Suppose it creates a situation that allows sexual harassment of especially women and young men in our military. Suppose it does not work. The President would not be able to change it. He would have to come to Congress, and we would end up back here on the floor of the Senate for another lengthy debate. Precisely because of the arguments that are put forward on both sides of this issue today and the questions that are raised, we should not be codifying this law. We should allow the President and the military services the ability, with the Joint Chiefs of Staff, to get together to make sure this policy works and to continue the current practice of allowing them to put this policy in place.

Codifying this law would be a mistake for both sides. I think it is time to get past politics and to do what is right, to leave the policy in place as it is and to support Senator BOXER's amendment.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I give my strong support of the amendment put forward by my colleague from California—Senator BOXER.

Opportunities for gay men and lesbians to serve in the Nation's Armed Forces is the latest chapter in the unfinished business of America—which is, and always has been, liberty and justice for all.

This Nation was founded on the principles of equality and opportunity. If we do not end discrimination whenever and wherever it exists in our society, then America is not America. We have been here before, and we will surely be here again. For our country—the work goes on.

The issue is not whether gays should serve in the Armed Forces. They already do, and with great distinction. All members of the Armed Services Committee have long since acknowledged that. The issue is whether they will have to lie about their private lives in order to be able to serve their country.

The task before us is how to move toward greater opportunity in the Armed Forces in a sound and effective manner that achieves the goals of individual liberty and military efficiency.

Military efficiency exists for the sake of our liberties, and not for its own sake—and we must never forget that fact.

The purpose of our Armed Forces is not simply to defend land, but to protect ideals. A military that denies those ideals to its members defeats its own most basic purpose.

A nondiscriminatory even handed approach to integrating openly gay men

and lesbians into our Armed Forces is precisely what was recommended by the Rand Corp.—commissioned to address this issue by the Pentagon.

The Rand study reiterated the importance of focusing on misconduct—rather than establishing a litmus test based on sexual orientation. According to the study:

Only one policy option was found to be consistent with the findings of our research, with the criteria of the Presidential memorandum, and to be logically and internally consistent. That policy would consider sexual orientation, by itself, as not germane to determining who may serve in the military. The policy would establish clear standards of conduct for all military personnel, to be equally and strictly enforced, in order to maintain the military discipline necessary for effective operations.

The compromise formulated by President Clinton takes a first step toward the goal of opening the opportunity of military service to all qualified and committed Americans. It is a serious mistake to write this transitional step into the ironclad language of a statute. I urge the Senate to adopt the Boxer amendment.

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:

ADDITIONAL VIEWS OF SENATOR KENNEDY

I joined four other members of the Committee in voting against the amendment, entitled "Policy Concerning Homosexuality in the Armed Forces," which was offered during Committee consideration. I voted against the amendment because I believe it attempts to set in stone an unfair policy of discrimination against gay men, lesbians, and bisexuals in the United States armed forces.

I also voted against the amendment because I do not believe it is appropriate for Congress to micromanage the Department of Defense on issues concerning the qualifications for and conditions of service in the armed forces, absent compelling evidence of discrimination and unfair treatment in those qualification or conditions. For example, in 1991, Congress acted to remove the codified ban on women in combat aircraft, thereby providing the military with greater discretion in this area. In this legislation we take action to remove the ban on women in combat ships. By contrast, the codification of the policy on homosexuals restricts the authority of the Department of Defense, giving it less flexibility to shape and implement its policy.

I also challenge the validity of the legislative findings in the amendment that are intended to provide a justification for the policy. These findings were derived in large part from the controversial hearings the Committee held on this issue. In order to enable courts to assess the adequacy of these findings, I write to recount these hearings in some detail.

INTRODUCTION

The policy put forward by the Administration on July 19, 1993 on the service of gay and lesbian Americans in the military is a step in the right direction, but only a first step. It is far less than a clear policy of non-discrimination would require. Thousands of gay men and lesbians currently living a lie in order to serve their country deserve better. This issue will not be settled until true freedom from discrimination is achieved.

From the beginning, members of the United States Armed Forces have fought and died to defend the fundamental principles of liberty and justice upon which this nation was founded. One of the most important of those principles is that all individuals are to be judged by their abilities, not misjudged by the misperceptions of others.

During this long history, the military has faced a range of difficult social challenges that involve not only the defense, but the very definition of our nation. Time and time again, the armed forces have demonstrated the character to rise to the occasion. And, in the process, has been made toward a stronger and truer America.

But progress is seldom easy. Often it comes step by step, not leap by leap. Prejudice is deeply ingrained. But in the end, people can and do change—and America moves forward.

This latest chapter in the great unfinished business of our nation—which truly is "liberty and justice for all"—will continue to unfold. If we do not end discrimination wherever it exists in our society, then America is not America. We have been here before, and we will surely be here again. For our country, the work goes on until the ban on the service of gay and lesbian Americans is finally a fully lifted.

A. HEARINGS

1. History and Legal Issues

The first hearing was described as an objective presentation of the history of the ban and the legal issues surrounding a potential lifting of the ban.

With regard to the history of the ban, the Committee heard from Dr. David Burrelli of the Congressional Research Service. Dr. Burrelli, while performing an admirable job based on the extent of his experience, is not an expert in this area. His presentation of the history of the ban was derived primarily from secondary sources, including Allan Berube's book "Coming Out Under Fire: The History of Gay Men and Women in World War II" (New York: Free Press, 1990).

Unfortunately, the Committee did not hear from Allan Berube. Nor did the Committee hear from Dr. John D'Emilio, a Professor at the University of North Carolina at Greensboro and a historian with significant knowledge in this area. Nor did the Committee hear from Dr. Richard H. Kohn, currently President of the Society for Military History and author of an article entitled "Women in Combat, Homosexuals in Uniform: The Challenge of Military Leadership."[1]

It was unfortunate that the Committee did not receive a detailed and sophisticated analysis of the history of the ban and how the rationale for the exclusion has changed over time. I believe such a description would have been quite enlightening for Members of the Committee. For purposes of the hearing record, I recently have submitted a detailed history of the ban, written by Allan Berube.

On the legal issues surrounding the potential lifting of the ban, the Committee heard from Mr. David A. Schleuter, Professor of Law at St. Mary's University, Mr. Stephen A. Saltzburg, Professor of Law at George Washington University, and Mr. Charles Dale, from the Congressional Research Service.

Prof. Schlueter and Prof. Saltzburg are experts on military law, including the Uniform Code of Military Justice. Neither individual is an expert in constitutional law. Despite that fact, both individuals testified at length regarding the constitutional implications of either maintaining or lifting the ban.

For example, Prof. Schlueter told the Committee during his oral testimony that "[a]lthough entry into the armed forces is now voluntary, there is no right, no constitutional right, to such entry." (Reuters Transcript from the Senate Arms Services Committee Hearing on "The historical and legal background of the ban on homosexuals in the military," dated March 29, 1993 (hereinafter referred to as "RT1"), at 2.)[2] Prof. Schlueter never explained, however, the relevance of this assertion—which has been made repeatedly by those supporting the ban—to the issue at hand. Even if one accepts that there is no constitutional right to serve in the military, that does not end the constitutional inquiry. For example, while it is well accepted that there is no constitutional right to a job in the federal bureaucracy, the federal government is still barred from firing or refusing to hire individuals based on unconstitutional grounds. *See, e.g., Davis* v. *Passman*, 442 U.S. 228 (1978); *Norton* v. *Macy*, 417 F.2d 1161 (D.C.Cir. 1969) (sexual orientation). Similarly, the government cannot have a policy prohibiting certain classes of people from serving in the military (for example, African-Americans, Jews, or women) if that policy would violate constitutional requirements. Prof. Schlueter's unamplified comment nevertheless became Finding #2 of the amendment.

Prof. Schlueter spent much of his testimony on what he described as "a legal Rubik's cube, a complicated set of interlocking constitutional and military law issues and competing interests" (RT1, at 2) that would arise from lifting the ban. He then discussed what he termed "the most important constitutional issue" in this area: "the clash of competing privacy and liberty interests." (RT1, at 5.) Prof. Schlueter described the dilemma as follows:

"In the arena of human sexuality, these two rights take on greater importance. Much of the public's attention so far has focused on the privacy rights of homosexuals, that is, the right to choose and practice a particular lifestyle. But it is also necessary to analyze the potential impact on the privacy interest of heterosexual servicemembers. To admit homosexuals into the military arguably advances their personal privacy interests, but it raises concerns about the ability of heterosexual service members to be free from unwanted advances or unnatural attention from those who find them sexually attractive." (RT1, at 5.)

Prof. Schlueter further noted that a servicemember's home is often "a small two-person tent, a shared barracks room, a cramped berth in a submarine, or an open bay barracks," and therefore "what little privacy exists in such conditions is highly treasured." (RT1, at 5.) Prof. Schlueter ended his oral testimony with the following admonition to the Committee:

[1] The Campaign for Military Service, a short-term, broad-based campaign effort to support the President's initial stated desire to lift the ban on gay people in the military, presented the staff of the Senate Armed Services Committee with a list of possible witnesses for the staff's consideration, together with background information on each of the witnesses. The original looseleaf binders presented to the Committee are on file with the Legislation Clinic at Georgetown University Law Center, which houses the archives of the work of the Campaign for Military Service.

[2] The numbering relating to Reuters Transcripts here and elsewhere in this report corresponds to the numbered portions of the transcripts as designated by Reuters.

"[I]n many instances the law is grounded on deeply rooted and firmly held moral and religious values. . . . A key question before Congress is whether the military, as a paradigm of a law-and-order society, should be required to accept or accommodate a status or conduct which some service members, civilians and potential service members, would find unacceptable on moral or religious grounds." (RT1, at 5.)

Although Prof. Schlueter discussed constitutional issues at length, he never mentioned the key Supreme Court cases of *Palmore* v. *Sidoti*, 466 U.S. 429 (1984) or *Cleburne* v. *Cleburne Living Center*, 473 U.S. 432 (1985). This is particularly striking because those cases provide direct guidance on what the government is expected to do when faced with significant rejection of a particular class of people by the public, including situations in which that rejection is based on moral and religious beliefs. (For example, in *Palmore*, it is likely that many white Southerners believed that interracial marriages were wrong, based on either moral or religious beliefs.) *Palmore* and *Cleburne* establish the principle that catering to and accommodating the prejudices of others is not a legitimate governmental objective, even when some harm may result. (For example, in *Palmore*, the court acknowledged that the child of an interracial couple may suffer discomfort and prejudice during her life, but that was not a basis for removing the child from her interracial family.)

Prof. Saltzburg, who also focused extensively on constitutional issues, was more open than Professor Schlueter to the possibility that the ban on gay people could be lifted without insurmountable legal or practical problems. For example, in his oral testimony, Prof. Saltzburg noted that "the integration of the races and the sexes was not welcomed by the military services," but that such integration was ultimately accomplished by "adding quality people in uniform." (RT1, at 8.) Prof. Saltzburg further noted that "[w]e have learned * * * that change can be accommodated more quickly than many would predict, provided the leadership of the military services commits to making the change work." (RT1, at 8.)

In his written testimony, Prof. Saltzburg attempted to take on the privacy dilemma, noting that military officials acknowledge that homosexuals have performed well in the armed services for years and thus heterosexual servicemembers have presumably lived in close quarters with gay people for years. (Statement by Stephen A. Saltzburg before the United States Senate Armed Services Committee, dated March 29, 1993 ("Saltzburg Statement"), at 37-38.) Prof. Saltzburg noted that "the concern is that, once it is clear that certainmen and women are homosexual, military service will be disrupted and privacy interests will be compromised. It must be, then, that showering with another person of the same sex who is homosexual is an invasion of privacy only if the other person is previously identified as homosexual." (Saltzburg Statement, at 38.)

Prof. Saltzburg noted that one way to respond to this concern "would be to prohibit anyone from injecting into the services identification of sexual preferences." He noted that: "This is theoretically possible, but impractical in many circumstances. Men and women talk about their families, their interests, and themselves. Efforts to police all conversations among military personnel are bound to fail and to raise the spector of thought police and totalitarian societies." (Saltzburg Statement, at 38-39.)

Prof. Saltzburg noted, however, that an open declaration of homosexuality is equivalent to a declaration that the person is "different" from other soldiers. This, he postulated, could be divisive in a military that requires the subordination of personal preferences and identities. (Saltzburg Statement, at 39.) Prof. Saltzburg concluded:

"Does this mean that the military services must force homosexuals back 'into the closet' or keep the ban in effect[?] These are two choices that could be made. Arguably, there is a middle ground that might be found, that would require homosexual soldiers not to inject their sexual preferences in any way into their military service, but that would recognize the legitimacy of their private sexual acts and not seek to regulate or punish them." (Saltzburg Statement, at 39-40.)

It is instructive to note that the policy set forth in the amendment adopted by the Committee is more stringent than this middle ground.

Mr. Dale, a legislative attorney in the American Law Division of the Congressional Research Service, presented a basic overview of the state of gay rights law. Mr. Dale did not claim to be an expert in this area but rather a research attorney who could summarize the state of the law. Mr. Dale did not participate significantly in answering questions from the panel.

Both Prof. Schlueter and Prof. Saltzburg testified far beyond their acknowledged area of expertise, that of military law. They ventured legal opinions on the constitutionality of the ban and presented some personal thoughts on issues they believed would be raised by lifting, maintaining, or modifying the ban.

In light of the extensive testimony received from Prof. Schlueter and Prof. Saltzburg, it is unfortunate that the Committee did not hear from preeminent constitutional scholars—such as Guido Calabresi, Dean of Yale Law School, whom I recommended as a witness—to hear their scholarly assessment of the constitutionality of any version of the ban and to elicit their personal views on how to handle difficult issues that may arise. Nevertheless, 120 legal scholars (including Dean Calabresi) prepared written testimony discussing the unconstitutionality of the ban which I have submitted for the record. It is unfortunate that this testimony was not delivered orally so that the Committee would have had an opportunity to ask questions and engage in a dialogue, as Members of the Committee did with the witness before them.

2. Unit Cohesion

The Committee heard from three witnesses on the issue of unit cohesion. The testimony from thesewitnesses was presumably crucial to the Committee's ultimate findings numbered 13 and 15 in the amendment.[3] Thus, an analysis of the substance and accuracy of this testimony is critical. In addition, it is instructive to note which witnesses were not called by the Committee, although these individuals had expertise in the area of unit cohesion as well.

The Committee heard from Dr. William Darryl Henderson, retired Research Fellow at the National War College, Dr. David H. Marlowe, Chief of the Department of Military Psychiatry at Walter Reed Army Institute of Research, and Dr. Lawrence Korb, Director of the Center for Public Policy of the Brookings Institute and former Assistant Secretary of Defense for Manpower in the Reagan Administration. Dr. Korb implemented and enforced the 1982 homosexual exclusion and was recommended to the Committee by me. Dr. Henderson and Dr. Marlowe were chosen by the Committee staff.

In his brief written testimony, Dr. Henderson laid out the elements of unit cohesion. He noted that "small-unit cohesion" is the critical component for sustaining soldiers during war and that servicemembers must be "controlled and led through an internalization of soldier values and personal operating rules that are congruent with the objectives, goals, and values of the organization." (Statement by Wm. Darryl Henderson for the United States Senate Arms Services Committee, dated March 31, 1993 ("Henderson Statement"), at 2.)

Dr. Henderson explained that both horizontal cohesion (among soldiers within a unit) and vertical cohesion (between soldiers and leaders) were critical. With respect to horizontal cohesion, Dr. Henderson offered this assessment:

"Core soldier values that dominate soldier behavior and control the soldier's day-to-day actions in a cohesive unit, are the result of an intense military resocialization process. Fighting skill, physical fitness, stamina, and self-discipline, teamwork, duty or selfless service, and loyalty to unit and leaders are the primary core soldier values and can be used to assess the strength of horizontal cohesion in a unit." (Henderson Statement, at 5.)

With respect to vertical cohesion, Dr. Henderson noted in his written testimony:

"Soldiers desire strong leaders who are capable of successfully dealing with dangerous situations. * * * The most potent source of a leader's power * * * is the leader's ability to cause the soldier to identify with the leader * * *. Successful officers and non-commissioned officers in cohesive units relay a strong sense of personal care, competence, and security to their soldiers which relieves soldier anxiety and gains a degree of influence and control over members of their units often associated with charismatic leaders * * * Such referrent power is based on the satisfaction of the soldier's personal needs for affection, recognition and security through strong identification with a respected leader who has successfully led his unit through situations of danger and hardship." (Henderson Statement, at 5-7.)

Dr. Marlowe's more lengthy written testimony essentially expanded on these concepts of horizontal and vertical unit cohesion. (See Statement by David H. Marlowe before the United States Senate Armed Services Committee, dated March 31, 1993 ("Marlowe Statement"), at 12-14.) Marlowe also noted that the contextual factors necessary to create both horizontal and vertical cohesion were:

1. A common and shared organizational culture and values.

2. Common status and primary identity as *soldiers*, for all members of the unit.

3. A commonly shared language, constructs, and metaphors characterizing members of the primary group.

4. Experiences in which the group collectively undergoes a series of challenges and stresses and successfully achieves a set of goals in which the members of the group see

[3] Finding (13) states: "The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service." Finding (15) states: "The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability."

themselves as having successfully mastered a set of skills and demonstrated their competency executing these skills in order to achieve their goals.

5. Minimal unnecessary turbulence and continuity of tenure within units. (Marlowe Statement, at 14, emphasis in the original.)

In their written testimonies, Dr. Henderson and Dr. Marlowe did not state their views as to whether having openly gay people in the military would impact adversely on unit cohesion. Indeed, their written testimonies bore out what I had heard from both homosexual and heterosexual servicemembers, including enlisted people, noncommissioned officers and officers; the essential component for unit cohesion is for members of a unit to undergo hardships together successfully and to realize by those experiences that they can depend on each other and on their leader. Despite differences in race, religion, ethnicity, or gender, the key element is whether the servicemember perceives himself or herself as a "soldier first" and projects that to others. In addition, it is critical that the person believe in the shared culture and values of the military organization. There are hundreds of gay and lesbian servicemembers who want to go back into the military and thousands more who are currently serving in secret. These individuals have stressed that they view themselves as a "soldier (or Marine or military nurse etc.) first" and that they honor and seek to uphold the values of the military. For this reason, hundreds of gay people have indeed served effectively in the military even when it was common knowledge that the person was gay. I received more than 100 testimonials from homosexual and heterosexual servicemembers making these points and I have submitted a sample of these for inclusion in the hearing record.

Despite anecdotal evidence that known gay people have served effectively in the military, and despite the fact that the experience of shared hardships and adherence to military values is not inconsistent with being gay or lesbian, Dr. Henderson told the Committee, in response to questioning, that introducing "openly homosexual personnel" into small units would cause "severe disruption within these primary groups" and would make "the vertical and the horizontal bonding * * * extremely difficult." (Reuters Transcript from the Senate Arms Services Committee Hearing on "the role of unit cohesion in developing combat effectiveness in relation to the ban on homosexuals in the military," dated March 31, 1993 (hereinafter referred to as "RT2"), at 17). Henderson explained that his assessment of this fact was derived from the high percentage of soldiers who oppose allowing homosexuals into the military and the high percentage of those who believe that allowing gay people in the military would be disruptive to discipline and would result in violence against homosexuals. (RT2, at 17.)

Dr. Henderson also discounted the analogy to the integration of African Americans in the military by asserting that there was greater acceptance by white people of such integration than exists now with regard to gay people. (RT2, at 16.)[4] Dr. Henderson also discounted the experience of other countries who have no ban by dividing them into two categories: countries that place a higher priority on equal opportunity and individual rights than on military readiness (e.g., Canada, Denmark and the Netherlands) and countries that do not appear to have a ban but in practice discharge or sanction open homosexuals (i.e., France and Israel respectively.[5]

Dr. Marlowe had a more mixed response to the question of whether openly gay personnel would be disruptive to unit cohesion. Consistent with this written testimony, Dr. Marlowe focused on whether the person viewed himself or herself as "soldier first." The following comments from Dr. Marlowe indicate his more nuanced and uncertain views on the subject:

Senator Nunn asked: "Dr. Korb has stated his view that the question of whether the presence of openly gay men and lesbians in the armed services would undermine fighting effectiveness cannot be answered definitively until a policy is actually changed. Do you have a view on that?"

Dr. Marlowe answered:

"* * * I'm not quite sure what we mean by openly gay. If a homosexual identity is the primary thing that someone is going to present to the other three men in his tank crew, to the other men in his infantry squad, rather than the identity of a soldier, it's going to make cohesion and incorporation awfully difficult, if his statement is you've got to treat me as an A before I will behave as a B. I think there are a great many issues involved here that haven't been carefully looked at * * * and that it's a more complex issue than we might think going into it, but an issue that can be resolved only at the cellular level where soldier meets soldier." (RT2, at 17.)

Senator Thurmond asked: "Are you aware of cases of homosexuals openly serving on active duty? If so, what was the impact of their presence on unit cohesion?"

Dr. Marlowe answered:

"Senator, anecdotally I have come across cases in which homosexuals have openly served on active duty. [Let me say knowledge that people were homosexual.] The impact on cohesion depended on two things. Whether or not . . . they brought overtly homosexual behaviors into the group, in which case the group extruded them, usually moved to have them put out of the Army, or whether or not it was considered to be his private thing that is not exhibited while on duty.

"The response was very much dependent upon other factors as well relevant to the individual. The critical variable was did the individual behave homosexually in the group or restrict his behavior outside of the group off post." (RT2, at 18.)

I asked: "Dr. Henderson, you and Dr. Marlowe have stated that the core values and I quote, 'common in any first-rate army, are fighting skill, professional teamwork, physical stamina, self-discipline, duty, selfless service, respect for unit leaders and loyalty to the unit.' I'd be interested if each of the panelists can tell us which of these values may not apply or be embraced by gay or lesbian soldiers and how do you know? And tell us any research or fact basis for your belief."

Dr. Marlowe answered:

"Senator, first let me say that I know of no research on the specific issue you're asking about. Extrapolating from what we do know, I would only make the following observation, and I'm repeating myself. It will depend entirely upon the way in which the individual presents him or herself to the group and the primary identity that the individual interacts with the group with."

"If the identity is that of soldier, hewing to the values of soldier and behaving to the standards of soldier, I think you have one set of issues. If the individual insists upon being treated, first and foremost, in terms of a differing primary identity, as happened in Vietnam in terms of drug-using, as has happened in any number of cases, then I think we have another problem."

"So I think what we do get down to is the question that I would ask, which puzzles me, which is frankly, what role does open proclamation of gender preference have in terms of service as a soldier? I haven't been able to find an answer for that question that satisfies me." (RT2, at 19.)

In response to the same question, Dr. Korb answered as follows:

"I reject completely any inference that gay men and women do not embrace the values of the military, which is the desire to serve one's country and to deal with all enemies, foreign and domestic. I think in the military . . . we have people with various backgrounds and various views on every issue, but there's nothing that, with good leadership, would stand in the way of getting the correct values to perform effectively in battle."

"So I don't think that there's any reason why, with proper leadership and training, as well as training of the other members of the group, as we've done to deal with problems caused by the integration of women and blacks, that you cannot achieve the cohesion. In fact, I know we already do." (RT2, at 19.)

Dr. Henderson's response to the question was as follows:

"When recruits come into the service, they don't come into the service with those values. What happens in the military—they are put through an intense resocialization process to achieve those values and give primary loyalty to those values you just mentioned.

"To get to that point, and this is, I think, the essence of what most of us have been saying here, to get to the point to be able to arrive at those values, you've got to have commonality and group goals. You've got to have the subordination of the individual values to the group so that they can be resocialized into those group values.

"If you have gross, widespread dissimilarities in your initial population of recruits, you're going to have an extremely

[4] This is actually a false assertion. In fact, an Army study conducted in May 1942 by the research branch of the Special Services Division of the War Department, found an overwhelming majority of servicemembers strongly opposed to desegregation of the PX and recreational facilities. Another Army study conducted following World War II found that a majority of white servicemembers did not think that racial integration in the military was appropriate. 81% opposed integration in the PX; 83% opposed integration of the service clubs; and 84% stated their belief that there should be no integration of the entire military. Samuel A. Stouffer, et al., "The American Soldier," (Princeton, New Jersey: Princeton University Press, 1949). This point was highlighted in statements made by Dr. Gibson, President of the NAACP and Coretta Scott King, President of the Martin Luther King Jr. Center for Nonviolent Social Change.

[5] This sweeping categorization is also faulty. It is hard to believe that any country, including Canada, Denmark and the Netherlands, would place individual rights over military readiness. In fact, those countries justify their lack of a ban on gay people on the premise that accommodating the human rights of gay people is not incompatible with military readiness. In addition, Israel does not sanction openly gay soldiers and in fact recently reaffirmed its policy of non-discrimination, removing the last vestiges of differential treatment in the security arena. For a comprehensive review of the policies and experiences of foreign militaries, see Government Accounting Office Report "Homosexuals in the Military: Policies and Practices in Foreign Countries", (GAO/NSIAD-93-215) ("GAO Report 2"), and Frank D. Pond, "A Comparative Analysis of Military Policies With Regard to Gays and Lesbians", both of which I have submitted for inclusion in the hearing record.

difficult time in achieving that resocialization process. You're going to have fragmentation. You're going to have personal conflict, and so on.

"So basically what I'm saying is that if you do have severe differences in values in the group, you're never going to be able to achieve the levels of performance in those values you just listed." (RT2, at 18.)

The three witnesses who appeared at this hearing constituted the main source of expert testimony for the Committee on what effect allowing gay people to acknowledge their orientation in the military setting would have on unit cohesion. As the hearing transcript makes clear, there was no unanimity of opinion on the panel. Dr. Henderson was adamant that allowing openly gay people to serve in the military would have a severe and disastrous effect on unit cohesion. In response to my question, Dr. Henderson could not cite any studies that addressed this issue or that substantiated his views. Rather, his answer appeared to be that if a recruit was a gay man or a lesbian, that person would have such a "gross, widespread dissimilari[ty]" from other recruits that the necessary resocialization process to learn military values would not occur. Dr. Marlowe did state that simply saying one is gay could be considered injecting one's homosexuality into the group. In contrast to Drs. Henderson and Marlowe, Dr. Korb testified that his personal experience led him to believe that gay people could serve openly and effectively in the military and that any cohesion problems could be addressed through good leadership.

There are two studies on the issue of gay people in the military that were undertaken by the Department of Defense itself. See Theodore R. Sarbin and Kenneth E. Karols, "Non-Conforming Sexual Orientations and Military Suitability", Defense Personnel Security Research and Education Center, PERS-TR-89-002, Dec. 1988 ("PERSEREC 1"); Theodore R. Sarbin, "Homosexuality and Personnel Security", Defense Research and Education Center, Oct. 1991 ("PERSEREC 2"). In addition, the Government Accounting Office undertook two reports on the issue: one looked at the cost of the DOD's exclusionary policy regarding homosexuals, other nation's military policies on homosexual service, and non-discrimination policies in various domestic paramilitary organizations ("Defense Force Management: Statistics Related to DOD's Policy on Homosexuality" (GAO/NSIAD-92-98S) ("GAO Report 1"); and the other looked exclusively at the military policy regarding homosexuals of 25 foreign countries (GAO Report 2).

The two PERSEREC reports had favorable conclusions regarding the compatibility of the military's needs for unit cohesion and military readiness and the presence of gay people in the military setting. GAO Report 1 found that it was expensive to discharge homosexuals: it cost $28,226 to replace each enlisted person discharged because of his or her sexual orientation and $120,772 to replace each officer so discharged. GAO Report 1 also ascertained that public attitudes in the United States were becoming more accepting of homosexuality; that the domestic paramilitary organizations with non-discriminatory policies regarding homosexuals experienced no adverse effects; and that a variety of foreign militaries permit homosexuals to serve. GAO Report 2 concluded that many foreign countries permit gay men and lesbians to serve without restriction in their militaries. Studying four targeted countries, GAO Report 2 stated that "the inclusion of homosexuals in their militaries has not adversely affected unit readiness, effectiveness, cohesion, or morale." (GAO Report 2, at 10.) Despite the existence of these reports, the authors of these studies never testified before the Committee.

Perhaps the most striking gap in the information provided to the Committee was the absence of the study conducted by the Rand Corporation over the past six months. This study was commissioned by the Department of Defense specifically to inform the debate in a comprehensive, substantive manner. According to reports, approximately forty people (or perhaps more) worked on the Rand study intensively. The Rand Report is probably the best document, and certainly the most current document, on the issues of unit cohesion and military readiness.

The Secretary of Defense testified to the Committee that he had been briefed on the Rand report and had taken that data into account in making his determination. Unfortunately, the Committee was not briefed on this report. I do not believe the Committee was equipped to make the findings #13 and #15 in the amendment regarding unit cohesion and military needs without having seen the Rand Report or having called the authors of the Rand Report to testify.

In sum, I do not believe that findings numbered 13 and 15 of the amendment are substantiated by evidence heard by our Committee. This includes evidence presented in the hearing devoted to the issue of unit cohesion, as well as evidence presented in other hearings. (See below). I also believe that data and witnesses that would have been essential for a fair-minded and objective assessment of the issue were unfortunately not heard by the Committee.

3. International Comparisons

The Committee's third hearing was designed to elicit information regarding the experience of foreign militaries. Four witnesses appeared before the Committee: Professor Charles Moskos, Department of Sociology, Northwestern University; Professor David Segal, Department of Sociology, University of Maryland; Lt. General Calvin Waller (ret.); and Professor Judith Stiehm, Department of Political Science, Florida International University.

None of these witnesses had any longstanding experience with regard to foreign militaries and gay personnel. Professor Moskos was involved in this issue of the domestic front and, indeed, had stated his view in the press that gay people should not be allowed to serve openly in the military. In late November and early December of 1992, Professor Moskos visited Germany and Israel and talked to individuals in those countries. Professor Moskos' testimony focused almost exclusively on Israel and Germany and was based primarily on those interviews.

Professor David Segal, while not having an extensive track record in international comparisons, did a relatively exhaustive study of the policies of other countries. Most of his findings are consistent with the comprehensive report prepared by the General Accounting Office. (See below). Although Professor Segal was less explicit in his testimony before the Senate, he testified before the House Armed Services Committee that the experience of other countries tended to indicate that allowing gay people to acknowledge their identity in a military setting (if they wished to do so) would not harm unit cohesion.

Lt. General Waller provided testimony based on his years in service and his role as second in command during Desert Shield and Storm. Lt. General Waller was adamantly opposed to allowing "avowed homosexuals" who "openly foist their lifestyle upon soldiers, sailors, airmen, and marines" to serve in the military. (Statement by LTG C.A.H. Waller before the United States Senate Armed Services Committee, dated April 29, 1993 ("Waller Statement"), at 2.)

Professor Steihm offered a more positive assessment of the experience of foreign militaries that have no ban on gay people in the military. Her testimony was buttressed by a 100 page document detailing the experiences of foreign countries.

As an overall matter, the hearing fell far short of providing the Committee with comprehensive, reliable data detailing the foreign experience. It was particularly striking that no witness was called who had substantive, detailed knowledge of the situation in Canada and Australia—two countries that are culturally similar to the United States in which similar fears regarding unit cohesion were voiced and which have recently lifted their bans. Nothing in this hearing provided the Committee with reliable data on which to bases findings numbered 13 and 15.

By contrast, the one comprehensive, authoritative study of the experiences of foreign countries was conducted by the General Accounting Office (GAO), at the request of Senator John Warner. The GAO surveyed 25 countries and focused in detail on Canada, Israel, Sweden, and Germany. The first three countries have policies of not discriminating against gay people in the military, while Germany imposes restrictions on gay volunteers.

In the Executive Summary, the GAO states:

"Military officials in all four countries [that were reviewed in detail] said that the presence of homosexuals in the military is not an issue and has not created problems in the functioning of military units. A key factor, they said, was that homosexuals are reluctant to openly admit their sexual orientation for a variety of reasons. For example, (1) sexuality is considered to be a private matter, (2) homosexuals fear discrimination or negative reactions from their peers or superiors if they reveal their sexual orientation, and (3) homosexuals do not see any advantageto openly identifying their homosexuality. Military officials from Canada, Israel, and Sweden said that, on the basis of their experience, the inclusion of homosexuals in the military is not a problem and has not adversely affected unit readiness, effectiveness, cohesion, or morale. In Germany, military officials told us that problems associated with homosexual military personnel are dealt with on a case-by-case basis and their service is restricted if necessary."

The authors of the GAO Report never testified before our Committee.

The comments of the GAO that gay people in the military are reluctant to reveal their sexual orientation, even in countries that have no ban, is consistent with the information I have received in letters and testimonials. Gay and lesbian servicepeople desperately want an official governmental policy that provides that status as a gay person, and private, consensual gay conduct, are not grounds for discharge. This would remove the spector of their careers being cut short simply because someone overheard them say they were gay or had credible information that they had engaged in private, consensual sex. Even with such an official policy, however, it is clear to me that many gay people would not be eager to publicly

proclaim their sexual orientation. This self-imposed reticence, which results from an ongoing assessment by homosexual servicemembers of the tolerance of those around them, is one reason why an official policy of non-discrimination would not result in damage to unit cohesion.

4. Members of the Senate

The Committee heard testimony from Senators who supported the ban on gay people in the military and from Senators who opposed the ban. While this hearing was useful in illuminating the beliefs of various Senators, it did not provide any credible basis for findings #13 and #15 of the amendment.

5. Field Hearing

The Committee selected fifteen active duty personnel at Norfolk Navy Base to provide testimony. All but two individuals supported the ban on gay in the military. The high visibility of those who supported the ban, and the low profile of those who opposed it, came as no surprise to me. During the week of the field hearing, I receive over 100 testimonials from heterosexual and homosexual individuals either currently serving at Norfolk or connected with the Norfolk Naval Base.

A common theme ran through these testimonials. All of the individuals were afraid to testify publicly against the ban. Homosexual servicemembers were afraid that their sexual orientation would become known, either during the testimony or after the testimony through an investigation. These people feared that they would lose their careers if their sexual orientation became known. The fact that an opportunity was given to provide "confidential" testimony did not sway these individuals to talk with the Committee. They noted that because the Committee could not assure them of immunity if their sexual orientation became known, they did not want to take the risk of talking.

Heterosexual servicemembers were also afraid to testify against the ban. In their letters, these individuals explained that such testimony could cause them to be suspected of being homosexual, thereby adversely affecting their promotion opportunities. Many of these individuals recounted in detail the atmosphere of fear and coercion that existed in military bases during the time when lifting of the ban was under consideration which precluded these individuals from feeling safe in speaking up against the ban.

A similar situation would have been found in a visit to Norfolk Naval Base in 1948 prior to racial integration.

6. Servicemembers

The Committee also heard from two panels of serving, retired or discharged servicepeople. One panel, consisting of General Norman Schwartzkopf (USA, ret.), Col. Fred Peck (USMC), Major Kathleen Bergeron (USMC) and Command Master Chief David Borne (USN) spoke in favor of the ban on gay people. General Schwartzkopf testified that every time there was a case of a known homosexual in a unit, there was a disruption. Col. Peck testified that he would not want his gay son to be admitted to the military because there was a good chance his son would suffer violence or even death at the hands of fellow servicemembers. Major Bergeron testified that military life was a "24 hour experience" for military families and that she would not be comfortable with her children being around known homosexuals.

A second panel, consisting of former Army Col. Greta Cammermeyer (USA), former Air Sergeant Tom Pannicia (USAF), Sergeant Justin Elzie (USMC), and Chief Petty Officer Steven Amidon (USN) spoke in favor of lifting the ban on gay people. Cammermeyer and Pannicia had been discharged from the military for stating they were homosexual. Elzie was in the process of being discharged for saying he was homosexual. Amidon was heterosexual and still on active duty.

Cammermeyer, Pannicia, and Elzie all testified that when individuals in their unit and/or under their command heard that they were homosexual, there was no disruption in their units or workplace. Amidon testified that, with proper military leadership, there would be no problem in maintaining good order, discipline and morale, and hence unit cohesion, with an openly gay person in the unit.

The hearing consisting of testimony from current and past servicemembers clearly did not provide a unanimity of views. The testimony essentially set the personal experiences and beliefs of one group of military people against the personal experiences and beliefs of another group of military people. This hearing did not provide a credible basis for findings #13 and #15 of the amendment.

While we all have tremendous respect for General Schwartzkopf for his service in Desert Storm, other military officials of similar stature do not share his view. For example, Retired Admiral William Crowe, former Chairman of the Joint Chiefs of Staff, has stated that "arguments against allowing homosexuals in the armed forces are 'generated more by emotion than reason' and the military could adjust to their presence just as it has to minorities and women.' (Washington Post, April 11, 1993.)

7. The Department of Defense

In its final hearing on July 21, 1993, the Committee heard testimony from Secretary of Defense Les Aspin, General Colin Powell, the Joint Chiefs of Staff, General Counsel Jamie Gorelick, and Maj. General John P. Otjen (USA). This testimony focused almost exclusively on the policy agreed to by the President and set forth in a July 19 memorandum from the Secretary of Defense. The testimony clarified that the grounds for discharge of the new policy were identical to the grounds for discharge under the pre-existing ban.

The testimony of the civilian and military officials of the Department of Defense rested on the premise that the simple presence of a person in the military who says he or she is homosexual, or who engages in homosexual acts, is disruptive to unit cohesion. No analysis was presented, however, as to why such individuals would disrupt unit cohesion in a manner that could not be managed through discipline and effective military leadership. The results from the RAND Corporation study were not presented to the Committee during this testimony.

Nothing in this hearing provided the Committee with credible evidence to sustain findings #13 and #15. Rather, these findings were assumed to be true by the witnesses.

B. FINDINGS

Based on this review of the hearings, and on the evidence I have studied, I offer the following comments on the legislative findings set forth in the amendment.

Finding #1: "[T]he Constitution * * * commits exclusively to the Congress the powers to * * * make rules for the government and regulation of the land and naval forces."

Comment: Article 8 of the Constitution clearly confers broad powers on Congress. Congress, in turn, has traditionally delegated to the President broad discretion in enacting rules for the armed forces. This broad discretion has been granted based on the judgment that the Commander-in-Chief deserves flexibility in regulating and maintaining the armed forces.

Finding #2: "There is no constitutional right to serve in the armed forces."

Comment: As I noted above, whether or not this finding is valid, it is irrelevant to the question of whether a ban on service in the military by homosexuals is constitutional.

Finding #3: "Pursuant to the powers conferred by * * * the Constitution * * *, it lies within the discretion of the Congress to establish qualifications for and conditions of service in the armed forces."

Comment: While Congress undoubtedly has the constitutional authority to make such rules, it traditionally has delegated such power to the Executive branch. There are good prudential reasons for Congress to refrain from micromanaging the military and to allow the Executive branch maximum flexibility in this area.

Finding #4: "The primary purpose of the armed forces is to prepare for and to prevail in combat should the need arise."

Comment: I agree.

Finding #5–#12: These findings continue to set forth premises regarding the role, requirements, and needs of our armed services. I basically agree with these findings. Indeed, I do not believe they have been disputed by anyone during the course of this debate. I make the following observations, however. First, finding #10 should not be viewed as a statutory codification of the *Solario* decision. Rather, because it is a finding, and not a statutory provision, it is properly viewed as setting forth the current state of the law. That is, based on the ruling of the Supreme Court in *Solario*, the armed forces can constitutionally extend the reach of the UCMJ to all conduct by servicemembers, even if that conduct is not "service-related." Second, although finding #12 is correct on its face, it is useful to remember that, in the large majority of cases, our servicemembers are not living in "spartan, primitive" working conditions.

Finding #13: "The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service."

Comment: I disagree. It is certainly true that the prohibition against homosexuals serving in the military is a longstanding practice. But, as I noted above, the Committee did not receive a complete picture of the history of the ban. That history graphically demonstrates that the rationale for the exclusion has changed over the years. Thus, it is misleading to suggest—as this finding does—that the prohibition against homosexualconduct has a longstanding record of reason which has remained unchanged through the decades and that the prohibition "continues to be necessary" today because of the unique needs of the military. Indeed, no empirical evidence was heard by the Committee to support this finding.

Finding #14: The armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to the armed forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

Comment: I agree. I do not believe there has ever been any dispute on this issue.

Finding #15: "The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts

would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability."

Comment: I disagree. As noted above, the Committee never received any empirical data to provide a credible basis for this assertion. To the contrary, the Committee received conflicting testimony that was based on various individuals' personal experiences and beliefs. Even one of the only two experts on unit cohesion called by the Committee, Dr. Marlowe, distinguished between gay people who publicly declare their sexual orientation to others (Dr. Marlowe believes those people would disrupt unit cohesion) from gay people who engaged in private conduct off-base and do not "inject their homosexuality" into the unit. (Dr. Marlowe believes those individuals would not disrupt unit cohesion.) Finding #15, while absolutely necessary to sustain the policy that follows, has no credible basis. Indeed, the only official studies that have been done in this area (for example, the two PERSEREC Reports and the Rand Report) are contrary to finding #15.

It is informative to note that the President, in his speech presenting this policy, described five facts that he noted "are not much in dispute." The fourth fact was:

"Fourth, the ban has been lifted in other nations and in police and fire departments in our country with no discernible negative impact on unit cohesion or capacity to do the job, though there is, admittedly, no absolute analogy to the situation we face and no study bearing on the specific issue."

While noting that the analogies are not absolute, the President appropriately referred to the nondisruptive results of lifting the ban in the militaries of other countries and in para-military organizations in our country. While this evidence may not be conclusive, it certainly weighs against finding #15, not for it.

The fifth fact cited by the President is also informative:

"Fifth, even if the ban were lifted entirely, the experiences of other nations and police and fire departments in the United States indicates that most homosexuals would probably not declare their sexual orientation openly, thereby making an already hard life even more difficult in some circumstances."

This fact is consistent with the results found in the comprehensive GAO report of June 1993. As noted above, the GAO found that most homosexuals do not openly declare their sexual orientation even when no official ban exists in their military. Thus, it would be possible to adopt a policy that protects homosexuals who state privately that they are gay, and who engage in private gay conduct, and not run the risk of danger to unit cohesion.

C. THE POLICY

The policy set forth in the amendment adopted by the Committee directly tracks the language of the preexisting DOD Directive 1332.14 of January 28, 1982. The amendment provides that a member of the armed forces shall be separated if the person has engaged in, has attempted to engage in, or has solicited another to engage in a homosexual act; if the person states that he or she is homosexual or bisexual; or if the person attempts to marry a person of the same sex.

The Secretary of Defense and the Joint Chiefs strenuously argued before the Committee that the President's policy represented a significant change because "witch-hunts" would no longer take place (i.e., systematic efforts to uncover homosexuals in the military, using among other things, interrogation techniques to force servicemembers to name other gay people in the military) and because investigations would not be initiated on mere rumors, but would require a higher standard of evidence ("credible information") before initiation. If indeed the Committee intends to codify the President's proposal, these positive steps forward should be included in the amendment.

In any event, the Secretary's directives remain in his July 19th memorandum. The experience of the next few years will tell whether that the promises made by the Secretary of Defense and the Joint Chiefs actually result in a better quality of life for homosexuals serving in the armed forces, and whether homosexual servicemembers actually have to "work hard to get on the radar screen," as Secretary Aspin put it, before those individuals are discharged.

The amendment further provides, in subsection (c), that the "Secretary of Defense shall ensure that the standards for enlistment and appointment of members of the armed forces reflect the policies set forth in subsection (b)." Subsection (b) sets forth the grounds for discharge described above. Because subsection (e) of the amendment reflects the sense of the Congress that "the suspension of questioning concerning homosexuality as part of the processing of individuals" for entry into the armed forces be continued, I presume that subsection (c) cannot be read to require the Secretary to reinstate the question concerning homosexuality or to reinstate a revised question concerning a propensity or intent to engage in homosexual acts—which is essentially the same question.

In subsection (d), the amendment provides that all members of the armed forces will receive a briefing upon entry, and periodically thereafter, which "shall include a detailed explanation of the applicable laws and regulations governing sexual conduct by members of the armed forces." I presume that this briefing will include detailed information about forms of sexual harassment and sexual misconduct applicable to both homosexual and heterosexual members of the armed services.

Subsection (e)(2) of the amendment states that "the Secretary of Defense should consider issuing guidance governing the circumstances under which members of the Armed Forces questioned about homosexuality for administrative purposes shall be afforded warnings similar to the warnings under section 831(b) * * * [of the UCMJ]." I strongly believe that servicemembers must be informed of their rights not to answer certain questions. Most servicemembers are currently unaware of these rights. If the Secretary truly wishes to change the "witch-hunt" atmosphere of investigations, appropriate warnings are critical.

D. AN ALTERNATIVE APPROACH

I continue to believe that we could have addressed this issue in a manner that would have affirmed the dignity and humanity of homosexuals and bisexuals in the military and would have met the legitimate needs of the military. The militaries of most of our NATO allies have accomplished this task. Why should we be any less capable than our allies?

As President Clinton noted in his speech on July 19, several distingusihed combat veterans, including Senators Robert Kerry, John Kerry, and my colleague on the Armed Services committee, Charles Robb, haveendorsed a policy more lenient than the one now codified in the Committee bill. A complete lifting of the ban has been endorsed by Lawrence Korb and former Senator Barry Goldwater. As the President noted, Senator Goldwater's statement makes clear that lifting the ban is "a reaffirmation of the American value of extending opportunity to responsible individuals and of limiting the role of government over citizens' private lives."

The President had hoped to be able to offer us a policy that met these words. Secretary Aspin, in testimony before our Committee, said there were two polar positions presented to the Pentagon: on one hand, a strict reaffirmation of the ban, complete with witchhunts, which conservatives desired, and on the other hand, a policy with no limits on conduct placed on homosexuals, endorsement of homosexuality by the military, and the provision of benefits to homosexual couples, which gay activists groups were purportedly requesting.

For purposes of the record, I believe it is important to set forth the official position of the gay rights, civil rights, and religious groups who supported a compromise which embodied a policy of non-discrimination. That position did not call for endorsement of homosexuality or for the provision of benefits to homosexual couples. It also accepted restrictions on the public conduct of homosexuals in the military setting. See "A Comprehensive Proposal for Lifting the Ban on Gay People in the Military," Campaign for Military Service, dated May 20, 1993 and "An Open Statement to President Clinton", Campaign for Military Service, dated July, 1993, which I have submitted for inclusion in the hearing record.

As I said in my statement in the Senate on July 20th, I believe that a policy of nondiscrimination will ultimately be achieved—albeit in steps.

The courts will ultimately determine the validity of this legislation, which is clearly vulnerable to constitutional challenge on equal protection grounds and on first amendment grounds. If the debate on this policy has shown anything, it has shown that the reason for the exclusion of homosexuals from the military has nothing to do with the conduct of homosexuals. Rather, it has to do with the fears and concerns of heterosexual servicemembers who believe (I think, mistakenly) that they do not know any homosexuals and that they could not bear to serve the homosexuals. As the President acknowledged in his speech: "[T]hose who oppose lifting the ban are clearly focused not on the conduct of individual gay service members, but on how nongay service members feel about gays in general and, in particular, those in the military service."

If the Committee's hearings proved anything, they proved this point made by the President. The courts must now determine whether accommodating such fears and prejudices on the part of others is a legitimate government objective which should be met by an amendment of the kind passed by our Committee. As the testimony submitted by over 120 legal scholars demonstrates, accommodating such prejudices would not be a legitimate government objective under current Supreme Court doctrine.

The courts have not bowed to such prejudice in other areas, and they should not bow to such prejudice in this area. Our national and Congressional debate on this issue has clearly stripped away all of the purported rationales for the exclusion of open homosexuals from our military. The one rationale remaining is that the stark, purported prejudice of heterosexual servicemembers will inevitably disrupt unit cohesion, even with

strong military leadership and growing familiarity with homosexual servicemembers.

There clearly are also serious first amendment problems inherent in this amendment. As the debate on this issue has made clear, it is no longer being a homosexual in the military which is the perceived problem. (By contrast, as Berube points out in his testimony, that was the genesis for the original ban because homosexuals were presumed to be inherently mentally unstable.) Rather, the perceived problem today arises when other people learn of the fact that a fellow servicemember is homosexual or has a propensity for homosexuality. For homosexuals, however, the primary way to let others know of their sexual orientation is through speech. The amendment adopted by the Committee directly suppresses this speech.

The courts should invalidate this unfair policy so that gay men and lesbians can serve their country with dignity, honor and honesty. I only wish the Congress could enact such a policy itself.

[From the Washington Post, June 10, 1993]

THE GAY BAN: JUST PLAIN UN-AMERICAN

(By Barry M. Goldwater)

After more than 50 years in the military and politics, I am still amazed to see how upset people can get over nothing. Lifting the ban on gays in the military isn't exactly nothing, but it's pretty damned close.

Everyone knows that gays have served honorably in the military since at least the time of Julius Caesar. They'll still be serving long after we're all dead and buried. That should not surprise anyone.

But most Americans should be shocked to know that while the country's economy is going down the tubes, the military has wasted a half-billion dollars over the past decade chasing down gays and running them out of the armed services.

It's no great secret that military studies have proven again and again that there's no valid reason for keeping the ban on gays. Some thought gays were crazy, but then found that wasn't true. Then they decided gays were a security risk, but again the Department of Defense decided that wasn't so—in fact, one study by the Navy in 1956 that has never been made public found gays to be good security risks. Even Larry Korb, President Reagan's man in charge of implementing the Pentagon ban on gays, now admits it was a dumb idea. No wonder my friend Dick Cheney, secretary of defense under President Bush, called it "a bit of an old chestnut."

When the facts lead to one conclusion, I say it's time to act, not to hide. The country and the military know that eventually the ban will be lifted. The only remaining questions are how much muck we will all be dragged through, and how many brave Americans like Tom Paniccia and Col. Margarethe Cammermeyer will have their lives and careers destroyed in a senseless attempt to stall the inevitable.

Some in Congress think I'm wrong. They say we absolutely must continue to discriminate, or all hell will break loose. Who knows, they say, perhaps our soldiers may even take up arms against each other.

Well, that's just stupid.

Years ago I was a lieutenant in charge of an all-black unit. Military leaders at the time believed that blacks lacked leadership potential—period. That seems ridiculous now, as it should. Now, each and every man and women who serves this nation takes orders from a black man—our own Gen. Colin Powell.

Nobody thought blacks or women could ever be integrated into the military. Many thought all-volunteer force could never protect our national interest. Well, it has—and despite those who feared the worst, I among them, we are still the best and will continue to be.

The point is that decisions are always a lot easier to make in hindsight, but we seldom have that luxury. That's why the future of our country depends on leadership, and that's what we need now.

I served in the armed forces. I have flown more than 150 of the best fighter planes and bombers this country manufactured. I founded the Arizona National Guard. I chaired the Senate Armed Services Committee. And I think it's high time to pull the curtains on this charade of policy.

We have the strongest military in the world because our service people respect the chain of command and know how to follow orders. The military didn't want blacks in integrated units or women, and now it doesn't want gays. Well, a soldier may not like every order, or every member of his or her unit, but a good soldier will always follow orders—and, in time, respect those who get the job done.

What would undermine our readiness would be a compromise policy like "Don't ask, don't tell." That compromise doesn't deal with the issue—it tries to hide it.

We have wasted enough precious time, money and talent trying to persecute and pretend. It's time to stop burying our heads in the sand and denying reality for the sake of politics. It's time to deal with this straight on and be done with it. It's time to get on with more important business.

The conservative movement, to which I subscribe, has as one of its basic tenets the belief that government should stay out of people's private lives. Government governs best when it governs least—and stays out of the impossible task of legislating morality. But legislating someone's version of morality is exactly what we do by perpetuating discrimination against gays.

We can take polls. We can visit submarines to get opinions on who are the best citizens. But that is not the role of democratic government in a free society. Under our Constitution, everyone is guaranteed the right to do as he pleases as long as it does not harm someone else. You don't need to be "straight" to fight and die for your country. You just need to shoot straight.

With all the good this country has accomplished and stood for, I know that we can rise to the challenge, do the right thing and lift the ban on gays in the military. Countries with far less leadership and discipline have traveled this way, and successfully.

When you get down to it, no American able to serve should be allowed, much less given an excuse, not to serve his or her country. We need all our talent.

If I were in the Senate today, I would rise on the Senate floor in support of our commander in chief. He may be a Democrat, but he happens to be right on this question.

When the government sets policy, it has a responsibility to acknowledge facts, tell the truth and lead the country forward, not backward. Congress would best serve our national interest by finding the courage to rally the troops in support of ending this un-American discrimination.

TOGETHER WE SHALL OVERCOME

(By Coretta Scott King)

The following remarks were delivered by Coretta Scott King at a press conference on Lesbians and Gay men in the military which took place at Dr. Martin Luther King's graveside in Atlanta, Georgia, on June 30.

As you know, President Clinton will soon announce his decision on what to do about the unjust ban against Lesbian and Gay people in the armed services. We are counting on the president to honor his pledge to end discrimination by taking clear and decisive measures to lift this un-American ban, which makes a mockery of civil and human rights in our country.

The arguments that have been raised in favor of the ban are the same arguments that were so often raised against racial integration in the past. Then, as now, we were told that making the military services more inclusive would somehow diminish morale. Then, as now, we were told that military leaders were not prejudiced, but they were concerned about "others" who might feel that way. This is not much different from businesses which cited "customer preference" to justify their refusal to hire African Americans to work in their stores.

Back then certain politicians raised the fear of health risks to oppose integration, and today we hear the same irrational arguments being used to deny Lesbian and Gay people their human rights in the military.

The controversy over this issue indicates that homophobia, as well as other forms of prejudice and intolerance, are serious problems in the military services, as they are throughout our society. Educational programs about the destructive effects of bigoted attitudes should be made a required part of basic training for all branches of the services.

I strongly believe that freedom and justice cannot be parceled out in pieces to suit political convenience, as my husband, Martin Luther King Jr., said, "injustice anywhere is a threat to justice everywhere."

On another occasion he said, "I have worked too long and hard against segregated public accommodations to end up segregating my moral concern. Justice is indivisible."

Like Martin, I don't believe that you can stand for freedom for one group of people and deny it to others.

Lesbian and Gay people have served their country with honor and courage in the military and other institutions since the early days of American history, and many have paid the highest price to defend the freedoms we cherish as Americans. I might also add that many Lesbians and Gays supported the African American freedom struggle, and I am not going to turn my back on their movement for freedom and dignity.

The great promise of American democracy is that no group of people will be forced to suffer discrimination and injustice. I believe that eliminating this ban altogether will strengthen the military and our country as a whole.

So I join with my colleagues in calling on President Clinton to stand firm against all forms of discrimination in the military and to accept no compromises which undermine the principles of fairness and human dignity. To this endeavor, I pledge my wholehearted support, and with this commitment, together we shall overcome.

THE CAMPAIGN FOR MILITARY SERVICE

ORGANIZATIONS THAT SUPPORT LIFTING THE BAN

AFL–CIO

AIDS Education Services for Minorities.

AIDS Project Los Angeles.

American Association of University Women.

American Bar Association.

American Civil Liberties Union.

American Ethical Union Washington Ethical Action Office.
American Friends Service Committee.
American Jewish Committee.
American Jewish Congress.
American Legion, Alexander Hamilton Post 448.
American Medical Women's Association.
American Nurses Association.
American Psychiatric Association.
American Psychological Association.
American Public Health Association.
Americans for Democratic Action.
Anti-Defamation League.
Black Gay and Lesbian Leadership Forum.
Black Lesbian Support Group.
Boston Human Rights Commission.
Catholic Organization for Renewal.
Center for Population Options.
Center for Women Policy Studies.
Church of Women United.
Citizen Soldier.
Coalition of Labor Union Women.
Dignity/Northern Virginia.
Draft and Military Freedom Project.
Equity Foundation, Portland, OR.
Federally Employed Women.
Federation of National Sisterhoods.
Fund for a Feminist Majority.
Gay and Lesbian Alliance Against Defamation.
Gay and Lesbian Community Action Council.
Gay and Lesbian Community Center of Baltimore.
Gay and Lesbian Emergency Media Campaign.
Gay and Lesbian Parents Coalition International.
Gay and Lesbian Utah Democrats.
Gay and Lesbian Victory Fund.
Gay, Lesbian & Bisexual Veterans of America.
Gay Men's Health Crisis.
Hetrick-Martin Institute.
Hollywood Policy Center.
Hollywood Women's Political Committee.
Human Rights Campaign Fund.
Japanese American Citizens League.
Jewish Labor Committee.
Lambda Legal Defense and Education Fund.
Lambda Youth Network.
Legislative Conference for Civil Rights.
Maine Women's Lobby.
Methodist Federation for Social Action.
Mexican American National Women's Association.
NAACP.
National Abortion Rights Action League.
National Association of Social Workers.
National Association of Women for Understanding.
National Black Caucus of State Legislators.
National Campaign for Freedom of Expression.
National Center for Lesbian Rights.
National Council of Jewish Women.
National Federation of Temple Sisterhoods.
National Gay and Lesbian Task Force.
National Lesbian and Gay Law Association.
National Lesbian, Gay and Bisexual Student Caucus.
National Organization for Women.
National Urban Coalition.
National Women's Law Center.
National Women's Party.
New Ways Ministry.
NOW Legal Defense and Education Fund.
Pan-Asian Women.
Parents and Friends of Lesbians and Gays, Inc.
People For the American Way Action Fund.
People for the Ethical Treatment of Animals.
Religious Action Center of Reform Judaism.
Sex Information and Education Council of the U.S.
Southern Christian Leadership Conference.
Southern Christian Leadership Conference of Greater Los Angeles.
Stonewall 25, NCBLG.
Stonewall Union.
Union of American Hebrew Congregations.
Unitarian Universalist Association of Congregations in North America.
United Church of Christ, Coordinating Center for Women.
United Church of Christ Office for Church in Society.
United Methodist Church, General Board of Church and Society Ministry of God's Human Community.
United States Student Association.
Universal Fellowship of Metropolitan Community Churches.
University of Connecticut Women's Center.
University of Utah Women's Resource Center.
Veterans CARE Redwood Empire.
Women for Meaningful Summits.
Women of Reform Judaism.
Women Strike for Peace.
Women's Action for New Directions.
Women's Law Project.
Women's Legal Defense Fund.
Women's Policy Group.
Women's Research and Education Institute.
Young Women's Project.
YWCA of the USA.

CONSERVATIVE SUPPORT FOR A NONDISCRIMINATION POLICY

Many conservatives support lifting the ban on gay, lesbian and bisexual servicemembers. The following are but a few examples.

Barry Goldwater, Former Republican Congressman, Arizona, and Senate Armed Services Committee Chairman; Republican Presidential nominee, 1964. "The conservative movement, to which I subscribe, has as one of its basic tenets the belief that government should stay out of peoples private lives. Government governs best when it governs least—and stays out of the impossible task of legislating morality. . . . Under our Constitution, everyone is guaranteed the right to do as he pleases as long as it does not harm someone else. You don't need to be 'straight' to fight and die for your country. You just need to shoot straight." Washington Post, June 10, 1993.

John Buchanan Jr., Former Republican Congressman, Alabama. "Not a shred of valid evidence suggests that allowing gays to serve openly would diminish the effectiveness of our fighting forces. . . . If leaders like you fail to stand up to discrimination against gays, America will be morally diminished." March 28, 1993 letter to Sam Nunn.

John Chafee, Republican Senator, Rhode Island; Secretary of the Navy, Nixon Administration. "I am one who strongly believes that any problems attendant to allowing homosexuals to serve in the military can be minimized. I'm certain there will be no noticeable deterioration in the quality or readiness level of the armed forces of the United States. As we all know, there are already many homosexuals in the military. My experience has been that when a discussion has taken place on a matter of import in the Navy, and a decision has been reached, that those in command follow the decision." 139 Congressional Record S 1262.

Dr. Lawrence Korb, Assistant Secretary of Defense for Manpower, Reagan Administration. "In final analysis, the military exists to serve society and must be a reflection of that society. . . . Opening up the military to gays will not undermine military readiness any more than did opening it up to blacks and women or ending the draft." Atlanta Journal and Constitution, November 22, 1992.

Alfonse M. D'Amato, Republican Senator, New York. "Last Tuesday, I stated a basic but important principle on the floor of the U.S. Senate, namely that no government has the right to discriminate against any of its own citizens. That's why I support allowing gays in the military. It's just that simple. . . . Individuals must be judged by how they perform, not by any other criterion. I can't imagine a more basic conservative position than to believe in individual responsibility and individual freedom." Newsday, February 2, 1993.

Dr. Richard H. Kohn, Chair, Curriculum in Peace, War and Defense, University of North Carolina; President, Society for Military History. "But civilian control means that our military will be organized and will operate according to the nation's needs and desires. . . . To resist would only make the adjustment more time-consuming and disruptive, and would itself undermine military effectiveness. In the long run, the services should find that their effectiveness . . . will be enhanced rather than diminished." Women in Combat, Homosexuals in Uniform: The Challenge of Military Leadership," 1993.

Andrew Sullivan, Editor, The New Republic. "The values that gays in the military are espousing, patriotism and public service, are traditional values. . . . As gays and lesbians, we do not want anything special from America. We merely want to give back to America something of what it has given us, without having to compromise the essence of who we are. That simple, and surely conservative, desire is what is really at issue in the months ahead." New York Times, February 9, 1993.

Marvin Liebman, "One of the fathers of the modern American Conservative Movement;" Newsday Interview: "Silence is the cement that keeps society's hypocrisies together. . . . Drive out these phonies who call themselves conservative, the sanctimonious Pat Robertson and the bully-boy Pat Buchanan. They preach hatred and intolerance. . . . Today you have people like Dan Quayle telling us that homosexuality is a 'learned' behavior. [I didn't 'choose' to be gay.] No more than Quayle chose to be dumb." Newsday, September 23, 1992.

Bishop Thomas Gumbleton, Archdioceses of Detroit. "[I have] been presented with no empirical evidence to support any of these misconceptions or erroneous beliefs. [I am] familiar with a recent government study that showed that gay and lesbian military personnel are no less qualified or effective than any other group. . . . The gospel . . . challenges every Christian to promote respect for all persons in word and action. [I] call on all Christians and citizens of good will to confront their own fears about homosexuality and ask the support of all Catholics to protect the civil rights of all gay and lesbian persons." Affidavit, January 15, 1993.

Bishop Herbert Chilstrom, Evangelical Lutheran Church of America. "We do not ban gay and lesbian persons from becoming pastors in our church. We judge them by their behavior rather than on the basis of sexual orientation." Dallas Morning News, February 13, 1993.

E.J. Dionne Jr., Columnist, Washington Post. "The people who most need protection

from bigotry and discrimination are precisely the most conventional people in the gay community, the people who want to live and work in the mainstream." Washington Post, April 27, 1993.

William Weld, Republican Governor, Massachusetts. "Keep government out of people's pocketbooks and out of their bedrooms." Newsday, September 23, 1993.

Morton Kondracke, Senior Editor, Roll Call. ". . . if there is any institution in American society that can integrate gays successfully it's the military. After decades of shameful witch hunting, it's an experiment we ought to make." Virginian-Pilot And Ledger Star, June 13, 1993.

William Cohen, Republican Senator, Maine. "The argument has been that it will have a negative impact on morale, readiness, unit cohesion, and general fighting capability . . . . These arguments may no longer be valid or are less persuasive. Perhaps they were marshaled in the days of the dark ages and the time has come to allow sunlight to cast an illuminating eye upon unfounded bias or bigotry . . . . "I hope we can conduct an open-minded inquiry rather than react on a knee-jerk basis to how many phone calls and letters we are receiving. They are important, but we need to debate this on a dispassionate basis; otherwise we will find ourselves simply arguing on the basis of bigotry, prejudice and bias." 139 Congressional Record S 752, January 27, 1993.

Dave Durenberger, Republican Senator, Minnesota. "What we are addressing today is not the simple question of whether we approve or disapprove of the sexual orientation of certain individuals. We are discussing whether we have the right to deny some of these individuals the right to serve in the U.S. Armed Forces because of that status. It is a fundamental principle of the American government that we must not discriminate against an individual for having a certain status—a certain gender, religion, sex, race, disability, or age. . . ." 139 Congressional Record S 1087

Jonathan D. Hymer, Livermore, Calif., Author, "Conservative Defense of Gay Rights". "Contrary to what the Pentagon, some members of Congress and the religious right want us to believe, there is no contradiction between maintaining America's military might and lifting the prohibition on service by homosexuals. . . . Those of us who pay the bill are questioning the expenditure of a half-billion dollars on witch hunts. And we are dismayed by the message our government sends to the youth of America by enforcing this policy—that some people are inherently unworthy of sharing this most basic expression of full citizenship." Washington Post, May 17, 1993.

Peter J. Gomes, Professor of Christian Morals, Harvard University. "If the generals were so wrong about race in 1948, why should we think today's general know any more about sexuality in 1993? Fear denies change . . . . With the American people, inevitably, it is not power but rightness that prevails." Sacramento Bee, May 27, 1993.

Graham G. Storey, Navy Veteran. "I am a conservative, Republican, heterosexual military veteran who did not vote for Bill Clinton . . . . However, there was one thing that Clinton promised to do with which I agreed wholeheartedly—to end the ban on gays and lesbians in for which I served, is better than this. It should prove itself so by its actions." Oregonian, December 5, 1992.

MILITARY LEADERS SPEAK OUT IN FAVOR OF A NON-DISCRIMINATION POLICY

Contrary to popular belief that the military is adamantly opposed to lifting the ban on lesbian, gay and bisexual servicemembers, a significant number of military leaders have expressed their support publicly and in letters to President Clinton and members of Congress. The following examples are representative, but hardly exhaustive.

Admiral William J. Crowe, Jr., US Navy, retired. "Arguments against allowing homosexuals in the armed forces are 'generated more by emotion than by reason' and the military could adjust to their presence just as it has to minorities and women." Washington Post, April 11, 1993.

General Barry Goldwater, US Air Force, retired. "It's no great secret that military studies have proven again and again that there's no valid reason for keeping the ban on gays . . . . We have the strongest military in the world because our service people respect chain of command and know how to follow orders. The military didn't want blacks in integrated units, or women, and now it doesn't want gays. Well, a soldier might not like every order or every member of his or her unit, but a good soldier will always follow orders—and in time, respect those who get the job done." Washington Post, June 10, 1993.

Major General Vance Coleman, US Army, retired. "In listening to the Congressman, the Senators talk about this issue, I really don't understand. They talk about equality and that is not equality. Gays and lesbians can perform. There's no reason why they shouldn't be given the opportunity to perform . . . . It's the same arguments put forth with African Americans." MacNeil/Lehrer Newshour, March 29, 1993.

Brigadier General Evelyn P. Foote, US Army. "We should clear the air once and for all, and permit people to be honest . . . . If you stigmatize a whole class of people, that's not appropriate leadership." San Francisco Chronicle, April 6, 1993.

Captain Lawrence Korb, US Navy, retired. "In final analysis, the military exists to serve society and must be a reflection of that society . . . . Opening up the military to gays will not undermine military readiness any more than did opening it up to blacks and women or ending the draft." Atlanta Journal and Constitution, November 22, 1992.

Captain William K. Yates, US Navy, retired. "Scientists are almost universally agreed that homosexuality is neither a choice or a disease. It is a matter of civil right and simple justice . . . . The morale and fighting effectiveness of the military will be undiminished." New London Day, June 2, 1993.

Colonel Karl Cropsey, US Army, retired. "I can say without reservation that the military ban on gay and lesbian service personnel rests on prejudice and fear, not fact. . . . Like every soldier, gay men and women fought for America because we believe what this nation stands for—fairness, equal treatment under the law, civil justice. All we're asking for is the right to serve with dignity, nothing more, nothing less." *Kansas City Star*, May 30, 1993.

Colonel Ronald C. Anderson, US Army, retired. "The ban on homosexuals in the military is blatant discrimination against good, dedicated, high-achieving soldiers who are just as ready to give their lives for our country as the next and who have no intention of breaching the military's discipline or code of justice." May 13, 1993 letter to Senate Armed Services Committee.

Chaplain (Colonel) Charles Dunlap Brown, US Army, retired. "Gay and lesbian soldiers are not asking for special rights, only those rights and freedoms provided by our Constitution for all citizens. . . . The current policy of discrimination denies able bodied men and women the opportunity to serve our country and costs taxpayers millions of dollars each year." April 20, 1993 letter to President Clinton.

Colonel Sam J. Turnbull, US Army, retired. "I served in several units that included both gays and lesbians. They were accepted by others in the unit because they performed their jobs well under competent leaders." June 10, 1993 letter to Members of Congress.

Colonel Richard A. Littlestone, US Army, retired. "Suggested compromises of which we hear would confirm the status quo. It has not worked. The current policy is just plain wrong. Morale and effectiveness is hurt by it now!" June 12, 1993 letter to President Clinton.

Colonel Willian L. Hauser, US Army, retired. "The problem is not status, but behavior, and the military can enforce rules of behavior." New York Times, April 4, 1993.

Commander William R. Bryant, US Navy, retired. "There is no genuine reason that gays cannot serve openly and effectively in our military forces. . . . Most gays simply want to be open and honest and to keep their private lives private, just like you and me. . . . There should be a clear set of rules for sexual conduct for both service men and women." May 16, 1993 letter to Senate Armed Services Committee.

Lieutenant Colonel James R. Letchworth, US Army, retired. "I knew many gays in the military during my twenty year career. They covered all enlisted and officer ranks and served with distinction and were an asset to the military." May 13, 1993 letter to a Senator.

Lieutenant Colonel Beverly L. Trevor, US Army. "Your committee on lifting the ban contains the same ridiculous rhetoric I have heard for barring women from combat positions." May 13, 1993 letter to Sam Nunn.

Lieutenant Colonel Ken C. Williams, US Army, retired. "Changing the policy will *not* degrade military effectiveness any more than integration of blacks did in 1948. Gays are Americans, and if physically and intellectually qualified, should be allowed to serve. . . ." May 12, 1993 letter to Campaign for Military Service.

Lieutant Colonel Chuck Magness, US Army, retired. "We're talking about discrimination against a class of people because of their status and I'm surprised that it's taken the president of the United States to teach us all the difference between status and behavior." *CNN Newsmaker's Saturday*, January 30, 1993.

Lieutenant Commander Timothy L. Davis, US Navy. "The ban on gay men and lesbians in the military is silly. . . . Civil rights are like gun powder. You can't stop people from getting them." May 13, 1993 letter to Campaign for Military Service.

Major William Schneider, US Army National Guard, retired. "We should be judged by our ability, our competence. Gay men and women are not a threat." *Chicago Tribune*, May 16, 1993.

Captain Michael Clarkson, US Army. "I believe the integration of homosexual men and women in the armed forces is more a challenge to leadership and understanding than to discipline and morale." *Gannett News Service*, April 12, 1993.

Captain Thomas W. Ratliff, US Air Force. "I would like you to realize that there are many members of the United States military who support ending the discriminatory ban on gays and lesbians from serving in the military." May 14, 1993 letter to Sam Nunn.

Lieutenant David Zeni, US Navy, retired. "Having served on a 400 foot long nuclear submarine along side 135 men, I can report to you that sexual orientation was never an issue. . . . I am surprised at military leaders who fear that gay service personnel will be beaten, "fragged," and murdered. Are they saying that our military's command structure is so poor that no one has control of the troops? We have an expression in the Navy Community—it goes—'There are no bad ships in the Navy, only bad wardrooms.' This speaks to leadership." May 19, 1993 letter to Sen. J. Lieberman.

Lieutenant George Cooper, US Navy, retired. Member of Golden Thirteen. "Ever since we've had a Navy, there've been gays in the Navy, and it has not ruined that Navy. Gays are in every aspect of this society, and they operate effectively. They operate just like anybody else. They operate just as well as blacks do. This is a part of living in our society today, and we have to accept it and find out ways to live with it. *NPR*, February 24, 1993.

TESTIMONY OF LAWRENCE J. KORB ON HOMOSEXUALS IN THE MILITARY AND UNIT COHESION

Mr. Chairman, members of the Committee, it is a pleasure to appear before you once again. I appreciate the opportunity to discuss with you the critical question of whether changing the policy on gays in the military will undermine unit cohesion. I commend you for addressing this complex and emotional question in an orderly and scientific manner. Since this subject has become an important public policy issue, there have been too many wild and unsubstantiated claims on all sides of the debate.

Regardless of their position on this issue, no responsible person, particularly someone who has served on active duty with the military, would desire to take any step which he or she knew would permanently undermine the unit cohesion or fighting effectiveness of our armed forces. However, the burden of scientific proof must be on those who wish to exclude gays from the military. We cannot infringe on the rights of any American to serve his or her country unless we can convincingly demonstrate that the presence of that person in a unit would prevent the development of cohesion even with the most competent and highly motivated leadership.

All my research and experience tells me that the question of whether the presence of openly gay men and women in the armed services would undermine fighting effectiveness cannot be answered definitively until the policy is actually changed. In many ways, the situation the nation faces today is analogous to that which we faced two decades ago when we made the transition to an All Volunteer Force and allowed women to move into non-traditional areas of military service. During my days in the Pentagon, there were some in the Congress and in the think tanks and universities who argued that a force of volunteers, supposedly attracted only by market incentives, would not fight because their main motivation was money, not patriotism. In fact, the volunteers were often decided by some as mercenaries. Similarly, there were some who said that the presence of large numbers of women in the operational theater would undermine military effectiveness and that, if women were captured and killed in battle, popular support for the conflict would be eroded. It was not until the Persian Gulf War that those myths were debunked.

Much has been made in the media about my supposed change of position on the issue of gays in the military. There is indeed a basis for these stories. As a result of my research and experience in this area, my opinions have indeed evolved over the last decade. This process was similar to the way in which my attitudes toward the All Volunteer Force and women in combat evolved. There was a time when I felt that all able bodied men should be made to serve their country. To this day, I have very strong feelings about those of my generation who beat the draft. Similarly, there was time that I did not believe that my sisters and daughters ought to be allowed to go "in harms way." However, I have come to the conclusion that in a country, that has never figured out who shall serve when not all shall serve, a volunteer professional military is the least worst alternative. And that despite my own biases, there was no good reason to prevent women from being "all that they can be." I might add that two men who have served as Secretary of the Navy in Republican administrations have also recently changed their opinion on the issue of gays in the military.

Those who are, opposed to changing the current policy cite surveys of active duty personnel which show that a vast majority of them are opposed to the change. Given the cues that they have received from their top leadership and the innate conservatism of the military institution, this should not be surprising. But, my research shows that, while in 1943 approximately 80 percent of the whites in the armed forces opposed integration, by 1951, three years after the policy change, that number had dropped to 44 percent. Moreover, some 80 percent of the Canadian armed forces opposed dropping the ban before the Canadian military decided it had no empirical or rational basis to fight the ban in court. Since the ban was dropped, the Canadians have not reported any morale or cohesion problems. There is no scientific reason to suppose that, if the ban against gays is lifted, opinion in the military on this issue will not change.

People opposed to lifting the ban also cite specific cases or anecdotal evidence to support their position. I have no reason to doubt the validity of these cases, but there are plenty of case studies on the other side as well. One needs only to look at recent articles in our major newspapers by General Lucian K. Truscott IV (West Point graduate), Robert Goodwin (special assistant to presidents Kennedy and Johnson), and Colbert King (Washington Post's editorial staff), to see specific evidence that openly gay men have served valiantly in battle without undermining unit cohesion. In addition, court papers reveal that Sgt. Perry Watkins served with distinction in this army as an openly gay man for some 15 years.

In terms of research that bears on the issue, there exists a body of empirical data from militaries around the world as well as police and fire departments in this country. For the most part, these studies reveal that dropping the ban has not undermined morale or cohesion. Countries that allow homosexuals to serve in the military such as Israel, Canada, the Netherlands, and Australia, say that they have not experienced problems that have undermined morale and cohesion. The GAO reported the same finding when they surveyed police and fire officials who have admitted homosexuals into their departments. However, there are those who will argue that these studies are irrelevant, that the U.S. military is "sui generis." Compared to the U.S. these other militaries are "lilliputian" and of course, U.S. police and fire departments do not go on overseas deployments. While there is some truth to this point of view, the experience of other militaries cannot be discounted completely as they have some bearing on the subject. Moreover, Professor Theodore Sarbin, co-author of a 1991 PERSEREC study for the U.S. military, has stated that there is no data linking gays to lower morale or cohesion. Rather he noted that where there's good leadership, there's high morale. Finally, let us remember that the French, Dutch, and Italians who fought and died alongside our men and women in the Gulf allow gays and lesbians to serve openly.

More recently, in March of this year, we have had the strange situation of Captain Pamela Mindt, of the Minnesota National Guard, who was in the process of being discharged as an admitted homosexual, being called to active duty by her unit to deal with an emergency situation.

Is there a probability that morale and cohesion may be undermined temporarily if this policy is changed? Unfortunately, based upon past experience, the answer is yes. Unit cohesion problems existed for many years after President Truman's executive order integrating the services. Unit cohesion broke down completely aboard the USS Kitty Hawk on its way to the Tonkin Gulf in 1972. As a result, 46 sailors were injured in a 15 hour race riot. At about the same time, 130 sailors on the Constellation charged their captain with calculated racism. And we had the wrong kind of unit cohesion among many male naval aviators at the annual Tailhook Conventions during the 1980s and 1990s.

Research tells us that the more dissimilar the group, the more difficult will be the task of trying to create unit cohesion. The dissimilarities can be based upon such things as race, creed, color, gender, philosophy and sexual orientation. But research also shows that proper leadership and training can surmount these impediments. Since our armed forces are composed of people with different backgrounds and values, its leaders have had and will continue to have to adjust to this diversity in building cohesion. As Professor Richard Kohn of the University of North Carolina and president of the Military History Society has stated, cohesion is the result of that bonding that occurs under the shared experience of strict authority and harsh discipline, and may be more difficult to achieve without all the traditional methods of male bonding—but that hardly means it can't or shouldn't be achieved.

Research also shows that changing the policy will not result in wholesale changes of behavior in the ranks. The recent experiences of the Canadians and Australians attest to this, as does the experience of the Dutch since 1974. Therefore, the short-term costs of maintaining unit cohesion caused by changes in the policy are likely to be minimal.

Obviously, there are considerations other than unit cohesion that must go into your deliberations on this issue. However, based upon my military service, policy research, and Pentagon experience, I find no convincing evidence that changing the current policy would undermine unit cohesion any more than the other social changes that society has asked the armed forces to make over the past 50 years. In fact, this change is likely to have less short-term impact on cohesion.

WOMEN IN COMBAT, HOMOSEXUALS IN UNIFORM: THE CHALLENGE OF MILITARY LEADERSHIP

(By Richard H. Kohn)

Bill Clinton's promise to end the ban on homosexuals serving openly in the military,

and the continuing furor over women in combat, threaten an ongoing civil-military battle that could damage military professionalism, alienate an otherwise friendly incoming Administration, and, ultimately, ruin the military effectiveness of the American armed forces for the foreseeable future. Military leaders who oppose these changes ought to consider some facts and principles that might change their minds.

First, history. Women have fought successfully, sometimes integrated with men, as in the World War II Allied underground, where they proved just as adept at slitting throats, leading men in battle, suffering torture, and dying, as men; sometimes segregated, as in Soviet air force units, which produced many female aces fighting the Germans. Homosexuals have for centuries served honorably and effectively in the United States and abroad. Arguments against open service assume that proper policies and effective leadership will fail, even though the services succeeded in integrating African-Americans and women, switching to a draft military in 1940 and then back to an all-volunteer force after 1973, and adjusting to other very divisive social changes over the last half century.

Second, there is fairness. In times of emergency, service is a fundamental obligation no citizen should escape unless disqualified physically or excused on religious or moral grounds, or because their skills need to be used in some other capacity. But also, participation in combat—dying for one's country—has historically enabled minorities to claim the full privileges of equal participation in society, something basic to our form of government. That is why African-Americans for generations "fought for the right to fight" and why combat and military service are so important to women and homosexuals. Combat and service promote equal protection of the laws and undermine prejudice and discrimination.

Third, the very real practical problems can be overcome. Without question, change will be complicated and costly and take time, and military efficiency will suffer in the short term. Unless carefully explained to the American people, these changes could harm recruiting, precisely in those areas and among those groups which have been traditionally supportive of military service. To accommodate women on combat ships and in flying units (few advocate women in ground combat units), facilities and perhaps weapon systems will need modification. There will be ticklish, perhaps intractable, problems of privacy and personal discomfort (there already are in the military). The services will be distracted from their primary peacetime duties of readiness, preparation, and modernization. Leadership at all levels will be challenged to maintain morale and effectiveness in circumstances where, historically, macho behavior and explicit sexual banter helped forge the personal bonds that enabled units to train and fight effectively.

Cohesion, the key to military success, will be more difficult without traditional methods of male bonding. The strict authority, harsh discipline, and instant obedience required for victory in battle have always been subject to abuse, and adding more women and ending discrimination against gay men and lesbians will increase the problem. To deal with it, military leaders will have to redouble their efforts to define appropriate conduct and to punish or expel those in the ranks who cannot or will not control their language and their behavior. The problem, as Tailhook so clearly reveals, already exists; the fundamental issue in the short run will not be attitude, but behavior, and the military can be extremely effective in controlling behavior. The services will have to review policies on acceptable conduct, on and off duty. Research on maintaining cohesion without scapegoating homosexuals and treating women as sex objects will have to be undertaken. The challenge to our military leadership, at all levels, will be enormous, and it will last as long as sexism and homophobia afflict significant portions of our population.

And yet, our military can adjust—once again. It is natural to resist because change poses a diversion from the primary purposes of preparing for and deterring war, and engaging in combat. That is why as outstanding a public servant as General George C. Marshall during World War II opposed racial integration, believing it divisive and concerned that the Army could not afford to act as a "social laboratory" during a national emergency. But civilian control means that our military will be organized and will operate according to the nation's needs and desires. Historically our national security and our social, legal, and constitutional practices have had to be balanced. The services know that military efficiency and combat effectiveness do not always determine our military policies, and less so in times of peace and lessened threat.

If President Clinton follows through on the promise to let gay men and lesbians serve openly, and if, for reasons of fairness and justice, he permits women to fight in combat units at sea and in the air, then the American military must comply, and without resistance. To resist would only make the adjustment more time-consuming and disruptive, and would itself undermine military effectiveness.

In the long run, the services should find that their effectiveness, as in the experience of racial and gender integration, will be enhanced rather than diminished. The strength of our military depends ultimately upon its bonds to the people; the armed forces will be stronger the more they reflect the values and ideals of the society they serve.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, if it is all right with the chairman of the Armed Services Committee, I have a couple other people I would like to yield to before he concludes. Is that all right with him?

Mr. NUNN. I have no objection.

Mrs. BOXER. I yield 2 minutes to the Senator from Michigan, Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair and I thank the Senator from California.

I support her amendment because I think it is generally unwise to legislate detailed military personnel matters because of the inflexibility which would be produced as a result. Congress has the right to do that, but it should not exercise every right that it happens to have.

It would be one thing if the Congress disagreed with the President. Then there would be a need for legislation to change the policy. Legislation would be the only way to do it. But the committee report on this bill states that:

The standards and procedures set forth in the committee's recommendation are consistent with the policy of the Department of Defense as set forth in DOD directives and the policy memorandum issued by the Secretary of Defense on July 19, 1993.

The President's policy regarding gays in the military is based on the fact that many gays and lesbians are currently serving in the military with distinction, and have in the past.

The President's policy is based on the fact that certain conduct, be it homosexual or heterosexual, can be incompatible with military service. Nothing in the current bill language changes that.

The President's policy is based on the belief that military commanders should have the capability to deal with homosexual conduct that represents a threat to unit cohesiveness. Nothing in this language changes that.

It is unwise to put into statutory form, with its needless legislative inflexibility, a detailed personnel practice which has traditionally been left to the executive branch and the uniformed military's directives.

The military is capable of enforcing standards of conduct and policies regarding the acceptable conduct of gays and lesbians and non-gays, without pursuing separation from the military of individuals in the absence of objectionable conduct.

The President's policy, articulated on July 19, 1993, reflects that approach, and was devised by a military working group in careful consultation with the Joint Chiefs of Staff, the Secretary of Defense, the DOD General Counsel and other Pentagon officials. It has been reviewed and endorsed by the Attorney General. This policy replaces previous regulations that stated "homosexuality is incompatible with military service."

The President's policy also comments to treat investigations of violations of the Uniform Code of Military Justice "in an even-handed manner, without regard to whether the conduct alleged is heterosexual or homosexual or whether it occurs on base or off base." DOD will not conduct investigations that are based solely on suspicion that a person has a homosexual propensity.

The President's policy is based on the belief that homosexual orientation in the absence of unacceptable conduct is compatible with military service. The fact that many homosexuals have served with distinction is inscribed in white marble at Arlington National Cemetary and in black granite at the Vietnam Veterans Memorial.

For these reasons, I urge the adoption of the amendment.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, I yield 2 minutes to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I rise to support the amendment of the Senator from California which strikes the provisions of the bill before us which codifies the ban on gays and lesbians in the military and substitutes a sense-of-the-Senate.

I want to make it very clear that I oppose the ban, or so-called compromise, proposed by the administration as well as the provisions of the bill before us.

The policy concerning homosexuality in the Armed Forces is also known as the "don't-ask, don't-tell, don't-pursue policy." This so-called compromise position is not a compromise at all, but rather, in my view, a blind capitulation to our most base fears. This policy is not founded upon fact, nor upon empirical evidence. For if it were, then the Department of Defense would have concluded, following the Armed Services Committee hearings, and so advised the President and this Congress, that homosexuality is not incompatible with military service, nor does the sexual orientation of service members or their private conduct represent an unacceptable risk to the Armed Forces high standards of morale, good order, discipline, and unit cohesion, which is the essence of military capability.

If the goal of the hearings, the compromise or the considered deliberations of the Joint Chiefs were to arrive at a policy formulated on a rational basis, then we would not be voting on a measure that rationalizes fears and unfounded truths as this one does. Instead, we would be asking of ourselves and of the proponents, of the ban, have we heard, seen and evaluated any evidence which credibly refutes the Crittendon report of 1957, the Perserec report of 1991 and the Rand study just recently released, all of which found that there is no statistical or otherwise empirical data which show a relationship between homosexuality and documented risk to security, or the effectiveness of a military unit in meeting its mission. Instead, we would be assessing the wisdom of allowing and encouraging the continued waste of the 491 million scarce and valuable training dollars used by the military to retrain those who replaced the 17,000 gay and lesbian service members discharged on the basis of their homosexuality between 1980 and 1990.

Mr. President, I received a letter from a constituent in Milwaukee, who has been discharged for a second time, on the basis of her admitted homosexuality after more than 16 years of service. She was a staff sergeant, Soldier of the Year in her battalion, honor graduate of the Primary Leadership Development Academy, a regular recipient of commendations for meritorious and superior service, and she achieved most of this as an openly lesbian service member. The circumstances of her initial illegal discharge, reinstatement after 4 years and, subsequently, her second release on the basis of erroneous admission, are well documented in the Federal courts and have left her without military benefits, a retirement income and in debt from the legal challenges and defenses.

She writes:

> Does no one realize that if I had committed an act of consummate dishonor—that is, if I had lied, I would next year be retiring from the army. Is this what we shall continue to ask of our youth, that they must lie, be dishonorable and hide, if they are to accept that most worthy of responsibilities of American citizenship: Service in the Armed Forces of America?

Miriam Ben-Shalom of Milwaukee, WI, hits the proverbial nail on the head. I ask you, what could be more of a risk to the Armed Forces' high standards of morale, good order, discipline, and unit cohesion than its own valuable and otherwise loyal service members forced by it to lie in order to serve, forced to hide to live a full life, forced to undermine a system totally dependent upon trust in order to preserve their dignity. It is clear from the example of Miriam Ben-Shalom, that the findings of the Armed Services Committee hearings and the conclusions drawn as evidenced by the President's and this bill's policy regarding the ban on gays and lesbians in the military, are in error and unfair.

For all the commonsense, logical, ethical, empirical reasons that defeat the soundness of this policy, perhaps the most powerful and hopeful reasons are the legal ones. While these principles are subtle, they are fundamental in nature. They are guiding principles and they are embodied in the Constitution. They are binding upon everyone and every institution in America. Freedom of speech and equal protection under the law are guaranteed rights of the citizens without exception, regardless of life circumstance, position or status, even military life.

The proposed policy violates the first amendment by permitting speech that reveals heterosexual orientation, but not homosexual orientation. This is content-based censorship, and as such the Supreme Court considers this type of speech limitation subject to the closest judicial scrutiny. So, even in a military setting, the armed services may not censor speech about sexual orientation on the basis of the point of view of the speaker. Clearly, there is value in treating all soldiers alike. After all, uniformity and unit cohesiveness are essential to military effectiveness. Yet these same elements are used to justify discriminatory treatment.

A policy that treats gay or lesbian service members unequally, also violates the equal protection clause. Equal protection under the law requires that each individual be judged according to their ability, and not the group to which they belong. The courts in evaluating an equal protection claim would require the Government to prove that its discriminatory practices regarding gay and lesbian soldiers is rationally related to a legitimate Government interest. The courts have previously ruled that viewpoints expressed by others that are based on their fears and prejudices concerning another group is not a legitimate Government interest. Both appellate and district courts have said that the Government must show that policy is not based on prejudice.

Even though this policy is touted as progress, we take two steps backward in the pursuit of liberty. Every American institution and instrument of government must necessarily protect the Constitution, and they are bound by it. There can be no exceptions, at any American's expense, no matter how difficult the task.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, may I ask how much time this side has remaining?

The PRESIDING OFFICER. The Senator from California has 3 minutes and 49 seconds remaining.

Mrs. BOXER. And the other side?

The PRESIDING OFFICER. The Senator from Georgia has 4 minutes and 24 seconds remaining.

Mrs. BOXER. I ask that the Senator from Georgia continue at this point. I would like to close the debate.

Mr. NUNN. I will use a couple of minutes now.

Mr. President, just very briefly, there have been a number of things said that I think need to be addressed. I will not have the time to address them all.

First of all, the Senator from Ohio, Senator METZENBAUM, I am told basically took the committee to task for not dealing with sexual harassment.

I am not going to go into detail about all of the things we have done in terms of Tailhook, or the number of confirmation hearings we held over the years, including one very particularly controversial hearing, where sexual harassment has been gone into in detail. And we have dealt very, very strictly with that in our committee.

The best evidence of that, I think, is from the Senator from California, Senator BOXER, who said over and over again to me, publicly and privately, that the Armed Services Committee was responsible for requiring the military to go into great depth on the investigation of Tailhook. And we did. We held up all confirmations of everyone in the Navy and Marine Corps, while the military went back and did the job they should have done to begin with.

So I would completely and totally disagree with the Senator from Ohio's description of the Armed Services Committee on the question of sexual harassment.

I appreciate the comments of the Senator from Michigan, Senator LEVIN,

even though I do not believe he is going to be voting on the same side of this issue with me. I am glad he clarified that this policy and legislation is consistent with the President's policy.

People may not like it, but it is consistent with the President's policy. The general counsel for the Department of Defense, Jamie Gorelick, made that very clear before our committee, both in oral presentations and in writing.

This is consistent with the President's policy, some of the statements to the contrary in the debate notwithstanding.

The third thing I would say is that we heard over and over again that the committee did not get enough evidence.

Mr. President, there have been thousands of cases that the military people who testified before us were referring to when they testified. It is not based on lack of evidence. We did not go into great detail in every case that the witnesses relied on.

Some of the very same people who are now criticizing the committee's position for not having enough evidence were the ones who were saying we were having too many hearings. "Why don't you stop the hearings?", they kept saying. "You have had enough. We do not want any more."

It was interesting to me that some of the same people who wanted the hearings to begin were the ones who were later urging us to stop them. They may have been hearing some things they did not want to hear.

So, Mr. President, I will just close my remarks by saying that I believe that this legislative position is consistent with the President's policy. I think it is, bottom line, as fair as we can be to the individuals involved, while, at the same time, maintaining the kind of unit cohesion and military effectiveness that we expect our military services to be able to carry out and perform for the country.

Mr. President, I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I yield 1 minute to the distinguished Senator from Massachusetts, Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. It is my judgment that there should be no ban on homosexuals serving in the military. I testified to this point before the Committee on Armed Services, and I encouraged President Clinton to take action to rescind the ban.

I see no reason whatsoever that homosexuals serving in the military should be a threat to our national security, to the ability of our armed services to carry out their missions, or to heterosexuals who serve in the armed services. Homosexuals, like heterosexuals, should be subject to behavioral requirements which prohibit sexual misconduct and which limit sexual activity to consenting adults during personal time. Those should be strictly enforced for all who serve in the military; there is no place in the Armed Forces for any kind of sexual misbehavior or behavior which intrudes on the privacy or rights of others.

The reality is that many homosexuals have served their country in the military valiantly and with honor. The difference between them and heterosexuals is that homosexuals have been forced to remain absolutely silent with respect to their sexual orientation or they risked being drummed out of the service. That is not fair, and that is not right.

But we are not debating today what the Nation's policy should be with respect to homosexuals in the military. President Clinton has acted to put in place a policy which was deemed acceptable by the armed services and their senior commanders. It is clear that, despite my beliefs and feelings that homosexuals ought to receive equal treatment under the law, support does not exist for further easing the restrictions on homosexuals. I may not like it, but I am a realist and I can count votes.

Senator BOXER's amendment strikes the codification of the President's policy contained in the Defense Authorization Bill. That is not taking a step forward. It simply avoids taking a large step backward. The debate concerning the treatment that should be accorded in our society to gays and lesbians has just begun in earnest. I fully expect that, while popular sentiment will not turn around instantly, it will, indeed, moderate over time. As it does, the President of the United States should retain the ability, in consultation with the defense civilian and military leadership, to make adjustments in the policy regarding homosexuals in the military—a capability which traditionally has been the President's. Codifying any policy etches it into stone. Of course it can later be altered, but with much greater difficulty. That is neither warranted nor desirable in this situation.

I am very hopeful that President Clinton will act at a later date, as he indicated he would, to ease the restrictions that remain under his order. Equity calls for it, equal application of our laws and constitution requires it, and the facts support it. If we do not remove the codification from the bill before us by voting for the Boxer amendment, the President will not be able to do this; only the Congress will be able to act to do so. That, in my view is unnecessary and unwise. I will vote for the Boxer amendment, and I urge all my colleagues to join in supporting it.

Mr. President, I think it is an enormous mistake to codify what has traditionally been the purview of the President of the United States and our top military commanders. They made a decision and now Congress wants to meddle. And by meddling, Congress is, in effect, making a political statement, and one that I think denigrates the Constitution and the full measure of citizenship in this country.

There are gays in the military today. There will be gays in the future. They have fought with distinction and served with distinction all through the past. They are in every institution in America. They are part of the class of American society. What Congress will do by codifying this is to, in effect, deny them the full measure of their citizenship.

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

Who yields time?

Mrs. BOXER. Mr. President, I yield 1 minute to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I will be very brief. I have been heard before on this question both in this Chamber and in the Armed Services Committee and elsewhere. In this instance, I hope this body will choose not to codify this particular provision. I agree with the chairman of the committee on so many things. I agree on the need for strong, credible deterrence. I want to preserve unit cohesion. I do not want to do anything to undermine good order and discipline and I take great pride in my 34 years of service to my country.

I believe this particular codification is constitutionally suspect under the first amendment's free speech clause and I think we are unjustifiably impeding the ability of the Commander in Chief and the uniformed services to carry out their own responsibilities. I know it is politically difficult and politically unpopular to vote against codification, but I think it is the right thing to do, and I think eventually those who vote the other way will be regarded much like the Justices in Plessy v. Ferguson in terms of how history will judge the rightness of their vote.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, if it is all right with the Senator from Georgia, I can complete my remarks at this time. I ask how much time that will be?

The PRESIDING OFFICER. The Senator from California has 1 minute and 24 seconds. The Senator from Georgia has 1 minute 27 seconds.

Mrs. BOXER. Mr. President, I thank my colleagues for the tone and tenor of this debate. I particularly thank the chairman of the Armed Services Committee for his graciousness to me. We

have not agreed on this from day 1, but we have never been disagreeable toward one another, and that to me is very important.

I thank those who came over to the Senate floor to speak on this issue. I think it takes courage to speak on this issue. I particularly want to say to the last two speakers who served their country in Vietnam, for them to come over and to join in this debate means a whole lot to me and I think to this Chamber and to all Americans.

I ask unanimous consent that the Rand report executive summary be printed in the RECORD, as well as a letter from Secretary Aspin which comments on the report, as well as specific parts of the Rand study that deal with the question of unit cohesion and the experience of other countries, as well as a number of editorials.

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

SEXUAL ORIENTATION AND U.S. MILITARY PERSONNEL POLICY: OPTIONS AND ASSESSMENT—NATIONAL DEFENSE RESEARCH INSTITUTE EXECUTIVE SUMMARY

OVERVIEW

On January 29, 1993, President Clinton signed a Memorandum directing the Secretary of Defense to "submit * * * prior to July 15, 1993, a draft of an Executive Order ending discrimination on the basis of sexual orientation in determining who may serve in the Armed Forces." The Presidential Memorandum also directed that any recommendation by the Secretary should be one that could be "carried out in a manner that is practical and realistic, and consistent with the high standards of combat effectiveness and unit cohesion our Armed Forces must maintain."[1]

On April 1, 1993, the Secretary of Defense asked RAND to provide information and analysis that would be useful in helping formulate the required draft Executive Order. This Executive Summary briefly describes the approach and major conclusions of the study. It then summarizes the major findings that support that conclusion.

Approach

An interdisciplinary team of researchers from RAND's National Defense Research Institute considered a wide range of topics potentially relevant to the issue of acknowledged homosexuals serving in the military. Staff members visited seven foreign countries and the police and fire departments in six American cities, seeking insights and lessons from analogous experiences of other organizations and institutions. The team considered the historical record, focusing on the integration of blacks and on the development of the current policy that prohibits homosexuals from serving in the military. It reviewed public opinion, including the views of current active-duty military personnel, and the scientific literature on group cohesion, sexuality, and related health issues. It examined a number of legal and enforcement issues, as well as the literature that deals withimplementing change in large organizations. The results of the team's research are detailed in the subsequent chapters of this report.

[1] Memorandum for the Secretary of Defense, Ending Discrimination on the Basis of Sexual Orientation in the Armed Forces, January 29, 1993.

The policy option

In light of this research, the team examined a range of potential policy options. Most of the options were judged to be either inconsistent with the President's directive, internally contradictory, or both. Only one policy option was found to be consistent with the findings of this research, with the criteria of the Presidential memorandum, and to be logically and internally consistent. That policy would consider sexual orientation, by itself, as not germane to determining who may serve in the military. The policy would establish clear standards of conduct for all military personnel, to be equally and strictly enforced, in order to maintain the military discipline necessary for effective operations. The option requires no major changes in other military personnel policies and no change in current law. The "not germane" option could be implemented without any changes to the administrative guidelines for prosecutions under the Uniform Code of Military Justice (UCMJ). However, several considerations lead to the conclusion that the policy would be more legally defensible and less costly and cumbersome to implement if the guidelines were revised to exclude private sexual behavior between consenting adults.

REVIEW OF ANALOGOUS INSTITUTIONS AND EXPERIENCES

To understand the possible effect of changing policy to permit homosexuals to serve and to examine how other institutions have implemented similar changes, members of the research team visited a number of foreign militaries and domestic police and fire departments. None of these organizations is an exact model for the U.S. military, of course, but the comparisons can be instructive in assessing proposed changes in U.S. military personnel policy. Besides these analogous institutions, analogous situations such as the experience of racial integration of the American military were also studied for potentially instructive insights.

The experience of foreign militaries

Researchers visited Canada, France, Germany, Israel, the Netherlands, Norway, and the United Kingdom. With the exception of the United Kingdom, all of these countries permit known homosexuals to serve in some capacity in their Armed Forces. Several broad themes emerged from these visits, with potential implications for the situation facing the United States:

In countries that allow homosexuals to serve, the number of openly homosexuals service members is small and is believed to represent only a minority of homosexuals actually serving.

Service members who acknowledged their homosexuality were appropriately circumspect in their behavior while in military situations; they did not call attention to themselves in ways that could make their service less pleasant or impede their careers.

Few problems caused by the presence of homosexual service members were reported. Problems that did arise were generally resolved satisfactorily on a case-by-case basis. If a problem developed to the point that a unit might become dysfunctional, action was taken to remove the individual (homosexual or heterosexual) from the unit.

The experience of domestic fire and police departments

Unlike the foreign militaries, domestic police and fire departments function in the American cultural and societal context. Police and fire departments share a number of characteristics with the U.S. military that make them the closest domestic analog. They are hierarchically organized, with a well-defined chain of command. Members work together as teams. A substantial proportion of job time is spent training for short, intense periods of hazardous activity. An inherent feature of the job is putting one's life at risk. They are markedly different, however, in that only the military deploys its members on ships, or routinely engages in field exercises of extended length.

Vists to police and fire departments in six cities (Chicago, Houston, Los Angeles, New York, San Diego, and Seattle) resulted in several key findings:

Even where police and fire department policies prohibit discrimination based on sexual orientation, only a very small number of homosexuals acknowledge their orientation, particularly where the environment is perceived as hostile to homosexuals.

Homosexuals who join police and fire departments evidently join for the same reasons that heterosexuals do.

Acknowledged homosexuals are sensitive to the overall norms and customs of their organizations. They tend not to behave in ways that shock or offend, and they subscribe to the organization's values on working problems out informally and within the ranks.

Anti-homosexual sentiment does not disappear. However, heterosexuals generally behave toward homosexuals more moderately than would have been predicated based on their stated attitudes toward homosexuals.

AIDS is a serious concern of heterosexuals and not one that is quickly alleviated by education.

Policies of non-discrimination against homosexuals in these departments have had no discernible effect on the ability of their departments to recruit or retain personnel.

Implementation is most successful where the message is unambigous, consistently delivered, and uniformly enforced. Leadership is critical in this regard.

Training efforts that provide leaders with the information and skills needed to implement policy were essential. Sensitivity training for rank and file, however, tended to breed additional resentment and to be ineffective. Training that emphasized expected behavior, not attitudes, was judged most effective.

The history of racial integration in the United States military

The historical experience of including blacks in the military can also provide some insights concerning the military's ability, as an institution, to adapt to change. These are the key insights:

Starting as early as the final years of World War II and especially during the Korean War, integrated Army units were able to function effectively in all sorts of situations, even in the most demanding battlefield situations, and even if the individuals involved had not experienced prior social integration.

It is possible to change how troops behave toward previously excluded (and despised) minority groups, even if underlying attitudes toward those minority groups change very little.

Leadership matters for implementation—civilian and military leadership must be prepared to work together over a lengthy period to ensure effective implementation of controversial policies. In some cases, civilian oversight of implementation may be necessary.

PUBLIC AND MILITARY OPINION

How any option for ending the restriction on homosexual service will fare depends

critically on its acceptance by the public and by the people serving in the U.S. military. A review of various surveys indicates that U.S. public opinion is divided over this issue. Until recently, roughly half of the population believed that homosexuals should not be allowed to serve. However, a very recent poll indicates that the percentage who believe they should not be allowed to serve under any conditions has dropped to 21 percent. It is worth nothing this is far below the percentage (61 percent) who were against racial integration of the services at the time of President Truman's order to desegregate the military.

Military opinion is overwhelmingly against allowing homosexuals to serve. In surveys and RAND-conducted focus groups, a minority of service members expressed indifference to or approval of the policy change, and women were less opposed than men. A few people in the focus groups believed that the military would be able to cope with the change, just as it coped with racial integration. However, most service members of all ranks expressed opposition and concerns about the effects it would have on privacy, morale, and unit cohesion and about the probability of anti-homosexual violence and the increase of AIDS in the military.

To the extent that changes in policy resulted in changes in the number of acknowledge homosexuals in the military, the rate of anti-homosexual violence might change, since acknowledged homosexuals are more readily identified targets for such violence. The experience of foreign militaries and police and fire departments suggests that if leaders make it quite clear the violence will not be tolerated and stern action will be taken, violence can be kept to a minimum.

As for concerns about AIDS, DoD's testing program for Human Immunodeficiency Virus (HIV) almost entirely prevents the entry of HIV-infected individuals into the military. Therefore, the only way a change in policy permitting homosexuals to serve could significantly affect HIV infection rates in the military is by increasing the number of service members who are infected while serving. If there were an increase, it would have little effect on military effectiveness. All military personnel whose health is seriously affected by HIV are discharged. Further, all service personnel must be tested before deployment and those who test positive cannot be deployed. Given the accuracy of HIV testing, very few HIV-infected personnel would ever deploy or serve in combat, the military blood supply would remain safe, and there would be virtually no danger from contact with blood on the battlefield.

UNDERSTANDING UNIT COHESION

Concern about the effect that an acknowledged homosexual would have on "combat effectiveness and unit cohesion" has dominated the debate. It also provides the basic rationale for the current policy that"Homosexuality is incompatible with military service."[2] Most military leaders who have spoken publicly on the issue in recent months argue that introduction of a known homosexual into a unit, no matter how discreet his or her behavior might be, would seriously undermine the cohesiveness of that unit. Unfortunately, the subject has not been studied specifically, and no controlled experiments or other research bear directly on this issue.

There is a large body of potentially related empirical research in the fields of industrial organization, social psychology, sports psychology, and group behavior, a significant amount of which was sponsored by the military. Other potentially relevant material can be found in the ethnographic and biographical military literature. The principal conclusion from an extensive review of this literature is a commonsense observation: It is not necessary to like people in order to work with them, so long as members share a commitment to the group's objectives. The literature also indicates the following:

If some members of a unit cannot accept the presence of an acknowledged homosexual, the result will probably involve some degree of ostracism of the homosexual, rather than a complete breakdown of the unit. Whether this occurs will depend partly on the conduct, competence, and loyalty of the homosexual individual in question.

Some heterosexuals might refuse to cooperate with known homosexuals. However, many factors will help to promote cohesion and performance even in the face of hostility toward homosexuals. First, research suggests that leaders play an important role in promoting and maintaining unit cohesion. Second, military roles, regulations, and norms all enhance the likelihood that heterosexuals will work cooperatively with homosexuals. Third, external threats enhance cohesion, provided that the group members are mutually threatened andthere is the possibility that cooperative group action can eliminate the danger.

Disruptive behavior or behavior that polarizes a unit or renders it dysfunctional, whatever the cause of the behavior, can undermine military effectiveness and should not be tolerated. Although some disruptions might result from having acknowledged homosexuals serving in the military, the literature on cohesion does not provide a basis for predicting the magnitude of the increase. Senior military leaders have stated that, in their professional judgment, the effects would be substantial. The experience of analogous organizations such as foreign militaries and domestic police and fire departments suggests that any increase is likely to be quite small. Because the magnitude of the problems cannot be predicted, military leaders must have tools available to help them manage potential disruptions and to implement the policy change successfully.

A POLICY OPTION FOR ENDING DISCRIMINATION

Based upon the research summarized above, a number of ways to respond to the President's directive were identified. A policy that focuses on conduct and considers sexual orientation, by itself, as not germane in determining who may serve was judged to meet the President's criteria and to be most consistent with the research findings. Such a policy emphasizes actual conduct, not behavior presumed because of sexual orientation, and holds all service members to the same standard of professional conduct. It requires tolerance and restraint to foster the good of the group, but implies no endorsement of a "homosexual lifestyle."

An illustrative "Standard of Professional Conduct" was designed as part of the research project, with the overarching objective of maintaining the order and discipline essential for an operationally effective military organization. Similar standards have been used effectively in other organizations and foreign militaries and are analogous to the "good order and discipline" and "conduct unbecoming" provisions in military law that have been used effectively by the U.S. military for years. Four features of this standard are central:

A requirement that all members of the military services conduct themselves in ways that enhance good order and discipline. Such conduct includes showing respect and tolerance for others. While heterosexuals would be asked to tolerate the presence of known homosexuals, all personnel, including acknowledged homosexuals, must understand that the military environment is no place to advertise one's sexual orientation.

A clear statement that inappropriate personal conduct could destroy order and discipline, and that individuals are expected to demonstrate the common sense and good judgment not to engage in such conduct.

A list of categories of inappropriate conduct, including personal harassment (physical or verbal conduct toward others, based on race, gender, sexual orientation, or physical features), abuse of authority, displays of affection, and explicit discussions of sexual practices, experience, or desires.

Application of these standards by leaders at every level of the chain of command, in a way that ensures that unit performance is maintained.

The conduct-based standard provides military leaders with the necessary frame of reference for judging individual behaviors, just as it provides individuals with clear guidelines. Under this standard, behaviors that commanders judged inimical to effective functioning of the unit (i.e., that undermine task cohesion) would not be tolerated.

The "not germane"/conduct-based policy does not require extensive revisions to existing military rules and regulations or to personnel policy. If sexual orientation is regarded as not germane in determining who may serve in the military, it is equally not germane to decisions on assignment, pay, military specialty, or benefits. On issues such as recognizing homosexual marriages or conferring benefits on homosexualpartners, there is no reason for the Department of Defense to change current policy or to become the "lead" federal agency in these areas.

Concerns about privacy are often cited by those who oppose permitting homosexuals to serve in the military. A survey of military facilities shows that in many newer military facilities there is greater privacy in showers and toilet areas today than was common twenty years ago. However, members of the military often find themselves in situations where very little personal privacy is available, such as aboard ships or on field maneuvers. In situations where physical privacy is impossible, standards of conduct to foster personal privacy has already been developed: Individuals act in ways that do not intrude upon and are not offensive to others. For this reason, a strong emphasis on professional conduct conducive to good order and discipline is the key to dealing with privacy issues as well. Freedom from personal harassment and uniform standards of conduct are the best guarantees of privacy.

If sexual orientation is regarded as not germane in determining who may serve, enclosure 3H of the DoD regulations concerning administrative separation (DoD Directive 1332.14) should be rescinded. The most problematic regulatory and legal scenario would be to end discrimination without revising portions of the Manual of Courts Martial (MCM) relating to Article 125 (Sodomy) of the Uniform Code of Military Justice (UCMJ).[3] They have historically been applied

[2] Department of Defense Directive 1332.14, "Enlisted Administrative Separations," Enclosure 3H.

[3] From the perspective of homosexual member of the armed services, the policy choice would have both positive and negative consequences. A positive outcome would be the ability to serve openly in the military. But a negative consequence could be that

differentially to heterosexuals and homosexuals. Retaining them after rescinding Enclosure 3H would weaken the "orientation-neutral" principle of the "not germane" policy.

A practical approach to dealing with this issue would be to revise the MCM to prosecute only non-consenting sexual behavior or sexual acts with a minor.[4] No changes would be necessary in the sodomy article of the UCMJ itself, because that code does not specify the sexual acts that are illegal. The definition of the offense is in the MCM, an administrative document.

IMPLEMENTATION ISSUES

The manner in which policy change is implemented could have a decisive impact on whether these problems are managed with minimal disruptions or undermine the effort to change. Based on the research conducted in this study, key elements of an implementation strategy can be identified:

The message of policy change must be clear and must be consistently communicated from the top. Given the fact that senior leaders of the military are on record opposing any change, it will be necessary, if a change in policy is selected, that these and other leaders signal their acceptance of the change and their commitment to its successful implementation. It must be clear to the troops that behavioral dissent from the policy will not be permitted.

The option selected should be implemented immediately. Any sense of experimentation or uncertainty invites those opposed to change to continue to resist and to seek to "prove" that the change will not work.

Emphasis should be placed on behavior and conduct, not on teaching tolerance or sensitivity. For those who believe that homosexuality is primarily a moral issue, efforts to teach tolerance would breed additional resentment. Attitudes may change over time, but behavior must be consistent with the new policy from the first day.

Leadership must send messages of reassurance to the force. The military is currently undergoing a variety of other stressful experiences, e.g., declining budgets and the drawdown in the force. In such an atmosphere, it is important to signal thatthe change in policy will not have markedly disruptive effects and that it is not intended as a challenge to traditional military values. This climate of psychological safety is conducive to acceptance of the change.

Leaders at all levels should be empowered to implement the policy, and some special training or assistance for leaders may be a useful device for ensuring that the change is understood and occurs rapidly.

A monitoring process should be established to identify any problems early in the implementation process and address them immediately.

The option assessed here, a conduct-based set of standards applied under the premise that sexual orientation, as such, is "not germane" to military service, appears to meet the President's criteria and to be consistent with empirical research and historical experience. By following this implementation strategy, the Department of Defense should be able to increase the probability that a policy that ends discrimination based on sexual orientation can be implemented in a practical and realistic manner and that the order, discipline, and individual behavior necessary to maintain cohesion and performance are more likely to be preserved.

ISSUES OF CONCERN: VIOLENCE AND AIDS

Focus groups with active-duty personnel, surveys of military personnel, testimony at Congressional hearings, and media reports have raised concerns about anti-homosexual violence and the possibility that AIDS would increase among military personnel if acknowledged homosexuals are allowed to serve.

VIOLENCE[1]

The evidence on anti-homosexual violence is almost exclusively restricted to its occurrence in the civilian population and is of limited quality. However, there is sufficient evidence to conclude that it occurs with some regularity in the civilian community. It also occurs in the military under current policy, although there are no data on the relative frequency of that occurrence. Experience in the civilian sector shows that there is a high rate of failure to report anti-homosexual violence. The ban on allowing homosexuals to serve, with the significant penalties for discovery, provides a further disincentive for victims to report anti-homosexual violence or threats of violence.

To the extent that changes in policy resulted in changes in the number of acknowledged homosexuals in the military, the rate of anti-homosexual violence might change, since acknowledged homosexuals are more readily identified targets for such violence. The experience of racial integration in the U.S. military, foreign militaries, and domestic police and fire departments suggests that if leaders make it quite clear that violence will not be tolerated and stern action will be taken, violence can be kept to a minimum.

HIV TRANSMISSION AND AIDS[2]

DoD's testing program for Human Immunodeficiency Virus (HIV) almost entirely prevents the entry of HIV-infected individuals into the military. Therefore, the only way a change in policy permitting homosexuals to serve could significantly affect HIV infection rates in the military is by increasing the number of service members who are infected while serving. It is not possible to predict whether there would be an increase, much less to estimate its magnitude. However, if there were an increase, it would have little effect on military effectiveness. All military personnel whose health is seriously affected by HIV are discharged. Further, all service personnel must be tested before deployment and those who test positive cannot be deployed. Given the accuracy of HIV testing, very few HIV-infected personnel would ever deploy or serve in combat, the military blood supply would remain safe, and there would be virtually no danger from contact with blood on the battlefield.

Regardless of whether homosexuals are permitted to serve, the military could experience higher HIV infection rates in the future. Available evidence on sexual risk behavior and rates of sexually transmitted diseases among all service personnel suggests the potential for increased HIV transmission under conditions that place personnel in greater contact with infected populations.

UNDERSTANDING UNIT COHESION[3]

Concern about the effect that an acknowledged homosexual would have on "combat effectiveness and unit cohesion" has dominated the debate. It also provides the basic rationale for the current policy that "Homosexuality is incompatible with military service."[4] Most military leaders who have spoken publicly on the issue in recent months argue that introduction of a known homosexual into a unit, no matter how discreet his or her behavior might be, would seriously undermine the cohesiveness of that unit. Unfortunately, opinion on this issue is intuitive or based on anecdote. There has been no systematic study of this subject, and no controlled experiments or other research bear directly on this issue.

There is a large body of potentially related empirical research in the fields of industrial organization, social psychology, sports psychology, and group behavior, a significant amount of which was sponsored by the military. Other potentially relevant material can be found in the ethnographic and biographical military literature. The principal conclusion from an extensive review of this literature is the commonsense observation that it is not necessary to like someone to work with him or her, so long as members share a commitment to the group's objectives. This conclusion was also borne out in the review of racial integration in the military, as discussed above.

"Cohesion" is a concept with many definitions and sources. While military researchers sometimes refer to "horizontal" cohesion, meaning the bonding of members of a group, and "vertical" cohesion, referring to the bonds between leader and members, these concepts are not widely used in the research literature. Leadership is recognized as an important aspect of military performance (and can have an effect on cohesion), but "cohesion" is generally used to refer to the forces that bond individuals together as a group. This notion of cohesion, in turn, can be generally divided into two important types: social cohesion (intragroup attraction) and task cohesion (commitment to shared goals and objectives). Cohesion can thus also be distinguished from other concepts such as morale, a concept more meaningfully applied to individual attitudes toward a larger group.

Research has shown that many factors can produce social and task cohesion. Simply being assigned to the same unit predisposes the group members to at least a moderate level of cohesion. Length of time together, a history of success experiences, and a sense of shared fate or interdependence all enhance a unit's cohesion. Sharing similar traits or values enhances social cohesion, but it is not necessary for task cohesion, so long as the individuals share a commitment to the group's mission.

In general, research has identified a positive, though not strong, association between cohesion and performance. However, the relationship between cohesion and performance is not a straightforward one. First, the effect of successful performance on cohesion appears to be stronger than the effect of cohesion on successful performance. Second, it appears that the positive association of performance and cohesion is almost entirely

if 1332.14 is repealed without changing Article 125, the only way for the military to discharge a homosexual would be through an Article 125 prosecution. Under current policy many homosexuals are given administrative discharges and are not usually prosecuted under Article 125. By not removing or modifying Article 125, homosexuals would be at greater risk of an Article 125 prosecution.

[4] Appendix C contains an example of such a revision.

[1] See Chapter 9 for a fuller discussion of anti-homosexual violence.

[2] Chapter 8 contains a more comprehensive discussion of health issues, risk behavior, and the military blood supply.

[3] See Chapter 10 for a more comprehensive treatment.

[4] Department of Defense Directive 1332.14, "Enlisted Administrative Separations," Enclosure 3H.

due to the influence of task cohesion, not social cohesion. Indeed, excessive social cohesion sometimes interferes with the successful completion of the group's assigned mission.[5]

The lack of direct evidence makes it difficult to predict confidently the effect of the presence of a known homosexual on the performance of the group. Sexual orientation is one dimension on which group members would be dissimilar, and this could reduce social cohesion. Members would share other traits, however, and the precise effect of the presence of a known homosexual on social cohesion is uncertain.[6] While the effect on social cohesion may be negative, the presence of a known homosexual is unlikely to undermine task cohesion, provided that the individual demonstrates competence and a commitment to the unit's mission. Task cohesion, not social cohesion, appears to be what drives successful performance.

THE SECRETARY OF DEFENSE,
Washington, DC, August 26, 1993.

Hon. BARBARA BOXER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR BARBARA: With this letter I am transmitting copies of the Summary Report of the Military Working Group and the Rand report on its research and analysis entitled "Sexual Orientation and U.S. Military Personnel Policy: Options and Assessments."

These documents formed the basis for the new policy giving the opportunity to serve to those who, as the President put it, "are willing to play by the rules, able to serve and make a contribution."

As is generally known, the recommendations of the Military Working Group provided the basic approach to the issue from which the specifics of this new policy on homosexuals in the military were developed. Less well known is the role of the work done by Rand that is now recorded in its final report.

What Rand's systematic research and analysis showed was that a policy change could be successfully implemented. That research and analysis was available to policy makers in the form of briefings prior to formulation of the new policy. Here are some of the pertinent points we drew from Rand's work during our deliberations:

"[T]here is ample reason to believe that heterosexual and homosexual military personnel can work together effectively."

Task cohesion in a unit, the ability to work together to accomplish a mission, is a more important factor in mission success than social cohesion, which relates to personal friendship and association.

There is no reason to expect a reduction in enlistments following a change in the policy regarding service by homosexuals.

There were many more, of course. For the future, Rand's proposal for a code of conduct may have broader application than the issue of homosexuals in the military. Changes in gender status and relations going on now in the armed services suggest that a clear, fair set of rules on conduct could benefit everyone.

Sincerely,

LES ASPIN.

[5] Examples where excessive social cohesion could undermine group performance include socializing among the workforce, "rate busting," groupthink, and mutinies.

[6] Acceptance of known homosexuals in police departments appears to be much greater, for example, if the individual is recognized as a "good cop," rather than a "gay cop." See the discussion in Chapter 4 on this topic.

[From the Washington Post, June 10, 1993]

THE GAY BAN: JUST PLAIN UN-AMERICAN

(By Barry M. Goldwater)

After more than 50 years in the military and politics, I am still amazed to see how upset people can get over nothing. Lifting the ban on gays in the military isn't exactly nothing, but it's pretty damned close.

Everyone knows that gays have served honorably in the military since at least the time of Julius Caesar. They'll still be serving long after we're all dead and buried. That should not surprise anyone.

But most Americans should be shocked to know that while the country's economy is going down the tubes, the military has wasted a half-billion dollars over the past decade chasing down gays and running them out of the armed services.

It's no great secret that military studies have proven again and again that there's no valid reason for keeping the ban on gays. Some thought gays were crazy, but then found that wasn't true. Then they decided gays were a security risk, but again the Department of Defense decided that wasn't so—in fact, one study by the Navy in 1956 that has never been made public found gays to be good security risks. Even Larry Korb, President Reagan's man in charge of implementing the Pentagon ban on gays, now admits it was a dumb idea. No wonder my friend Dick Cheney, secretary of defense under President Bush called it "a bit of an old chestnut."

When the facts lead to one conclusion, I say it's time to act, not to hide. The country and the military know that eventually the ban will be lifted. The only remaining questions are how much muck we will all be dragged through, and how many brave Americans like Tom Paniccia and Col. Margarethe Cammermeyer will have their lives and careers destroyed in a senseless attempt to stall the inevitable.

Some in Congress think I'm wrong. They say we absolutely must continue to discriminate, or all hell will break loose. Who knows, they say, perhaps our soldiers may even take up arms against each other.

Well, that's just stupid.

Years ago I was a lieutenant in charge of an all-black unit. Military leaders at the time believed that blacks lacked leadership potential—period. That seems ridiculous now, as it should. Now, each and every man and woman who serves this nation takes orders from a black man—our own Gen. Colin Powell.

Nobody thought blacks or women could ever be integrated into the military. Many thought an all-volunteer force could never protect our national interest. Well, it has—and despite those who feared the worst, I among them, we are still the best and will continue to be.

The point is that decisions are always a lot easier to make in hindsight, but we seldom have that luxury. That's why the future of our country depends on leadership, and that's what we need now.

I served in the armed forces. I have flown more than 150 of the best fighter planes and bombers this country manufactured. I founded the Arizona National Guard. I chaired the Senate Armed Services Committee. And I think it's high time to pull the curtains on this charade of policy.

We have the strongest military in the world because our service people respect the chain of command and know how to follow orders. The military didn't want blacks in integrated units, or women, and now it doesn't want gays. Well, a soldier may not like every order, or every member of his or her unit, but a good soldier will always follow orders—and, in time, respect those who get the job done.

What would undermine our readiness would be a compromise policy like "Don't ask, don't tell." That compromise doesn't deal with the issue—it tries to hide it.

We have wasted enough precious time, money and talent trying to persecute and pretend. It's time to stop burying our heads in the sand and denying reality for the sake of politics. It's time to deal with this straight on and be done with it. It's time to get on with more important business.

The conservative movement, to which I subscribe, has as one of its basic tenets the belief that government should stay out of people's private lives. Government governs best when it governs least—and stays out of the impossible task of legislating morality. But legislating someone's version of morality is exactly what we do by perpetuating discrimination against gays.

We can take polls. We can visit submarines to get opinions on who are the best citizens. But that is not the role of a democratic government in a free society. Under our Constitution, everyone is guaranteed the right to do as he pleases as long as it does not harm someone else. You don't need to be "straight" to fight and die for your country. You just need to shoot straight.

With all the good this country has accomplished and stood for, I know that we can rise to the challenge, do the right thing and lift the ban on gays in the military. Countries with far less leadership and discipline have traveled this way, and successfully.

When you get down to it, no American able to serve should be allowed, much less given an excuse, not to serve his or her country. We need all our talent.

If I were in the Senate today, I would rise on the Senate floor in support of our commander in chief. He may be a Democrat, but he happens to be right on this question.

When the government sets policy, it has a responsibility to acknowledge facts, tell the truth and lead the country forward, not backward. Congress would best serve our national interest by finding the courage to rally the troops in support of ending this un-American discrimination.

REMARKS BY CORETTA SCOTT KING PRESS CONFERENCE ON LESBIANS AND GAYS IN THE MILITARY, DR. KING'S GRAVESITE—ATLANTA, GA, JUNE 30, 1993

As you know, President Clinton will soon announce his decision on what to do about the unjust ban against lesbian and gay people in the armed services. We are counting on the President to honor his pledge to end discrimination by taking clear and decisive measures to lift this unamerican ban, which makes a mockery of civil and human right in our country.

The arguments that have been raised in favor of the ban are the same arguments that were so often raised against racial integration in the past. Then, as now, we were told that making the military services more inclusive would somehow diminish morale, then, as now, we were told that military leaders were not prejudiced, but they were concerned about "others" who might feel that way. This is not much different from business which cited "customer preference" to justify their refusal to hire African-Americans to work in their stores.

Back then certain politicians raised the fear of health risks to oppose integration, and today we hear the same irrational arguments being used to deny lesbian and gay people their human rights in the military.

The controversy over this issue indicates that homophobia, as well as other forms of prejudice and intolerance, are serious problems in the military services, as they are throughout our society. Educational programs about the destructive effects of bigoted attitudes should be made a required part of basic training for all branches of the services.

I strongly believe that freedom and justice cannot be parceled out in pieces to suit political convenience, as my husband, Martin Luther King, Jr. said, "Injustice anywhere is a threat to justice everywhere." On another occasion he said, "I have worked too long and hard against segregated public accommodations to end up segregating my moral concern. Justice is indivisible." Like Martin, I don't believe you can stand for freedom for one group of people and deny it to others.

Lesbian and gay people have served their country with honor and courage in the military and other institutions since the early days of American history, and many have paid the highest price to defend the freedoms we cherish as Americans. I might also add that many lesbians and gays supported the African-American freedom struggle, and I am not going to turn my back on their movement for freedom and dignity.

The great promise of American democracy is that no group of people will be forced to suffer discrimination and injustice. I believe that eliminating this ban altogether will strengthen the military services and our country as a whole. So I join with my colleagues in calling on President Clinton to stand firm against all forms of discrimination in the military and to accept no compromises which undermine the principles of fairness and human dignity. To this endeavor, I pledge my wholehearted support, and with this commitment, together we shall overcome.

[From VSAT, July 20, 1993]

CLINTON POLICY ON GAYS DOESN'T GO FAR ENOUGH

(Our view the only support for continued discrimination against gays is blind prejudice and ignorance).

President Clinton gave in Monday to the politics of prejudice.

His "honorable compromise" on a "new policy" on homosexuals in military service amounts to this:

Tens of thousands of gay and lesbian members of the military must continue to hide who they are.

The military can still discharge them for any kind of homosexual conduct anywhere, anytime—such as kissing a person of the same sex off duty.

What's "honorable" about the military requiring people to live a lie and disemble to keep their jobs? And what's "new" about homosexuality being grounds for dismissal?

The only things the new policy permanently changes are that recruits won't be asked their sexual orientation and the military won't spend millions to track them down once they're in. New investigations will require "credible evidence" of homosexual conduct.

Clinton says that means no more "witch-hunts." But homosexuals, if they say who they are, can still be put through an inquisition. They can still be purged on a whim by some bigot.

So, what does this compromise gain? Clinton hoped to mollify the likes of Sens. Sam Nunn, D-Ga., and Strom Thurmond, R-S.C. He wanted to keep them from enshrining the gay ban into law, thus making it harder to change.

But Nunn says he still plans to write the ban into law. If so, Clinton will have sacrificed principles for nothing.

He should have stuck by them and by the facts that:

No study has shown gay or lesbian military personnel less capable, patriotic or productive than their peers.

Foreign militaries with openly homosexual men and women suffer no loss of morale or efficiency.

Thousands of homosexuals have served heroically and honorably in the U.S. military; their presence is not new.

Clinton's compromise wins little and loses much—a grand opportunity to dispel prejudice and promote individual rights.

CLINTON POLICY GOES TOO FAR

(Opposing view The 'straight' military majority has a right to protection from disease. By William Hamilton)

"Don't ask, don't tell" goes too far because it opens the door for homosexual military service without dealing with the health threats gay males will pose for other members of the military.

Combat is hazardous enough without putting the highest risk group for AIDS and hepatitis on the battlefield or aboard ship.

In combat, the most immediate supply of whole blood comes from the soldier in the next foxhole or the sailor in the next berth. Immediate blood transfusion from one soldier or sailor to another saves lives. A blood transfusion from an AIDS carrier is a death sentence.

If this relaxation of the ban against homosexual military service is allowed by the Congress to stand, the loved ones of our men and women in uniform should insist the ID tags of gay males be imprinted: "Use of this person's blood for transfusions is prohibited."

But how will we know the identities of the most likely AIDS carriers under "don't ask, don't tell"? Implicit in the new policy is greater protection of individual privacy rather than broader knowledge of who is most likely to be carrying AIDS.

The "straight" military majority ought to have some rights, foremost of which ought to be protection from a fatal disease-a disease that comes to its gay male carriers almost always as a result of their practice of anal sodomy.

Implicit in the Clinton argument for gays in the military is the notion that committing sodomy-the defining act of homosexuality-confers upon homosexuals the right to military service. Surely, the Congress will reject this warped notion, not only because it's illogical, but to protect the health of our armed forces.

[From the Washington Post, July 20, 1993]

SHIFTING GROUND ON THE GAY BAN

For the half-century before President Clinton took office, homosexual men or women who sought to serve in the armed forces or whose record of service while in uniform was exemplary were still considered unfit for duty when and if their sexual orientation became known. Nothing else about them was relevant—not their performance, or their character or honor. That 50-year-old rule, which flatly held homosexuality incompatible with military service, was altered yesterday by President Clinton, and in a way that takes the issue to a new place in history.

Under the new Department of Defense policy issued by Secretary Les Aspin, homosexual conduct, will be treated as "a personal and private matter, and * * * not a bar to service entry or continued service unless manifested by homosexual conduct." This change is far less than the more ambitious goals Bill Clinton announced during the campaign—a point he acknowledged yesterday. Consensual homosexual conduct—whether private or public—is still grounds for exclusion from the military. So, in the context of a total lifting of the ban, the new policy may not be the "major step forward" that the president says it is. But it is an important step away from the worst aspects of an unjust policy and practices that penalized and stigmatized men and women who have served their country with pride and distinction.

The more sordid aspects of military life, the witch hunts, entrapments and surveillances of service members based on lone allegations or suspicion of homosexuality, are now banned. Neither will military intelligence or policy units be free or encouraged to launch investigations based on a service member's presence at a gay bar, or a march or because gay literature has been glimpsed in a foot locker. The policy also requires the Uniform Code of Military Justice to be evenly applied—that is, homosexuals and heterosexuals engaging in the same sexual no-nos must be accorded the same treatment by commanders who feel compelled to conduct an inquiry. The whole idea behind the policy is to downgrade the military's official interest in sexuality—provided service members who are homosexuals keep their own proclivities out of sight.

Critics will say the policy still caters to unreasonable fears and biases, and that as a condition of service, homosexuals are being asked to deny who they are. The critics will have it right. But a return to last year's policy would be wrong too. And that's where President Clinton was headed in January if he had unilaterally lifted the ban. He said some of the things yesterday he should have been publicly saying all along, and he did not in the end produce the clean result that his commitment logically required. For this he was somewhat apologetic. But he believes the start he has made will lead inevitably to the eventual honoring of that commitment. That is what those who would have preferred a stronger policy should be hoping, and importantly, working for now. Meanwhile, the worst thing that could happen would be for those of the other side in Congress to try to take things the other way—back to where they were for 50 years.

[From the New York Times, July 6, 1993]

BIGOTRY IS WHAT'S INCOMPATIBLE

President Clinton will soon be faced again with the issue that has caused him more grief than any other: whether homosexuals can serve openly in the military.

There is little doubt that the worst excesses of the past—the witch hunts and mindless expulsions of dedicated soldiers, sailors and aviators—will be ended. The President's strong support for the right of gay soldiers to serve their country has likely achieved that salutary result.

But because he failed to issue an executive order at the start of his term, Mr. Clinton must now compromise on how to enact a new policy. There is simply no other way to win enough support in Congress and the military to make a new policy on gay soldiers stick.

Even so, Mr. Clinton needs to hold firmly to some bedrock values. The President has been right from the start on this issue. Ideally, there should be no ban or restrictions whatsoever based on sexual orientation;

every individual in the military should be judged by performance and behavior. The same rules of conduct should govern both homosexuals and heterosexuals. If Mr. Clinton is now forced to retreat, he must not give away the whole game.

It is astonishing and outrageous that the Joint Chiefs, while willing to liberalize a bit, still want their regulations to embody the assertion that homosexuality is "incompatible with military service." That statement is given the lie by the fact that many dedicated homosexuals have already served with distinction—while being forced to hide their sexual orientation.

The only thing homosexuality is "incompatible with" is bigotry and timidity—the venomous hatred of a minority of gay bashers in the ranks, and the reluctance of higher officers to deal with the problem. If Mr. Clinton knuckles under to the Chiefs on the incompatibility issue, he will have abandoned the core of his principled policy.

Much of the debate among military and civilian officials is now focusing on some version of an approach called "don't ask, don't tell." Under a "don't ask" policy, the military would no longer ask recruits if they are homosexual and would no longer aggressively ferret out and expel homosexuals. But under the "don't tell" element, there would be restrictions on the extent to which homosexuals could acknowledge their homosexuality.

Any regulation that forces homosexuals to lie to keep their orientation hidden would be offensive. For the purpose of political compromise, it may be necessary to accept rules against waving gay rights placards (or any other placards) in the faces of the generals or against kissing in public on military bases. But surely there is no good reason to prohibit gay soldiers from acknowledging their orientation in private, casual conversations with co-workers. And whatever compromise is ultimately reached, the policy needs to apply equally to heterosexuals and homosexuals.

Barry Goldwater, the icon of the conservative movement, had it right when he urged Congress to find "the courage to rally the troops in support of ending this un-American discrimination." So did Coretta Scott King, who called on President Clinton to accept "no compromises which undermine the principles of fairness and human dignity." In deciding just how far to retreat for tactical purposes, Mr. Clinton would do well to heed their advice.

[From the New York Times, July 20, 1993]

GAY SOLDIERS: HALF A LOAF

President Clinton's new policy on homosexuals in the military is a disappointment to all who hoped for an end to unfair, career-threatening discrimination. The President once hoped to lift the ban on gay soldiers, thus liberating gay men and lesbians who have served their country well from fear of discovery and expulsion. But in the end he yielded to fierce opposition and simply modified the ban, ending its worst abuses but forcing homosexuals to hide their private lives if they wish to serve.

Even so, the policy moves in the right direction and is probably the best that can be wrung from a Congress that is unwilling to go further than the Joint Chiefs of Staff will accept. So on practical grounds there is little choice but to take half a loaf. Were Mr. Clinton to fight to the end the most likely outcome would be a Congressional law even worse for gay soldiers.

The President has been right in principle on this issue all along. The old ban on gay soldiers was unfair to dedicated individuals and deprived the service of valuable talent. Homosexuals were screened out by recruiters; if they slipped through the screen they were hunted down by investigators and discharged no matter how long and distinguished their service. So Mr. Clinton deserves credit for asserting, during the campaign and afterward, that the only criterion should be behavior and performance.

But now he has retreated. The policy he announced yesterday would essentially allow homosexuals to serve in the military—but only if they stay in the closet or lead celibate lives. Gay service members can still be discharged for engaging in a homosexual act (even a private, consensual act) or making a statement that demonstrates "a propensity or intent" to engage in such acts.

Their only solace is that the military will rein in its investigations into what people are doing in their private lives. In other words, private homosexual acts are still forbidden, but those who engage in them have a better chance of getting away with it.

The new policy embodies some real gains. People will no longer be asked their sexual orientation when enlisting, or in most cases when serving. They will be free to engage in some previously suspect activities, such as drinking in a gay bar, marching in a gay-rights parade or having a same-sex picture on one's desk. And the notorious witch hunts will be curbed through strict guidelines. These changes should lighten the atmosphere in which homosexual service members work and ease their fears of discharge.

But the policy remains unfair to them. In barracks conversations, they will have to lie to avoid inadvertently disclosing any private homosexual acts or even their sexual orientation. If they do reveal they are homosexuals, they will have to present evidence that they are celibate and intend to remain so. Otherwise they remain subject to expulsion.

The blame for eviscerating Mr. Clinton's policy is shared widely. Bigoted opposition in Congress, the military and the public is the main problem. Narrow-mined Joint Chiefs, too timid to pioneer social change, is another. And Senator Sam Nunn, chairman of the Senate Armed Services Committee, has undercut his President at every opportunity by holding biased hearings and pledging, on the very eve of Mr. Clinton's announcement, to introduce legislation to ban people with "a propensity to engage in homosexual acts."

The Administration itself has floundered. Defense Secretary Les Aspin was too obviously ready to capitulate, leaving his wounded boss with little choice but to yield to the Joint Chiefs. And even Mr. Clinton, after enunciating a sound doctrine, failed to push it through quickly and never forcefully articulated a rationale for lifting the ban.

Still, the new policy at least pushes the military down the road toward a long-overdue social change. Now it is up to the Administration to make the policy work in practice. Witch hunts must truly end. Investigations must truly be rare. Commanders must be vigorous in clamping down on gay-bashing and harassment. The new policy must be instituted as a step toward fairness, not a fig leaf to cover continued discrimination.

[From the New York Times, February 9, 1993]

GAY VALUES, TRULY CONSERVATIVE

(By Andrew Sullivan)

WASHINGTON.—Perhaps the most depressing part of the last few weeks has been how predictably the politics of the military gay ban played itself out.

By and large, lifting the ban was portrayed as a liberal measure, prompted by the usual interest groups and framed within a crude paradigm of civil rights. The opposition rested its final argument on the simple fear of homosexuals, on those intangible emotions the Joint Chiefs of Staff describe as morale.

But there is another way of looking at the issue: lifting the ban is essentially a conservative measure. It is not a radical attempt to remake society but a pragmatic effort to react to a change that is already taking place: the presence of openly gay people in the military. The values that gays in the military are espousing, patriotism and public service, are traditional values. And the effect that ending the ban could have on the gay community is to embolden the forces of responsibility and integration and weaken the impulses of victimology and despair.

Certainly, radicals always suspected homosexuals who wanted to join the military, regarding them as foolishly embracing a system that oppressed them. For many years after the 1969 Stonewall riots in Greenwich Village in New York, which gave birth to the gay rights movement, the military issue wasn't on the official gay rights agenda at all. For those who came from the antiwar movement, it was anathema. It was only in the late 80's that some argued that it should be placed at the forefront of the battle for gay civil equality.

But the military issue came to the fore not because of political leadership but because of the gay people in the military who refused to compromise their integrity any longer.

Many were of the generation that came out after AIDS, a sober generation, more determined than ever to stand up to brutalization but more realistic about how to overcome it. Unlike many of their elders, they did not want to rebel against mainstream society but to join it as full equals. These are the people who became the unlikely heroes of the new war. And this is, perhaps, the cruelest irony of the ban—that it has singled out those gay Americans who are among the most patriotic, the most committed to living lives that, in other people, would be at the heart of the notion of civic virtue. Some—Joseph Steffan, Margarethe Cammermyer—are better known than others.

I think of my first boyfriend, Joe, the adopted son of a military family from Nebraska, whose devotion to his father, a three star general, led him into the Air Force. Joe could never talk to his family about his emotional life, never initiate the relationship that makes a family a family, because his father would have been obliged to bring charges against his own son. Unable to sustain the lie, Joe quit and told his father who he was soon afterward. (His father reacted with compassion and respect.)

I think of another friend who devoted 16 years to the Navy, rising to lieutenant commander, highly respected by his peers, who, in a medical examination, was suddenly questioned about his sexuality, blurted out the truth and is now being discharged. With four years until retirement, he will receive no benefits and have to start a new career.

And the friend who is a sergeant in an elite Army unit, who listens daily to his recruits say they will kill the first soldier in their unit who says he's gay and who told me that even if the ban is lifted, he would not have the "moral courage" to come out.

When I am asked by people why I believe homosexuality is an involuntary disposition, constitutive of a person's deepest identity

and therefore deserving of respect and civil equality, I wish I could show them the lives of these people. These are the alleged radicals whose devotion to their country was strong enough to risk severing their livelihoods and disrupting their lives if their sexuality were discovered.

Within any other minority, these people would be heroes to conservatives. Their private conduct would be deemed irrelevant to their public service. Just as in 1948, when the Republicans campaigned for racial integration of the military. Republicans, of all people, should resist reactionaries on the right who believe gay people are condemned by nature to second-class status and reactionaries on the left who call for gay men and women to abandon the very society they most want to join. Some, to their credit, have done so, among them William F. Buckley, Jr. and Senator Alfonse M. D'Amato. Even Newt Gingrich a year ago voiced concern for gay soldiers' right to privacy before succumbing to political expediency and supporting the ban.

Conservatives should also see that lifting the restrictions is not a radical experiment that could risk military competence. It is a reaction to a problem already consuming the military as young lesbians and gay men refuse to acquiesce in their humiliation, and is a change that would be unlikely to accelerate the number of gay people prepared to come out in the barracks. (In Canada, where the ban was lifted three months ago, not a single person has come out.) It is also unlikely, unfortunately, to alter the harassment and intimidation gay soldiers are routinely subjected to, so deep is homophobia entrenched in a large part of military culture.

It is in the interest of all of us, straight and gay, that the cause of these people not result in defeat or worse, a new and bitter segregation. A defeat would send a signal to a gay community at a crossroads between hopeful integration and a new relapse into the victimology of the ghetto.

It would rebuke those who seek dialogue and community between gays and straights, penalize those members of the gay world who most want to join the mainstream and can lead the rest, and intensify the culture of despair already prevalent in a community wracked by plague.

Lifting the ban could heal a deep wound between gays and straights and lead the gay world in a new direction of integration and responsibility. The act would embody the sober, civic toleration that is the essence of what most gay men and women hope for—not the approval of anything we do in private, not the embracing of some mythical abstraction called the gay life style, not the derogation of traditional values, but merely the recognition that we are human beings too, that the mere statement of our identity should not be a cause for violence or hatred or public discrimination.

As gays and lesbians, we do not want anything special from America. We merely want to give back to America something of what it has given us, without having to compromise the essence of who we are. That simple, and surely conservative, desire is what is really at issue in the months ahead.

[From the New York Times, November 15, 1992]

LIFT THE BAN ON GAY SOLDIERS

President-elect Clinton has wisely reaffirmed his determination to lift the longstanding ban on homosexuals in the military. The ban is unfair to patriotic homosexuals, male and female, and deprives the military of talent.

The prospect of change nevertheless stirs anxieties among military personnel who fear that open acceptance of homosexuals will hurt morale and possible provoke mass resignations. Some distinguished military leaders—including Gen. Colin Powell, Chairman of the Joint Chiefs of Staff—have opposed lifting the ban.

Their views deserve a respectful hearing. But they are not a reason for inaction. The rationale for the ban has become increasingly dubious.

No one any longer seriously contends that homosexuals are security risks by being subject to blackmail. Indeed, the likelihood of blackmail would disappear if the ban were lifted. Neither is AIDS an issue; recruits and servicemen are routinely tested.

Nor is there any doubt that gays can perform effectively in the military. Many thousands already have done so, often with great distinction and in responsible positions.

The greatest remaining fear is that the presence of known homosexuals will undermine morale, order and discipline in a way that covert homosexuality has not. General Powell, noting the lack of privacy in the military, says many heterosexuals would prefer not to share bedrooms, barracks, latrines and showers with others of the same sex who find them sexually attractive. But it is unreasonable to ban homosexuals based on the presumed reaction of straights.

Others worry that activist gays will challenge their military leaders, disrupting the command structure; but military service seldom attracts activists prone to civil disobedience. And some observers worry that homosexual affairs will undermine discipline, interfere with teamwork or provoke fights. These all sound like worst-case projections, similar to the dire predictions made when women and later blacks were admitted to military service.

Mr. Clinton had it just right when he said the real criterion should be conduct. The heterosexual males who mauled women in the Tailhook scandal were properly disciplined for their misdeeds, without punishing all heterosexual males. So, too, homosexuals who harass their comrades or proposition them in the showers should be disciplined; those who do their jobs should be left alone.

The military has already worked miracles race relations since Harry Truman ordered the Army to integrate in 1948, largely because the whole organization dedicated itself to that goal. Surely the military chiefs can achieve the same progress toward acceptance of homosexuals if they put their minds to it. Straight soldiers will overcome their fears once allowed to work side by side with dedicated, capable gay comrades.

[From the New York Times, January 29, 1993]

THE ISSUE IS BIGOTRY

(Anthony Lewis)

BOSTON.—Over the last half-century Americans have come to understand that a civilized society does not mistreat people because of what they are. It is unacceptable to assault someone because he is a Jew, or deny him a job because he is black.

The question now is whether we are ready to apply that civilized standard to homosexuals. Are they to be despised and rejected because of what they are—because of a status that nature gave them?

That is the question in the dispute over President Clinton's plan to end discrimination against homosexuals in the armed services. It is the only question. All the rest of the noise around the issue—the talk about service morale and fighting effectiveness, the shrilling on talk shows—is demonstrable humbug, and bigotry

Col. Margarethe Cammermeyer won the Bronze Star in Vietnam in the Army nursing corps. She served 27 years in uniform and was chief nurse in Washington State's National Guard when the Pentagon ordered her discharged last year. Why did it do so? Because she had stated on a form that she was a lesbian.

Tracy Thorne, a Navy lieutenant (j.g.), was a navigator-bombardier, 25 years old, first in his flight training class, a member of a jet combat squadron. Last year the Navy grounded him. Why? Because he had said on ABC's "Nightline" that he was gay.

Did the firing of Colonel Cammermeyer or Lieutenant Thorne make our armed forces more effective? To the contrary, it removed two people of proved effectiveness. And it did so at heavy cost. The taxpayers paid $2 million to train Lieutenant Thorne, for example: money down the drain.

Then think of all the horror stories being told in the organized campaign of letters to Congress: Our men in the forces will not be safe from preying homosexuals, they will be embarrassed in the shower and so on. Did Colonel Cammermeyer or Lieutenant Thorne harass anyone, bother anyone? No. They did nothing except perform superbly for our country. They were punished not for what they did but for what they are.

Or think of the story told last fall in The Washington Post by Lucian K. Truscott 3d, a retired Army officer. He commanded an infantry rifle company in the Korean War, and one of the company's 150 men was thought to be gay. He did one of the toughest jobs, carrying and firing a Browning Automatic Rifle, and he was killed. Others in the company, including some who had mocked him in life, cried as his body was carried off.

There have always been homosexuals in the armed forces, and there always will be. President Clinton's plans do not change that reality. What they do is to stop officials from wasting time and money snooping out who may be gay and then discharging soldiers who have done a good job.

The waste of money is considerable. In the last 10 years the Pentagon estimates that it spent nearly $500 million finding homosexuals, discharging them and replacing them. But the real cost is human.

The Clinton plan does not condone any improper sexual conduct. It just stops the witch hunt of people who are gay.

If sexual conduct were the real concern of the critics, they would focus on the clear and present problem. You don't have to be a genius to know what that is: assaults on women in the armed forces.

Some of the critics are military men who are genuinely worried about change—just as the military fiercely resisted President Truman's 1948 order desegregating the forces. But in time the services did a superb job of fighting racial prejudice in their ranks: the best training program of any institution in the country. I think they will respond to clear leadership on this issue, too.

The organized opposition—highly organized—is political. It is coming from conservative religious groups and others on the extreme right. The Rev. Louis Sheldon of the Traditional Values Coalition boasts that his group shut down the telephone lines at the Capitol with its many calls. Oliver North is appealing for funds to stop the Clinton plan. Those who are truly religious might understand that God made people as they are.

In Washington, all you can hear is political calculation. President Clinton should have moved slower. He should have moved faster. That is Washington: maneuver, not substance. Politics matters, but it is not the issue here. The issue is bigotry.

[From the Washington Post, Jan. 27, 1993]

LIFTING THE BAN ON GAYS

It should come as no surprise that the Joint Chiefs of Staff found their commander in chief unchanged in his commitment to lifting the ban on homosexuals in the military. Having said as much several times during the campaign, President Clinton would cause far more surprise if he were to now abruptly reverse direction and drop the whole matter. There is no reason he should. The decision to end discrimination in the armed forces based on sexual status is sound, timely and necessary if the military is to move in the direction the rest of the country is headed.

As may be expected, Mr. Clinton is beginning to hear—and get hammered—from both sides now that work is underway on structuring the change. There are supporters of lifting the ban who fear that he's moving too slowly, that he is weakening somehow by not doing it immediately—as if that would settle matters once and for all. It didn't work that way for President Truman in 1948 when he began the racial desegregation of the armed services. Extending the highest standards of democracy to all who serve in today's military won't be any easier for this president. A year after Mr. Truman issued his order, the executive secretary to the advisory committee charged with examining the rules and procedures and recommending changes, concluded "the army intends to do as little as possible toward implementing the policy which it adopted and published." The bugaboo cited by the spoilers then is the same being heard now—that morale and discipline would go to ruin if the services were integrated racially. The manpower needs of the Korean War as much as anything finally brought them around.

Resistance to change is no less now than it was then, in both the military and Congress. That is no reason not to press ahead, however. And Defense Secretary Les Aspin's proposal to first end all military discharges, reassignments and recruitment screening based on sexual orientation, while laying the groundwork for an executive order a few months later formally lifting the ban, seems like a good approach.

President Clinton is now in company with President Truman, who had to buck the advice of many of his generals and admirals 40 years ago. The nation is better off because Mr. Truman did. The country also would be better served if today's leaders, who built a military force that is a symbol of pride, would stop holding the line against the idea of extending equality of treatment and opportunity to all who would serve in their nation's defense.

Gen. Colin Powell, chairman of the Joint Chiefs of Staff, who is on the wrong side of this issue, recently told a group of midshipmen how he and the chiefs restructured the armed forces for a "new environment": "First we had to acknowledge something that many * * *. Did not want to acknowledge, that the Cold War was truly ending. And that all of the assumptions we had * * * had to be changed, had to be rethought. We sat down with the commanders in chief * * * and began to work it out. And in due course we came up with a strategy that we believed would meet these new world conditions." That was a good course then. It would be a good course now.

[From the Washington Post, May 18, 1993]

'DON'T ASK, DON'T TELL' WON'T DO

(By Joseph Zuniga)

The Senate Armed Services Committee's debate about lifting the ban on homosexuals in the military seems to be arriving at what some have labeled a compromise position: The military will no longer ask recruits whether they "have homosexual tendencies," and in return, lesbians and gay men will be allowed to serve so long as they don't "announce" their sexuality.

This compromise could work if we were dealing with automatons, but for human beings, not announcing one's sexual orientation isn't the simple request that proponents of this compromise would have the public believe. There is no on-off switch when dealing with human identity. This policy affects homosexuals at the core of who we are as people, and in essence forces us to not accept ourselves—to constantly live a lie.

It is important to note the concessions that have been made in arriving at "don't ask, don't tell." The issue is no longer whether there are homosexuals in the military—suddenly, all concede that there always have been and always will be. Moreover, because so many decorated gay and lesbian service members have dared "come out of the closet," it is also now conceded that there is no correlation between a soldier's sexual orientation and his ability to perform in the military. It is common knowledge that homosexuality is not a proxy for "bad soldier." Rather, like heterosexuals, gay people come in all varieties, from soldier of the year to the average soldier simply wanting to complete a two-year enlistment.

Such acknowledgments have sounded a bitter defeat for those who even a year ago continued to bury their heads in the sand over this issue. Unfortunately, they have also forced a shift in the rhetorical focus to "unit cohesion," a phrase more accurately defined as how heterosexuals will respond to having to acknowledge that there are openly gay and lesbian soldiers among them. "Don't ask, don't tell" purports to solve this problem by avoiding it—if a gay or a lesbian soldier simply doesn't tell, the Rubicon will never be crossed, and unit cohesion will not be compromised. This solution may sound credible to Congress, but it has no plausibility in the service.

While the order that lesbians and gay men "don't tell" anyone about their sexual orientation sounds simple, it is not. It is true that the military explicitly asks people whether they are gay *once*, upon recruitment, and can easily stop doing so. But lesbian and gay service members cannot make such a black-and-white, one-time decision to "not tell" as they go about their everyday lives. A closeted homosexual must constantly negotiate a minefield to securely hide his sexual orientation, he must be on a 24-hour alert lest he "tell."

Heterosexuals display their sexual orientation a hundred times each day—from discussing what they did Saturday night to simply commenting on a Playboy centerfold. If announcing one's homosexuality brings nondiscretionary discharge, all conversation becomes a trap for the reckless. A gay GI must either withdraw from all social interaction with his peers or live an endless string of half-truths, avoided answers and downright lies.

The circumstances behind the discharge of the Rev. Dusty Pruitt show how degrading it is to know that announcing one's identity is forbidden. Pruitt, a lesbian Army sergeant who was also a minister in the Metropolitan Community Church (a denomination ministering primarily to the gay and lesbian community), was expelled from the service after the military learned of her association with that church through a 1983 Los Angeles Times article. What if Pruitt, on her way to her church services one Sunday, had been stopped by another soldier and asked where she was going? What if the second soldier then wanted to join Pruitt at her place of worship? What would it mean to "not tell" in this situation? Should anyone be forced to lie about so sacred an activity as worship?

"Don't ask, don't tell" is not realistic. Although the military won't ask at induction, day in and day out, in subtle ways, thousands of gay and lesbian service members would be forced not to tell in so many disparate and confusing situations that their lives would be one massive gray area.

More tragic, from a military perspective, is the fact that not only would homosexual service members be forced to not tell, but they would, in essence, be forced to lie. The central concept in a military life is honor, and the basic premise upon which one's honor depends is truth. As former Navy midshipman Joe Steffan explains when asked why he told Naval Academy officials that he was gay when they asked him point-blank: "Personal honor is an absolute—you either have honor or you do not." In short, good soldiers don't lie. The senators debating this issue would not arrive at political solutions that would force soldiers to do so—to make a choice between living honorably and continuing to serve their country.

The most obvious of the objections to this compromise is that it is discriminatory. It is acceptable to ask and to tell about sexual orientation so long as it is heterosexuality. In military life, as in civilian life, public discourse about heterosexuality is omnipresent: dates, sex, weddings, divorces.

Lesbians and gay men do not seek special rights; we do not want to flaunt our sexual orientation. Indeed, the many gay and lesbian soldiers I know are hardly the radical activists that some would have the public believe make up the entire gay community. They are generally conservative individuals, sworn to defend their country, who want only to do their job without constantly facing the risk of losing it based on an irrelevant characteristic. We only want the opportunity to be honest about our lives in the same manner as everyone else.

CANADA: NO PROBLEM WITH GAYS IN RANKS

(By Anne Swardson)

TORONTO.—Master Cpl. Mike Simic has no doubts about whether gays should be allowed to serve in the Canadian armed forces. They should not, he says, because they may disrupt the teamwork on which the military depends.

But Simic, a mechanic, also knows that his career would be torpedoed if he hassled a gay comrade. When the Canadian military decided to fully accept gays last fall, the top brass decreed that harassment or discrimination of any kind would be punished. Simic says he will keep his opinions to himself.

"My attitude is, grin and bear it," said Simic. "There's a lot of the military that's out of your hands. The policy is very clear."

The nine months since a court case induced Canada's military leaders to open the ranks to gays have been virtually casualty-free. No resignations, violence or harassment have been reported. Gay soldiers, while remaining discreet about their private lives,

say they feel more comfortable now. And straight soldiers—not only those who have concerns about gays, but also those who do not—say they have accepted the new regime.

The ease of this transition may stem in part from Canada's tradition of tolerance. Canadians are told from childhood that their nation accepts all colors, creeds and cultures. Polls around the time the ban was repealed showed that a majority of Canadians favored admission of gays, while most Americans remain opposed. In addition, Canada's armed forces number 72,000, more manageable than the 1.7 million of the United States.

As the U.S. military and President Clinton wrap up six months of political warfare with an effort to compromise on admitting gays, it is apparent there is another reason for Canada's success: The highest leadership of Canada's armed forces has made clear that any recruit who has a problem with the new policy will face the consequences.

"It does take a commitment from the top," said John de Chastelain, who was chief of the Canadian Defense Staff at the time of the policy change and now is Canada's ambassador to the United States. Under him, the military revised all its harassment guidelines, began attitudinal training programs, set up new mechanisms to handle complaints and directed supervising officers down the line to follow the new rules.

At Canadian Forces Base Toronto, 300 men and women recently completed training sessions in recognizing and dealing with harassment. While the meetings did not focus on gay issues any more than on others requiring sensitivity, the base commander said they were just one more way of making the new policy take hold.

"It allows people to see that this is the military program, that it's not just a nice thing to do. We have zero tolerance for harassment, whether it's sexual, gender or ethnic," said Col. Edward Nurse, commander of this administrative base.

It was this base of 1,000 personnel that spawned the court case that led Canada to overturn its ban. In 1988, 2nd Lt. Michelle Douglas, then 23, was taken by superiors to a hotel and grilled for two days about whether she was a lesbian. Further interrogation went on for weeks. In addition to being asked about herself, Douglas said, she was asked to name other lesbians in the military.

Douglas subsequently was given the equivalent of an honorable discharge on the grounds that she was "not advantageously employable." She got a civilian government job and took the military to court. Last fall, just before her case was to go to trial, a settlement was reached that granted Douglas an $80,000 payment, not to mention a public about-face from her former employers.

Even before that, the armed forces had been easing toward a more open policy. Gays were allowed to join beginning in 1988, but until last October they could not be promoted or transferred.

"The best thing about ending the ban in Canada is that the element of fear has been taken away," said Douglas, who still has gay friends in the military. "There will be no knock at the door."

Some gays say they remain hesitant about disclosing their sexual preference or anything about their private lives to their military co-workers. Indications are that Canadian soldiers, while willing to obey the new policy, remain wary of gays.

Lt. Col. Susan Rodgeman, administrative officer for the Petawawa base new Ottawa, said perhaps 75 percent of the people with whom she serves have concerns about admitting gays, although the base has experienced no anti-gay incidents.

Among the issues military leaders wrestled with as they debated ending the ban was privacy. Could heterosexual and homosexual troops knowingly share quarters and remain comfortable? The decision was that they could. No accommodation exceptions were included in the new policy.

Some of the issues that remain, however, may give the Canadian military brass headaches in the future.

When the army began dismissal proceedings against Master Cpl. Derrick Dwyer because of his homosexuality, he, like Douglas, filed suit. As a result of the Douglas case, he received a settlement and was promoted. But recently, his superiors in Montreal—where he had stayed for years because of the ban on transfers for gays—informed Dwyer that he was being transferred to Toronto.

Dwyer's partner could not move because he was finishing college. So Dwyer asked that his transfer be delayed a year, on compassionate grounds. His request was denied. Then Dwyer asked for the same benefits that a married person of his rank would receive: free housing at the new post for a while, and help with transportation expenses back home. Again the request was denied—and he was released from the military for refusing a transfer.

"I don't think that's right," Dwyer said. "Why couldn't they give me the same entitlement as a heterosexual couple?"

[From the Los Angeles Times, Nov. 19, 1992]

ONE RULE FOR SOLDIERS—GAY OR STRAIGHT

(By David Link)

Sen. Sam Nunn of Georgia, the Democratic chairman of the Senate Armed Services Committee, has demonstrated beyond any question that he is unfit to be (as rumor proposes) secretary of defense in the Clinton Administration. Last weekend he insulted every member of the armed forces when he said that if the ban on openly homosexual men and women in the military were lifted too quickly, he would "fear for [their] lives" because of the "very emotional feelings" of bigoted heterosexual soldiers.

The statement is symptomatic of how topsy-turvy the debate over this issue has become. It is not often that a man who openly desires to be in charge of an organization finds it necessary to disgrace those he wants to command.

There is no community in the country that is as effective in training its people as the U.S. armed forces. Obedience to superior officers is the very heart and pride of military training. A critical part of military discipline is that, whatever trainees may think, if a commanding officer demands that they conduct themselves in a certain way, they will do so. Anything else would be insubordination. That is something the thousands of homosexual Americans serving in the military understand.

There have always been lesbians and gay men serving their country. Observing military rules of conduct to the letter, they have been fully able to do their work without revealing their attraction (if any) to other service members of the same sex. In most cases they have done this so successfully that no one suspects they are homosexual. Gays call this being in the closet, and every one who is homosexual knows how to do it. It is a form of self-discipline that any military organization should find exemplary.

Against this model of military rectitude, Nunn portrays heterosexual soldiers as so unable to control their feelings that they would disobey the most rudimentary rules, not only of military order, but of common civility, and give free reign to their most violent and vulgar impulses.

Similar to the boys-will-be-boys attitude that led to the Tailhook scandal, exculpatory comments such as Nunn's only encourage soldiers who want to believe that military order is order only to the degree that they accept it.

What is at issue here is not, and never has been, a soldier's sexual orientation.Even those who oppose lifting the ban do not deny the existence of lesbians and gay men in the military. The question is whether they can be open about their sexual orientation the way heterosexual soldiers are. Even under the present regulations, a gay man could serve in any branch of the military as long as he remained closeted—something dependent strictly on his conduct while in uniform, not his private sexual feelings.

Opponents argue that the right to privacy requires keeping the ban in place, citing as examples the difficulty of living in close quarters and using same-sex showers. But the fact is that gay and straight soldiers have been thrown together in such situations since the beginning of time. The only question is whether heterosexual soldiers know about another soldier's homosexuality. How is the issue of privacy changed depending on whether the gay soldier in the next bunk is closeted or open?

The military has searched in vain for evidence that any of the now openly lesbian and gay service members who were dismissed ever violated any rule of military conduct. From Perry Watkins and Dusty Pruitt through Margaret Cammermeyer and Keith Meinhold, homosexual servicemen and women have been dismissed not for what they have done, but solely because they have been honest about their sexual orientation.

Whatever fears heterosexual soldiers may have, it should be clear by now that they have nothing to fear in the barracks except fear itself. And there may be far less fear than those like Sam Nunn would wish. While there is certainly bigotry and prejudice in the military, soldiers have proved again and again that their sense of military order is stronger than people like Nunn want to give them credit for.

Nunn's suggestion—that in defiance of a direct order from the commander in chief, heterosexual bigots in the services will lose control of themselves and begin attacking fellow soldiers—says more about Nunn's own prejudices than anything else.

Whatever control the military has over a soldier's actions, people do not give up their beliefs when they serve their country. All Bill Clinton has said is that the military should get out of the thought-control business. Conduct is the measure, and the same rules of sexual conduct should apply to all soldiers, regardless of sexual orientation.

Nunn should condemn breaches of military conduct instead of holding them up as an excuse to keep the bigoted status quo.

[From Newsweek, Feb., 1993]

WHAT'S FAIR IN LOVE AND WAR

(By Randy Shilts)

On the first night of the Scud missile attacks on American troops in the Persian Gulf, an army specialist fourth class with the 27th Field Artillery found himself cramped in a foxhole with three other men. Like many young enlisted men, the specialist (who asked that his name not be used) had previously confided to the other men, his friends that he was gay.

During that night in the foxhole they huddled together in their suffocating suits meant to protect them from chemical and biological warfare agents. They could not see one another, but to reassure themselves that they were still there, still alive each man kept one hand on the other. Nobody hand on the other. Nobody seemed to mind that one reassuring hand belonged to a homosexual. The soldier recalls—there were more important things to think about.

Defense Department policy contends that the purpose of excluding gays from the armed forces is to preserve the "good order, discipline and morale" of the military because no heterosexual soldier would want to serve with take orders from or share a foxhole with a homosexual. America's experience in its past three wars suggests otherwise. The behavior of military officials in accepting gays during these wars also suggests that the generals themselves know their arguments are fallacious. At no time is good order discipline and moral more crucial for a fighting unit than in time of combat; at no time have the military's regulations against gays been more roundly ignored than in periods when troops were sent out to fight.

President Clinton's intention of integrating acknowledged lesbians and gay men into the armed forces has raised a great cry from opponents of reform, most of whom question how soldiers will respond to sharing a foxhole with a gay soldier. These arguments belie the fact that gay soldiers have served in U.S. military foxholes since the days of Valley Forge, some openly.

From the first days of the Defense Department's anti-gay regulations in the early 1940s, the government was willing to waive the for-heterosexuals-only requirement for military service if barring gays interfered with manpower exigencies. In 1945, just two years after the regulation was adopted, and during the height of the final European offensive against the Third Reich, Secretary of War Henry Stimson ordered a review of all gay discharges in the previous two years, with an eye toward reinducting gay men who had not committed any in-service homosexual acts. At the same time orders went out to "salvage" homosexuals for the service whenever possible.

The Korean War saw a dramatic plunge in gay-related discharges In the late 1940s the navy meted out * * * undesirable discharges a year to gay sailors. In 1950 at the height of the Korean War that number was down to 483. But in 1953 when the armistice was signed at Panmunjom the navy cracked down again with vigor distributing 1,353 gay-related undesirable discharges in that year alone.

The Vietnam War provides some of the most striking examples of the military's tacit acceptance of homosexuality in times of war. When Air Force Sgt. Roberto Reyes-Colon was seen leaving his base near the demilitarized zone with his Marine Corps boyfriend, military police brought him before his commanding officer the next day. The commander listened to the MPs complain that they had seen Reyes-Colon kiss the Marine, but once they left the room, the commanding officer ripped up the report they had written on the incident. Reyes-Colon's defense was that "there's a war going on" and the officer agreed.

Marine Corps Lt. Ben Dillingham, assigned to lead a reconnaissance platoon in Vietnam in 1970, was surprised to discover that two of his enlisted men were lovers, inseparable, patrolling together, even sleeping together under the same blanket. All the other soldiers in the tightly knit platoon were aware of the relationship and no one cared. It seemed to Dillingham that with a war going on and everyone's life depending on the others no one had time to quibble about gay soldiers.

Discharges for homosexuality still occurred but Pentagon statistics themselves bear out that the armed forces became strangely uninterested in enforcing their regulations against homosexuals during this period. Between 1963 and 1966, the navy, which at the time was the only branch of the military to keep detailed statistics of gay discharges, "separated" between 1,600 and 1,700 enlisted members a year for homosexuality. From 1966 to 1967 as the Vietnam buildup began in earnest the number of gay discharges dropped from 1,708 to 1,094. In 19969, at the peak of the escalation, gay discharges dropped to 643. A year later only 461 sailors were relieved of duty for being gay.

These dramatic reductions occurred during a period of some of the service's highest membership since World War II. It was not that there were any fewer gays in the navy, by all appearances there were many more. But the navy had effectively stopped enforcing regulations against homosexuality. Draftees who announced themselves to be homosexual at their induction centers frequently were told by army doctors that they were welcome in the army just the same. In at least three circumstances in the early 1970s, gay activists had to go to federal court to force the government to observe its own policies regarding the exclusion of gays.

[From the Washington Post, Nov. 24, 1992]

'HE WAS ONE OF US'

(By Lucian K. Truscott III)

"A GAY YOUNG CAVALRYMAN"

How times change. The words above appear as the title of a song opposite page 1 of the brief memoir my father wrote of his service in the U.S. Cavalry between the two world wars. Can you imagine a song today called "A Gay Young Fighter Pilot—or Infantryman—or Leatherneck?

I commanded an infantry rifle company in the first year of the Korean War. Among the 150 or so men I had with me on the tops of those mean mountains in that bitter cold was at least one gay soldier. All of the other 149 of us knew that if nothing else he was effeminate. That and his red hair are probably why I remember him so well after all these years.

I saw men ridiculing him to his face on occasion, as men will. You know: one hand on a hip, the other waving in the air with a limp wrist as the mimic took prim, mincing steps around him. And the first sergeant approached me one day and said, "Sir I think Wilson [not his name] is a goddam queer." About all I could say was, "Well, Top, I guess there's no damn law against it as long he's doing his job."

His job was BAR-man; the initials stand for Browning Automatic Rifle. It is a big weapon, weighing more than 20 pounds, but even at his size—about five-seven and 140 pounds—he carried the BAR in his squad. The weapon was so reliable and deadly that the Chinese invariably went for the BAR-man first.

But he did that job, which few men wanted, until a wet spring day in 1951, when I knelt down and looked at the small round hole dead center in his wet greenish-gray forehead below the line of his red hair. I noticed some of the men in his squad turning away from me so I wouldn't see them crying softly as they put him on a litter so we could carry him with us. He was one of us, a soldier.

I'm as sure of the fact that he was gay as I am that he no doubt wasn't the only one in the company, that he was a damned good soldier and that there were undoubtedly gay soldiers in the infantry battalion I commanded in Vietnam in 1967–1968. There are probably homosexuals in any group of a hundred or so men you assemble any place, any time.

A few years ago my son wrote a novel about a gay cadet at West Point and brought down the wrath of many graduates upon his (and my) head for even intimating that West Point ever had a homosexual cadet. And now looking back from the vantage point of 40 or 50 years of knowledge, experience and our society's finally having let gays out of the closet, I'm certain that four general officers I knew (two of them very well) were gay; one was a highly decorated infantry officer in World War II.

I am surprised that the chairman of the Joint Chiefs of Staff, Gen. Colin Powell, takes a stance against gays in the military. As a black officer, he must be more intimate with discrimination than most of us.

The argument seems to be that integration of gays will disrupt the discipline of an organization. Of course it will! Did the integration of blacks? You're damned right it did! And still does to a degree. But the armed forces have controlled it and will continue to until the last of the bigots is gone and we finally have complete equality.

Why don't we have the guts to admit that there always have been and always will be gays in our society? Admit it and treat them as men. They are, you know.

U.S. GENERAL ACCOUNTING OFFICE REPORT TO THE HONORABLE JOHN W. WARNER, U.S. SENATE—HOMOSEXUALS IN THE MILITARY, POLICIES AND PRACTICES IN FOREIGN COUNTRIES

JUNE 25, 1993.

Hon. JOHN W. WARNER,
U.S. Senate.

DEAR SENATOR WARNER: In response to your request, we performed a review of the policies concerning homosexuals in the militaries of 25 foreign countries, and a more in-depth review of both the policies and practices in four of these countries. The four countries—Canada, Germany, Israel, and Sweden—allow homosexuals to serve in the military. For these four countries, we gathered detailed information on their military policies, including the evolution of these policies; compared the military policies to civilian laws; determined whether the practices of the armed services are consistent with their policies; and discussed the experiences each country has had concerning homosexuals in the military.

The Canadian, German, Israeli, and Swedish military policies and practices regarding homosexuals developed as the result of circumstances unique to each country. Factors such as the rights of homosexuals, societal attitudes towards homosexuals, and the military's role in society appear to have had an impact on each nation's experiences. Various officials we interviewed said that their country's experiences cannot necessarily be reproduced by another country; however, insights can be gained from their experiences.

SCOPE AND METHODOLOGY

To obtain information on a broad range of foreign countries' laws, policies, and regulations governing the military service of homosexuals, we initially selected a sample of

29 countries which had active duty force levels over 50,000 in 1991. Four of the 29 countries did not wish to be included in this review or considered the issue too sensitive to address. For the remaining 25 countries, we obtained an official position on their laws, policies, and regulations concerning homosexuals in the armed services either through the U.S. embassies and foreign government officials in the respective countries or from the countries' embassies in Washington, DC. We also held discussions with some of the countries' embassy officials to clarify their laws, policies, and regulations.

For our detailed review, we selected Canada, Germany, Israel, and Sweden because these countries allowed homosexuals to serve in the military and met certain criteria regarding their cultural heritage, the size of theirarmed forces, and their recent combat or deployment experience. In addition, we attempted to include countries which represented a range of attitudes concerning homosexuality.

Our work in the four countries included discussions with mid- and senior-level military and government officials, former active duty military personnel, members of the reserve forces, representatives of veterans and homosexual advocacy groups, and academic experts. These groups provided a broad range of views concerning the treatment of homosexuals in the military. We also intended to talk to active duty officers and enlisted personnel at military headquarters and field units. However, of the four countries, only Sweden permitted us to interview active duty unit personnel. Nevertheless, our discussions with numerous other knowledgeable civilians and military personnel, representing a wide spectrum of opinions, gave us no indication that unit personnel would have provided a different perspective.

Appendix I discusses our scope and methodology in more detail. Appendix II describes the military policies concerning homosexuals for 21 of the 25 countries in our sample, including related information on the practices of some of the countries. Appendixes III through VI discuss the results of our in-depth review for the remaining four countries—Canada, Germany, Israel, and Sweden.

BACKGROUND

Congress is currently debating the President's proposal to lift the ban on homosexuals in the U.S. armed forces. As part of this debate, Congress has expressed an interest in foreign countries' military policies and experiences concerning homosexuals.

The 25 countries included in our review represent a wide range of cultures, religions, forms of government, and geographic locations. The four countries selected for our more detailed review—Canada, Germany, Israel, and Sweden—generally reflect Western cultural values yet still provide a range of ethnic diversity. Germany and Sweden have ethnically homogeneous populations. Israel's population is diverse, with immigrants from all over the world. The largest ethnic groups in Canada are people with British or French backgrounds, or some combination of the two. However, almost one-third of the population has other ethnic backgrounds.

Each of the four countries reviewed in detail has active armed forces that exceed 50,000 military personnel and has been involved recently in regional conflicts, United Nations peacekeeping missions, or both. Of the countries selected, only Canada has an all-volunteer military force. Germany's military consists of 57 percent volunteer forces, and the remaining 43 percent are conscripted.[1] Israel's and Sweden's forces primarily consist of conscripted military personnel, although they do maintain a small volunteer corps. All four countries allow women to serve in some capacity. Canada is the least restrictive in this regard, allowing women to serve in combat and non-combat roles; Germany is the most restrictive, allowing women to serve in only the medical and music corps.

Policies permitting homosexuals to serve in the military in these countries have been in place for a period of time ranging from 8 months in Canada to 45 years in Israel.

RESULTS IN BRIEF

While many countries have no specific law or military regulation on homosexuals serving in the military, of the 25 countries in our sample, 11 have policies that do not permit homosexuals to serve in the military, and 11 have policies that do. Three of the countries do not have any laws, regulations, or policies that address this issue and did not provide information regarding homosexuals serving in the military. Other variables may affect the service of homosexuals in the military. For example, most countries set standards of conduct applicable to all military personnel. Also, some countries place restrictions on known homosexuals who serve.

Of the four countries we reviewed in more detail, Canada, Israel, and Sweden have policies of not discriminating against homosexuals in the military. Germany imposes restrictions on homosexual volunteers. In all four countries, military policies concerning homosexuals developed over time, reflecting changes in civilian law and societal attitudes toward homosexuals. Most military officials and advocacy group representatives said that the countries' practices toward homosexuals in the armed services were consistent with military policies.

Military officials in all four countries said that the presence of homosexuals in the military is not an issue and has not created problems in the functioning of military units. A key factor, they said, was that homosexuals are reluctant to openly admit their sexual orientation for a variety of reasons. For example, (1) sexuality is considered to be a private matter, (2) homosexuals fear discrimination or negative reactions from their peers or superiors if they reveal their sexual orientation, and (3) homosexuals do not see any advantage to openly identifying their homosexuality. Military officials from Canada, Israel, and Sweden said that, on the basis of their experience, the inclusion of homosexuals in the military is not a problem and has not adversely affected unit readiness, effectiveness, cohesion, or morale. In Germany, military officials told us that problems associated with homosexual military personnel are dealt with on a case-by-case basis and their service is restricted if necessary.

POLICIES CONCERNING THE MILITARY SERVICE OF HOMOSEXUALS IN 25 FOREIGN COUNTRIES

Table 1 shows which countries do not permit homosexuals to serve and which do permit homosexuals to serve. The table also provides information on whether the country's military force consists of all volunteers, mostly conscripts, or some other combination of volunteers and conscripts. Volunteer forces generally are the source of career military personnel.

TABLE 1.—POLICIES CONCERNING MILITARY SERVICE OF HOMOSEXUALS IN FOREIGN COUNTRIES

County	Size of active force	Primary source of personnel	Policy allows homosexuals to serve[1]	Applicable laws, regulations, policies, and/or restrictions
Australia	68,000	All-volunteer	Yes	Military policy changed in November 1992.
Belgium	85,000	Both[2]	Yes	No specific law/military regulation.
Brazil	297,000	Both	No	No specific law/military regulation.
Canada	78,000	All-volunteer	Yes	Prohibition lifted in October 1992.
Chile	92,000	Both	No	Civilian law applies.
Colombia	134,000	Both	No	Military code applies.
France	453,000	Both	Yes	No specific law/military regulation.
Germany	476,000	Conscript	Yes	Civilian laws changed in 1969.
		Volunteer	No	
Greece	159,000	Conscript	No	Military regulation applies.
Hungary	87,000	Both	No	No specific law/military reg. Restrictions apply to volunteers.
Israel	141,000	Conscript	Yes	Military regulation on restrictions revoked in May 1993.
Italy	361,000	Conscript	No	Codified into law in 1985.
Japan	246,000	All-volunteer	(3)	No specific law/military regulation.
Peru	105,000	Conscript	No	No specific law/military regulation on acceptance. Military code applies regarding discharge.
Poland	305,000	Conscript	(4)	No specific law/military regulation.
Portugal	62,000	Both	Yes	Military laws modified in 1989.
Republic of Korea	600,000	Conscript	Yes	Military law applies.
Romania	201,000	Conscript	No	Civilian law applies.
South Africa	72,000	Both	(4)	No specific law/military regulation.
Spain	257,000	Both	Yes	Civilian laws revised in 1985.
Sweden	53,000	Conscript	Yes	Civilian law/military policy.
The Netherlands	92,000	Both	Yes	No specific law/military regulation. Military policy revised in 1974.
Turkey	579,000	Conscript	No	Military law applies.
United Kingdom	300,000	All-volunteer	No	Military law applies.

[1] Conscription is the requirement for a person to enroll for compulsory service in the armed forces.

TABLE 1.—POLICIES CONCERNING MILITARY SERVICE OF HOMOSEXUALS IN FOREIGN COUNTRIES—Continued

County	Size of active force	Primary source of personnel	Policy allows homosexuals to serve[1]	Applicable laws, regulations, policies, and/or restrictions
Venezuela	75,000	Both	No	Military law applies.

[1] When no specific law or regulation applies, the countries' officials informed us of the policy.
[2] The Belgium military is currently transitioning to an all-volunteer force.
[3] Japanese officials indicated the issue is handled on a case-by-case basis.
[4] Officials did not provide detailed information to enable us to make this determination.
Note.—Appendix II provides additional information concerning these military policies.

MILITARY POLICIES CLOSELY REFLECT CIVILIAN LAWS IN THE FOUR SELECTED COUNTRIES

Military policies regarding homosexuals in Canada, Israel, and Sweden closely reflect civilian laws. In these three countries, military policies are consistent with civilian laws and regulations for homosexuals. In Germany, both civilian laws and military policies do not specifically address homosexuality. However, the court system has allowed the military to place restrictions on homosexuals.

Canada's constitution and laws have been interpreted by the courts to prohibit discrimination based on sexual orientation. On the basis of a court case which applied this interpretation to the military, the Canadian Forces recently revoked its policy prohibiting homosexuals from serving. Civilian anti-discrimination laws now apply to the military.

Israel's 1992 labor law prohibits discrimination against homosexuals in the workplace. Until May 1993, an Israeli military policy restricted known homosexuals from certain assignments in the military. Israel rescinded this policy and now places no restrictions on the recruitment, assignment, or promotion of homosexual soldiers and civilians due to their sexual inclination.

A 1987 Swedish law prohibits discrimination based on sexual orientation and makes it illegal for individuals to make derogatory comments about a person's homosexuality. The country's military policy concerning homosexuals parallels civilian law and prohibits discrimination against homosexuals.

The German constitution provides for basic civil rights and equality of all people, but German law does not specifically address sexual orientation. German military policy states that military personnel may be discharged for "suitability" reasons. Although the policy does not refer specifically to homosexuals, the military has interpreted the policy as applying to them. German courts have upheld this interpretation. As a result, the policy essentially gives the military flexibility in dealing with homosexuals by allowing the military to discipline or discharge a homosexual service member based on the individual's behavior, time in service, and status (conscript or volunteer).

MILITARY POLICIES CONCERNING HOMOSEXUALS HAVE EVOLVED

In all, four countries, military policies concerning homosexuals have developed over time. These policy changes were usually preceded by changes in civilian laws, reflecting the attitudes of the society at large. As society showed increased acceptance of homosexuals, the military tended to follow.

Canada has modified its military policy over the past 7 years to remove all restrictions on homosexuals. In 1986, the Canadian Forces began to reevaluate its policy of excluding homosexuals from the military. The review was prompted by the adoption of the equal rights provision of the country's new constitution. During this review, the military instituted an interim policy in 1988 that allowed homosexuals to serve, but with restrictions. In 1992, a court ruled that the military's policy concerning homosexuals was unconstitutional, and the military revoked its policy and removed all restrictions on homosexuals.

Germany's military policy has been modified over the past 24 years, although it does not grant homosexuals total equal rights. The German armed forces began permitting homosexuals to serve in 1969, when the penal code was revised to decriminalize homosexual acts[2] for males ages 21 and over. In 1987, Germany's Federal Administrative Court ruled that homosexual orientation alone was not sufficient grounds for revoking security clearances, and the military has since changed its policy accordingly. In 1990, this same German court found that the German military is justified in not allowing homosexuals to serve in leadership or educational positions.

Israel has no constitution or bill of rights; however, a number of basic laws, together, serve that purpose. The Israeli military has allowed homosexuals to serve since the country was founded in 1948. Under a 1983 military regulation, however, homosexuals were prohibited from serving in intelligence positions requiring top security clearances. The regulation also required identified homosexuals to undergo a psychological examination to determine their ability to serve. However, we were told that in practice those policies were never formally implemented. Recently, Israeli society has become more accepting of homosexuality and has increasingly recognized homosexual rights. Homosexual acts were decriminalized in 1988, and discrimination against homosexuals in the workplace was outlawed in 1992. In May 1993, the military adopted a policy that no restrictions will be placed on the recruitment, assignment, or promotion of homosexuals due to their sexual inclination.

Sweden modified its military policies over a period of 11 years before arriving at the current policy of not discriminating against homosexuals. The military had automatically exempted homosexuals from military service until 1976. In 1979, when the National Board of Health and Welfare removed homosexuality from its Classification of Illnesses Handbook, the military stopped considering homosexuality as an illness. The military, however, continued to annotate the file records of homosexual individuals. This practice was halted in 1984 when a Parliamentary commission concluded that homosexuality must not disqualify an individual from serving in the armed forces. In 1987, Sweden passed its law prohibiting discrimination against homosexuals. The law also applies to the armed forces.

NO APPARENT INCONSISTENCY BETWEEN MILITARY POLICIES AND ACTUAL PRACTICES TOWARD HOMOSEXUALS

Discussions with numerous government officials, private groups, and individuals indicated that military practices in Canada, Germany, Israel, and Sweden were consistent with military policies concerning homosexuals. In Canada and Sweden, military officials and others said the armed forces comply with their policies. Homosexual rights groups in Canada were satisfied with the military's policies and practices. While one homosexual rights group in Sweden believed that despite the military's anti-discrimination policy, homosexual officers may be denied career opportunities, the group could provide no supporting evidence. The other major Swedish homosexual rights group we interviewed did not believe homosexuals were discriminated against in the military.

German military officials said they deal with homosexuals on a case-by-case basis, in accordance with the flexibility provided under their policies. How each case is handled, they said, hinges on such factors as whether the individual is a conscript or volunteer, the individual's rank and time in service, and whether the individual exhibits homosexual orientation or engages in homosexual behavior. Depending on the circumstances, a homosexual soldier may not be punished at all, may be restricted from certain assignments, or may be disciplined in some other way. In practice, according to German military officials homosexuals may serve as conscripts in the military if medical personnel determine during the induction screening that the individual's sexual orientation does not prevent them from functioning effectively in a military environment;

Volunteers (officers and noncommissioned officers) who declare their homosexuality during induction are not accepted, and those already in military service may be removed from assignments involving leadership, training, and educational tasks; and

Individuals who engage in homosexual activity while on duty may be subjected to a range of disciplinary actions to include discharge.

While German military officials acknowledge that some of their policies and practices constitute discrimination, they believe this is justified in order to maintain good order and discipline in the armed forces.

According to military officials, Israel's practice toward homosexuals were less restrictive than its policies at the time of our review (before the current policy was instituted on May 18, 1993). For instance, according to military officials and others (including reserve officers), the 1983 regulation prohibiting the assignment of homosexuals to intelligence positions requiring security clearances was never formally implemented. According to officials, homosexuals were found to be capable of doing their jobs without problems, and therefore it did not make sense to enforce this regulation. With the recent revision of this policy, practices and policies are more consistent.

FEW HOMOSEXUAL MILITARY PERSONNEL OPENLY IDENTIFY THEIR SEXUAL ORIENTATION

According to defense officials, military personnel, and representatives of homosexual advocacy groups, there are some openly homosexual military personnel in the

[2] Homosexual acts are defined differently depending on the country, but generally refer to sexual acts between same gender partners.

armed forces of the four countries; however, homosexuals tend not to openly admit their sexual orientation. Military officials and others we talked to in all four countries said a central reason is that these countries consider a person's sexuality a private matter. Other reasons varied from country to country and included: (1) homosexuals fear discrimination or negative reactions from their peers or superiors if they reveal their sexual orientation; (2) younger soldiers who feel they may be homosexual may still be struggling with their sexual orientation; (3) homosexuals do not see any advantage to openly identifying their homosexuality; and (4) many service members serve in close proximity to their homes and can maintain their private lives.

Even though most homosexuals in the military do not openly identify their sexual orientation, some defense officials and others we interviewed said once a homosexual member of the armed forces has established a professional reputation and gained the respect of coworkers, the person may feel more comfortable in revealing his or her sexual orientation to them. In Israel, for example, we talked to a number of reserve military personnel who said that on active duty they served openly as homosexuals, still received promotions, an were not restricted in their assignments.

FOREIGN MILITARIES REPORT NO ADVERSE EFFECT BECAUSE PRESENCE OF HOMOSEXUALS IS NOT AN ISSUE

Military officials in Canada, Germany, Israel, and Sweden said that the presence of homosexuals has not created problems in the military because homosexuality is not an issue in the military or in society at large. We were told that a key reason the presence of homosexuals is not an issue in these countries' militaries is that few homosexual military personnel openly identify their sexual orientation, as discussed earlier. For example, a 1984 report on homosexuality by Sweden's Parliament stated that "the silence surrounding homosexuals and homosexuality is virtually total." Swedish military personnel at all levels agreed that this silence is pervasive in the military.

Military officials from each country said that, on the basis of their experience, the inclusion of homosexuals in their militaries has not adversely affected unit readiness, effectiveness, cohesion, or morale. For example, Israeli officials said that homosexuals have performed as well as heterosexuals and have served successfully in all branches of the military since 1948. In Canada, where problems in these areas were predicted, military officials said none had materialized since the revocation of the policy banning homosexuals. They attributed the lack of problems to the military leadership's support of the new policy and the military's ability to keep a low profile on the issue. German military officials said that their policies prevent problems because they allow for flexibility in dealing with homosexual individuals, and their services is restricted if necessary.

We are sending copies of this report to the Chairmen of the Senate and House Committees on Armed Services, to the Secretary of Defense, and to the Secretary of State. We will also make copies available to others on request.

This report was prepared under the direction of Mark E. Gebicke, Director, Military Operations and Capabilities Issues, who may be reached on (202) 512-5140 if you or your staff have any questions. Other major contributors to this report are listed in appendix VII.

Sincerely yours,

FRANK C. CONAHAN,
Assistant Comptroller General.

APPENDIX I

OBJECTIVES, SCOPE, AND METHODOLOGY

At the request of Senator John W. Warner, we performed a review of the policies concerning homosexuals in the militaries of 25 foreign countries, and a more in-depth review of the policies and practices in four of these countries to obtain a perspective of their experiences.

To obtain information on a broad range of foreign countries' laws, policies, and regulations governing the military service of homosexuals, we initially selected a sample of 29 countries which had active duty force levels over 50,000 in 1991. Four of the 29 countries did not wish to be included in this review or considered the issue too sensitive to address. For the remaining 25 countries, we obtained official information on their laws, policies, and regulations concerning homosexuals in the armed forces either through the U.S. embassies in the countries or from the countries' embassies in Washington, D.C. We also held discussions with some of the countries' embassy officials to clarify their laws, policies, and regulations.

In selecting the countries for a more detailed review of policies and practices, we attempted to capture a range of attitudes toward homosexuality. Other criteria we used included: (1) predominance of Western cultural values; (2) military forces exceeding 50,000; and (3) recent military combat and/or deployment experience (for example, participation in the Persian Gulf War, regional conflicts, or United Nations peacekeeping missions). On the basis of these criteria, we selected Canada, Germany, Israel, Sweden, and France. During the initial phases of our review, French government officials informed us that they did not wish to provide us information on this topic. As a result, we excluded France from the in-depth phase of this review.

We gathered detailed information on the military policies of Canada, Germany, Israel, and Sweden, including the evolution of these policies; compared the military policies to civilian laws; and determined whether the practices of the armed services are consistent with their policies. However, we did not attempt to describe the circumstances surrounding the development of these laws and policies. In addition, we discussed the experiences each country has had concerning homosexuals in the military with military personnel, veterans and homosexual advocacy group representatives, academics, and U.S. embassy personnel.

Canada, Germany, and Israel did not permit us to interview active duty unit personnel. They provided the following reasons:

Canadian officials cited the recent change in policy and their intent to keep a low profile on the issue. They believed that the military leadership would have more flexibility in implementing this policy if the issue remained low-key.

Germany's chief of protocol said that "an official visit to units would serve no purpose."

Israeli officials said our presence could be a disruption and preferred to maintain a low profile on this issue. Israeli officials felt that homosexuals were not an issue in the military and wanted it to remain that way.

To obtain a list of credible government and military officials, homosexual and veterans advocacy groups, and academic sources to interview in each foreign country, we contacted:

The countries' Auditors General;

U.S. government agencies, professional societies, and individual experts in a variety of fields, including the Congressional Research Service; the Army Research Institute; Walter Reed Army Hospital; the American Psychiatric Association; the American Sociological Society; the American Psychological Association; the American Ethnological Association; the American Anthropological Association; Lawrence Korb, a military analyst at the Brookings Institute; Charles Moskos, a military sociologist at Northwestern University; and Lieutenant General (Ret.) Bernard Trainor, Director of the National Security Program at Harvard University;

Public opinion polling experts, including World Association for Public Opinion Research, the Gallup Organization, and Roper Institute;

U.S. veterans associations, including the American Legion, Veterans of Foreign Wars, Association of the United States Army, Noncommissioned Officers Association, Retired Officers Association, the Military Coalition, and the Air Force Association; and

U.S. homosexual advocacy groups, including the Human Rights Campaign Fund, Campaign for Military Service, Military Freedom Initiative, International Gay and Lesbian Human Rights Commission, International Lesbian and Gay Association, National Gay and Lesbian Task Force, the Gay and Lesbian Foreign Service Association, the Federal Gay, Lesbian, and Bisexual Employees.

After we obtained a list of contacts for each country, we supplied the list to the respective U.S. embassy to verify the contacts' credibility within the country.

Specifically, we interviewed the following sources in each country:

Canada

In Canada, we interviewed officials from the U.S. embassy; the Department of National Defense's Personnel Policy Division; the Department of Justice's Human Rights Law Section; Canadian Human Rights Commission; the only open homosexual member of Parliament; a member of Parliament who belongs to the Progressive Conservative Party and is opposed to the new policy; the Canadian Auditor General; Statistics Canada, which tabulates government data; the Conference of Defense Associations, a veterans umbrella group, consisting of 22 organizations; Pink Triangle Services, a local homosexual advocacy group; and Equality for Gays and Lesbians Everywhere, the only national homosexual advocacy group. We also interviewed a cultural anthropologist from Criterion Research Corporation; Michelle Douglas, a former military officer whose court case forced the military to change its policy;' a political scientist from the University of Toronto who specializes in homosexual rights; a political scientist from the University of Toronto who specializes in polling data; a representative from Gallup Canada, Inc.; and a military sociologist under contract to the U.S. Army Research Institute to analyze the impact of Canada's new policy on homosexuals.

In Washington, D.C., we interviewed the former Canadian Chief of the Defence Staff, the key military official responsible for implementing the court's decision to allow homosexuals to serve in the military.

Germany

In Germany, we interviewed representatives from the U.S. embassy; the Ministry of Defense's personnel, health, and legal divisions; the Department of the Navy; the Bundestag (the German Parliament); the Ministry of Justice; the Deutscher Bundeswehr

Verband e.V., an association representing the views of active duty and retired members of the armed forces; the Catholic and Protestant churches; and the Schwulenverband in Deutschland and the Bundeverband Homosexualität, two homosexual advocacy groups in Germany. We also interviewed a professor conducting research for the U.S. Army Research Institute on Germany's military policy regarding homosexuals and a University of Frankfurt sexologist who is an expert on German sexuality and sociological trends.

Israel

In Israel, we interviewed officials from the U.S. embassy and the Israeli Defense Forces, including the Chief of Security, who was responsible for drafting the military's new regulation on homosexuals, and the head of the Mental Health Department; a member of the Israeli Knesset (equivalent tothe U.S. Congress) who has held public hearings on homosexuality in Israel; officials from the Society for the Protection of Personal Rights, the leading homosexual rights group in Israel; an attorney of the Association for Civil Rights in Israel, the country's primary civil rights group; the Director of the Israeli Institute for Military Studies, who was a former Chief Psychologist of the Israeli Defense Forces and is a specialist on cohesion and battlefield stress; the President of the Israel Psychological Association, the only body of professional psychologists in Israel; a pollster frequently used by the U.S. embassy; and a sociologist at the Jerusalem-based Israel Institute of Applied Social Research. Several Israelis we spoke with were either retired military officers or still in the reserves. In addition, we confidentially interviewed 11 homosexual and heterosexual reserve corps and retired Israeli Defense Forces military personnel to obtain first-hand information on their experience.

We attempted to identify organizations that oppose homosexuals in the Israeli military, but were told by several sources, including U.S. embassy officials, that there were none.

Sweden

In Sweden, we interviewed officials from the U.S. embassy and the Swedish Defense Personnel Division of the Joint Defense Staff and the National Services Administration Enrollment Office and Medical Board; senior military officers, 15 active duty unit-level officers and 27 conscripts at Air Force, Army, and Navy facilities; a member of Parliament from the Liberal Party who chairs the Parliamentary Commission on Registered Partnerships and is the former Director of the National Board of Health and Welfare; a member of Parliament from the Moderate Party who is the Vice-Chair of the Human Resource Council of the Swedish Defense; a member of Parliament from the Christian Democrat Party who opposes passage of legislation permitting registered partnerships; and an official from the Office of the Ombudsman Against Ethnic Discrimination. We also interviewed the President and other representatives of the Swedish Federation for Gay and Lesbian Rights, the most prominent advocacy group for gays, lesbians, and bisexuals; the President of Gay Moderaterna, and independent gay conservative organization that works both domestically and internationally to achieve equal rights for homosexuals; a social researcher with the Institute for Social Policy and the Department of Social Work of the University of Gothenburg; the Director of the Swedish Institute for Sexual Research; the Chairman and the Project Officer of the Central Council of Conscripts, whose members are elected by their peers to represent the conscripts before the Swedish Defense Force; and the President of Noah's Ark-Red Cross Foundation, founded to work with the prevention of HIV disease and to support those who are HIV-infected.

Officials from the homosexual advocacy groups and the U.S. embassy were unable to identify any organizations that were opposed to the admission of homosexuals into the military. In addition, the homosexual advocacy groups were unable to locate retired or active duty homosexual military personnel who were willing to meet with us.

We conducted our review from March to May 1993 in accordance with generally accepted government auditing standards. We discussed the results of our review with U.S. officials at the Departments of State and Defense.

APPENDIX II

FOREIGN COUNTRIES' POLICIES ON HOMOSEXUALS IN THE MILITARY

Australia

Although the Australian Defence Force did not have an official ban on admittance of homosexuals into the military (upon entry, recruits were not questioned about their sexual orientation), a 1986 military policy provided guidance to commanding officers in handling cases where a member of the armed forces was identified as homosexual. Under this policy, when a soldier declared his or her homosexuality or was found to be homosexual, the soldier was discreetly asked to resign and usually complied. Otherwise, the service would initiate actions to terminate the individual's military career.

In November 1992, the Australian government ended this policy of prohibiting homosexuals from serving in the military. The new military policy on unacceptable sexual behavior applies to all service members regardless of sexual orientation. The policy states that the passage of human rights legislation, in particular the Sex Discrimination Act and the Human Rights and Equal Opportunity Commission Act, necessitated the development of a policy on unacceptable sexual behavior.

An embassy official told us that Australia does not have laws prohibiting sodomy that would have conflicted with implementing the new policy. Implementation of the new policy is the responsibility of individual commanders. We were told that command briefings were held throughout the chain of command to implement the new policy. Implementation is monitored routinely through the chain of command.

An Australian official stated that although it is too early to assess the results of the revised policy, no reported changes have occurred in the number of persons declaring his or her sexual preference or the number of recruits being inducted. Effects on unit cohesiveness have not yet been fully determined. However, early indications are that the new policy has had little or no adverse impact.

Belgium

Belgium has no laws or regulations regarding the service of homosexuals into the military. Embassy officials stated that in practice homosexuality does not constitute grounds for exclusion or dismissal from the Belgian armed forces unless there is evidence of a psychopathic disorder such as sexual perversion. During recruitment, the military does not ask an individual's sexual orientation. If homosexuality is discovered after enlistment, however, commanders may restrict the individual's duty assignments. For instance, limitations may be placed on the person's access to classified information, or the person may be excluded from certain tasks or units. In addition, we were told improper sexual conduct among members of the armed forces is not tolerated.

Brazil

Although Brazilian law does not contain any specific reference to homosexuality, Brazilian embassy officials informed us that homosexuals who exhibit behavior which degrades the appropriate military decorum and military honor are barred from military service. Moreover, the Statute of the Military governs a pattern of behavior to be adhered to by all personnel while they are on and off duty. An individual found guilty of engaging in libidinous acts, including homosexual acts, while on duty or on base is considered to be in violation of the penal code and subject to punishment, including possible discharge.

Canada

Detailed information on Canadian policies and practices regarding homosexuals serving in the military is presented in appendix III.

Chile

The Chilean constitution does not specifically refer to sexual conduct or activities contrary to moral principles. Moreover, article 365 of the civilian penal code declares sodomy a crime against family order and public morality punishable by imprisonment. Because sodomy is a crime under the civilian penal code, neither the code of military justice nor the internal regulations of the various armed services deal with this subject. Nonetheless, there exists a longstanding military policy that persons found to have "some kind of abnormal conduct or deviance, such as homosexuality, alcoholism, drug addiction. . .," are rejected for military service.

Colombia

Known homosexuals are excluded from serving in the Colombian military. Article 184 of Colombia's Code of Disciplinary Action for the Military Forces describes offenses against military honor, which is understood to be a combination of moral and professional qualities. Among the offenses identified in the disciplinary code is "to associate oneself with or maintain obvious relations with persons that have a previous criminal record or are considered criminals of whatever category or are antisocial like drug addicts, homosexuals, prostitutes, or pimps." Engaging in homosexual acts is considered to be an offense against military honor.

France

The French government informed us that there are no specific laws, regulations, or written policies which deal specifically with homosexuals serving in the French military. Officials did not provide additional information on homosexuals serving in their military. However, in 1992, we reported that although homosexuals serve in the French armed forces, certain restrictions may apply to an individual's duty assignments.[1]

Germany

Detailed information on German policies and practices regarding homosexuals serving in the military is presented in appendix IV.

Greece

According to military regulation, known homosexuals are barred from serving in the

[1] *Defense Force Management: DOD's Policy on Homosexuality* (GAO/NSIAD-92-98, June 12, 1992).

Greek armed forces. Upon initial screening, potential recruits are asked a series of questions to determine their suitability for service in the military. If an individual is found to have "psychosexual disorders," the term used for homosexuality, the recruit is considered unfit for service. After 2 years, the individual must return to the induction center for another evaluation. At that time, following a final screening, if an individual is still considered to be homosexual, the individual's military obligation is complete. Military personnel, including both officers and enlisted personnel, found to be engaging in homosexual acts while on active duty are discharged from the service on grounds of a "psychological disorder."

Hungary

Although Hungary has no specific laws on the acceptance of homosexuals into the armed forces, the Hungarian Ministry of Defense provided information that stated military personnel discovered to be homosexual may be discharged from the Hungarian Defense Forces. A conscript who claims to be a homosexual during the induction screening process is referred for a psychiatric evaluation. If the medical personnel declare an individual to be homosexual, that person is not considered qualified and receives an exemption.

If conscripts, who serve only 1 year, do not acknowledge their homosexuality during the induction screening process but are later discovered to be a homosexual, no effort is made to remove them from the military unless some other law is violated. In contrast, officers who are discovered to be homosexual are subject to dismissal. At least one officer was dismissed under this policy.

Israel

Detailed information on Israeli policies and practices regarding homosexuals serving in the military is presented in appendix V.

Italy

Current law prohibits homosexuals from serving in the Italian armed services. Individuals who declare their homosexuality during the draft enrollment process, or whose pre-induction psychological interview indicates homosexuality, whether acknowledged by the conscript or not, are barred from entering military service. If a soldier's homosexuality is discovered after enrollment, the soldier is administratively declared unfit for service and discharged.

Japan

No written regulations or policies exist regarding service of homosexuals in the Japanese Defense Force. However, Japanese embassy officials said the lack of any written regulations or policies does not necessarily constitute acceptance of homosexuality in the military. On the contrary, within the overall Japanese society, homosexuality is a subject which is not openly discussed. Known homosexuals might not be selected to enter the military, according to Japanese government officials, and persons found engaging in homosexual activities while in the military could be reassigned.

Peru

Although Peru's military code does not specifically prohibit homosexuals from joining the armed services, military recruiters routinely reject those they suspect of being homosexual. In addition, under article 269 of the Military Code of Justice, officers found to have committed homosexual acts are to be discharged, while enlisted personnel are subject to discharge and a prison term. If the officer's offense includes violence, threats, or abuse of authority, or involves any other type of coercion, then the officer is also subject to a prison term.

Poland

Poland does not have any special laws, regulations, or policies regarding homosexuals in the armed services.

Portugal

Following the revision of military service laws in 1989, there no longer exists any regulation that prohibits homosexuals from serving in the Portuguese armed services. As a result, homosexuals are theoretically permitted to serve without any career restrictions or discrimination.However, homosexuals who show signs of mental illness during the induction screening process may be excluded, according to Portuguese military officials.

Republic of Korea

Although Korea does not have specific laws on homosexuality, there are military and civilian laws governing sodomy and other sexual activities. Article 92 of the Korean Military Criminal Law prohibits certain sexual activity between soldiers, regardless of consent and regardless of whether the sexual activity is between two men, two women, or a man and a woman. If found in violation, persons are expelled from military service and are subject to a prison term. In contrast, civilian laws (articles 298, 299, and 245) which govern indecent sexual acts by force, sexual exploitation, and sexual acts in public apply only if no consensual agreement exists between the two people involved.

Recruits are not asked about their sexual orientation upon entry into service. An embassy official said it is a constitutional obligation for all healthy, able-bodied men to serve their country for a period of 2-½ years. Conscripts who declare their homosexuality are still required to serve. However, a commanding officer who knows of a conscript's sexual orientation may limit the soldier's duty assignments.

Romania

Under Romania's civil penal code, the practice of homosexuality is illegal. Homosexual acts in the military are punishable with a 1-to 5-year prison term. Further, if a member of the armed services declares that he is a practicing homosexual or is accused of engaging in homosexual acts, a trial is held to determine whether the civilian penal code has been violated. U.S. Department of State officials stated that because of the legal hurdles and complications, homosexuality is considered a non-issue in Romania's military.

South Africa

According to the South African Defense Force, there are no written laws, regulations, or policies regarding the service of homosexuals in the military.

Spain

Prior to the 1985 revision of civilian law to decriminalize homosexual activities, persons who committed improper sexual behavior would have been subject to a maximum penalty of a 6-year prison term. The Spanish government no longer considers being homosexual a crime, but certain sexual behaviors are still subject to prosecution, according to current civilian laws. Sexual behavior which is subject to prosecution includes indecent exposure, engaging in sexual activities with minors or with mentally incapacitated persons, or any type of non-consensual sexual activities. Civilian laws apply to the behavior of both homosexuals and heterosexuals.

Sweden

Detailed information on Swedish policies and practices regarding homosexuals serving in the military is presented in appendix VI.

The Netherlands

Article 1 of the Constitution of the Netherlands prohibits discrimination on the basis of religion, convictions about life, political affiliation, race, sex or on any other grounds. According to embassy officials, this includes sexual orientation. Other Dutch legislation elaborates on this principle, as a result, government policy, including military policy, explicitly prohibits unequal treatment based on the knowledge of an individual's sexual orientation. Individuals are to be judged on the basis of performance and conduct. Only when improper sexual behavior, heterosexual or homosexual, interferes with the proper performance of duties and discipline is action to be taken on the basis of Dutch military criminal disciplinary law.

Upon entering military service, an individual is not asked questions relating to sexual orientation. If the individual discloses a homosexual orientation, this information is not recorded in the individual's files. Dutch officials told us that they do not consider it relevant to a soldier's ability to carry out his or her duties. For this reason, the number of homosexuals in the Dutch armed forces is not recorded. However, a September 1992 study by the Netherlands Institute for Social and Sexological Research showed that 0.9 percent of male military personnel and 3.5 percent of female military personal regard themselves as homosexual.

A goal of the Dutch Ministry of Defence's policy is to actively create conditions within the armed forces that every employee is able to function optimally. With regard to homosexuals, this involves enhancing their acceptance and integration in the armed forces. In 1991, the Ministry of Defence (1) initiated a policy that made awareness of homosexuality a subject of initial training and education programs for new recruits, (2) expanded the expertise of social workers in dealing withhomosexuality-related problems, and (3) expanded general information program within the armed forces on the subject of the nondiscriminatory policy of the Ministry of Defense. Furthermore, the Advisory and Coordination Committee on Homosexuals in the Armed Forces advises the Minister of Defense on subjects pertaining to homosexuality. Participation on this committee are representatives of the armed forces and the Directorate-General of Personnel.

Despite these efforts, the Ministry of Defence acknowledges that the goal of full integration has not been reached. While explicit discrimination has become rare, heterosexuals still tend to keep homosexual colleagues at a distance, thereby excluding them from the atmosphere of comradeship that is of importance for cohesion within military units. Homosexuals continue to keep their sexual orientation private to avoid adverse reactions from colleagues.

Dutch military officials have emphasized that acceptance of homosexuals within the military, while not complete, has reached a point that their presence rarely becomes an issue. Naval commanders have noted that homosexuals and heterosexuals on board ship are subject to the same standard of conduct, namely, that sexual contact of any kind is not permitted. Where this standard is not upheld, disciplinary action, usually transfer of one or both individuals, is taken.

Turkey

The Turkish armed forces prohibits known homosexuals from serving. Homosexuality is

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regarded as immoral behavior, and military personnel discovered to be homosexuals are discharged from duty on charges of indecency, according to an article of the military penal code. The individual does not face further prosecution once this has occurred.

Traditional moral values governing Turkish social life do not tolerate homosexuality. The armed services view homosexuality as indecent behavior that degrades the honor, dignity, and credibility of the military.

United Kingdom

Under section 1 of the Sexual Offenses Act of 1967, an act of buggery or gross indecency between two, but no more, consenting males over age * * * in private ceased to be a criminal offense in the civil sector. However, an act remains an offense under the service discipline acts—the Naval Discipline Act 1957, the Army Act 1955, and the Air Force Act 1955. Homosexuals committing such offenses are therefore excluded from service in the United Kingdom's armed forces. (Lesbians are similarly excluded, although lesbianism is not, and never has been, a criminal offense in the United Kingdom.)

The service discipline acts are reviewed every 5 years. During the last review in 1991, the House of Commons Select Committee on the Armed Forces Bill recommended, and the Ministry of Defence accepted, that homosexual acts which are legal in civilian law should not constitute an offense under military law. Therefore, a member of the armed forces found to engage in a legal homosexual act will not be prosecuted under military law, but will be administratively discharged. However, a service member could still be prosecuted under military law if it is found that the act disgraced or discredited military decorum.

Upon entry into the British armed forces, the individual is provided a pamphlet entitled "The Armed Forces, Your Rights and Responsibilities." The pamphlet clearly states that homosexuality and homosexual behavior are not compatible with service life. Further, it states that if a person engages in homosexual acts, he or she may not be prosecuted under service law, depending upon the circumstances, but the person will be dismissed.

From approximately 1986 to 1991, 9 servicemen were dismissed from the Navy, 22 from the Army, and 8 from the Royal Air Force following conviction for an offense involving homosexual activity. Another 296 servicemen were discharged as a result of administrative action—no formal disciplinary charges were brought against them.

Venezuela

Regarding service of homosexuals in the military, Venezuelan officials responded, "The Military Legislation of the Venezuelan Armed Forces is clear and it does not admit homosexuals in the military."

APPENDIX III

CANADA

Canada has only recently revoked its policy prohibiting homosexuals from serving in the military. While it is too early to predict the long-term consequences of lifting the ban, the military did not experience any problems in the first 6 months since the new policy took effect in October 1992, according to Canadian officials and others we interviewed. Department of National Defence (DND) officials believe the Canadian Forces has made a smooth transition in implementing the new policy because of the military leadership's active support and enforcement of the policy and because of steps taken to keep it a low-profile issue. In addition, the Canadian people had already acknowledged the rights of homosexuals in civilian law and perceived the change as bringing military policy in line with civilian laws. Figure III.1 summarizes the development of civilian and military policies concerning homosexuals.

[Figure III not reproducible in RECORD.]

Background

According to the 1991 census, Canada has a population of approximately 27 million. The largest ethnic groups are people with British or French backgrounds or some combination of the two. However, almost one-third of the population has other ethnic backgrounds. The majority of Canadians are either Roman Catholic or Protestant. While most Canadians report a religious affiliation, a much smaller proportion regularly attends church.

The Canadian Forces, an all-volunteer military force, consists of approximately 77,800 active forces and 33,700 reserves. Men constitute 86 percent of the force and women 14 percent. Women are permitted to serve in combat and noncombat positions. Military personnel can be assigned to one of the many military bases throughout the country and therefore do not necessarily serve close to their homes.

According to a Department of National Defence document, Canadian Forces are committed to 16 peacekeeping operations and 4 related operations. These operations involve the deployment of Canadian Forces personnel to a wide variety of countries, such as Cambodia, Cyprus, El Salvador, India, Jordan, Korea, Lebanon, Somali, and the former Yugoslavia.

Canadian law prohibits discrimination on the basis of sexual orientation

Canadians believe that equality is one of their basic values, and this belief is reflected in their constitution and legislation. Canada's laws provide protection of equality rights and prohibit discrimination on the basis of sexual orientation. Homosexual rights have developed over time, marked by the following key events:

In August 1969, the Canadian government revised the criminal code to decriminalize sodomy.

In August 1977, Parliament passed the Canadian Human Rights Act, which states that "race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability and conviction for which a pardon has been granted are prohibited grounds of discrimination." The act does not specifically address sexual orientation.

In December 1977, Quebec's provincial legislature added sexual orientation to its list of illegal grounds for discrimination in its Charter of Human Rights. Quebec thus became the first Canadian jurisdiction—federal, provincial, or municipal—to explicitly prohibit discrimination based on sexual orientation.

In April 1982, Canada adopted the Charter of Rights and Freedoms as part of the country's constitution. Section 15, the equality rights provision of the Charter, went into effect in 1985.[1] The provision states: "Every individual is equal before and under the law and has the right to the equal protection and benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability." Like the Canadian Human Rights Act, section 15 does not specifically address sexual orientation.

In February 1989, the Supreme Court of Canada ruled that section 15 was to be interpreted broadly, and that analogous grounds or other characteristics that form the basis for discriminating against a group or individual will be entitled to protection under the provision. In the few cases that have dealt with the issue, most courts have ruled that sexual orientation is an illegal basis for discrimination.

In May 1990, the Federal Court of Appeal acknowledged in a court case that "it is the position of the Attorney General of Canada that sexual orientation is a ground covered by section 15 of the Charter [of Rights and Freedoms]."

In August 1992, the Court of Appeal for Ontario determined that the Canadian Human Rights Act should be interpreted to include sexual orientation as an illegal basis of discrimination. As of May 1993, the Department of Justice was sponsoring a bill that would amend the act to include sexual orientation as an illegal basis of discrimination.

Although sexual orientation is an illegal basis for discrimination, Canada does not officially recognize homosexual marriages and adoptions, and does not recognize partner benefits for homosexual couples. However, as a result of the Ontario Court of Appeal decision, Department of Justice officials said that new court cases have been brought forward which challenge the government's stance on partner benefits.

Homosexuals recently allowed to serve in the military

Until recently, the Canadian Forces prohibited homosexuals from serving in the military. Its former policy stated: "Service policy does not allow homosexual members or members with a sexual abnormality to be retained in the Canadian Forces." The policy also required military personnel to report to their superiors other soldiers whom they suspected or discovered were homosexual. DND began to reevaluate its policy in 1986, and the policy was amended in 1988. In 1992, the Federal Court of Canadadeclared that the Canadian Forces' policies restricting the service of homosexuals were contrary to the Charter of Rights and Freedoms. As a result, the Canadian Forces revoked its policies and removed all restrictions on homosexuals. Civilian anti-discrimination laws now apply to the military. DND officials said they are also revising related policies, including those concerning inappropriate sexual conduct, personal relationships, and harassment. According to these officials, the standards of conduct for homosexual members will be identical to those for heterosexual members.

According to DND officials, the Canadian Forces does not recognize homosexual marriages or extend partner benefits to homosexual couples. DND officials plan to make no changes to this policy until the civilian government resolves these issues.

Series of events led to the lifting of the ban on homosexuals

Soon after section 15 of the Charter of Rights and Freedoms went into effect, a DND official said that a number of service members filed discrimination lawsuits against the Canadian Forces. In 1986, DND began to reexamine its exclusionary policy on homosexuals, initiating a series of steps that led to the revocation of the policy.

In February 1986, the Canadian Forces removed the requirement that military personnel report a suspected or known homosexual member of the Canadian Forces to their commanding officer. In January 1988, as DND continued to review its ban on homosexuals, it created an interim policy. The interim policy stated that: "Administrative action

[1] Parliament authorized the 3-year delay to allow governments time to bring their laws in line with the Charter.

might be taken to release a member of the Canadian Forces who acknowledges that he or she is a homosexual and the member concerned does not object to being released. If the member did not agree to be released he or she would be retained with career restrictions which, . . . would have meant [he or] she was ineligible for promotion, for conversion of [his or] her existing terms of service, for posting outside the geographic area, for transfer to the reserve force or for any further qualification courses or training except that required to carry out restricted employment."

In their policy review, DND officials confronted a number of concerns that had been raised about homosexuals serving in the military. These concerns fell into the following areas: security, health, unit cohesion and morale, privacy, recruitment, and discipline. The officials said that they were unable to justify continuing the ban on the basis of any of these concerns. For example:

Concerns had been raised that homosexuals presented a security risk because they could be blackmailed on the basis of their sexual orientation. DND determined that homosexuals are not considered to be a greater security risk than heterosexuals. A DND official said that security classifications are now made on a case-by-case basis and that no assumptions are made about an individual's security risk based on sexual orientation.

Another argument for the ban was that the presence of homosexuals would disrupt unit cohesion and morale. DND officials said that they could not find compelling statistical evidence or research data to support this view, which they felt was needed because the courts do not defer to military expertise or opinion.

On the basis of the policy review, the military's senior leadership concluded that the policy excluding homosexuals should change. In 1991, DND attempted to administratively revoke the policy, but a group from the Progressive Conservative Party of Parliament blocked the proposal.

On October 27, 1992, a Canadian court ruled in favor of a former military officer, a homosexual, who had claimed in a lawsuit that the Canadian Forces discriminated in discharging her on the basis of her sexual orientation. The court stated that the "[Canadian Forces'] policy and any interim policies that have evolved regarding service of homosexuals in the Canadian Armed Forces are contrary to the Charter [of Rights and Freedoms]." That same day, the Canadian Forces' Chief of the Defence Staff issued a statement supporting the court's decision.

Officials said practices comply with new policy

In accordance with the new policy, the Canadian Forces does not take any action when a soldier declares his or her sexual orientation, DND officials said. They also said no restrictions, such as limitations in assignments and promotion opportunities, are placed on the individual.

No near-term problems reported

We discussed the new policy with the only open homosexual member of Parliament; a member of the Progressive Conservative Party who disagrees with the new policy; two homosexual advocacy groups, one of which is the only national organization for homosexuals; a veteran's umbrella group consisting of 22 individual veterans organizations; the Canadian Human Rights Commission; the Department of Justice; as well as DND. All but the Progressive Conservative Party member favor the new policy, and all said they had received no reports of problems associated with it. Mass resignations, lower recruitment, morale and cohesivenessproblems, gay bashing incidents, and more open displays of homosexual behavior—the major problems that had been predicted—have not materialized, DND officials said. In addition, DND and the Canadian Human Rights Commission stated that no active duty members have brought the Canadian Forces to court for discrimination based on sexual orientation since the policy changed.

DND officials told us that they considered implementing the new policy in three phases. First, DND is obtaining compliance with the new policy, and second, DND is promoting acceptance of the policy. DND has not yet attempted the third phase, which is to change the attitudes of military personnel toward homosexuals. Homosexual advocacy groups stated that training was needed to change attitudes.

DND officials and representatives of homosexual advocacy groups said the greatest advantage to the new policy is that homosexuals no longer have to fear being discovered and forced out of the military. They also believe, however, that many homosexuals will not openly express their sexual orientation because they will see no advantage gained in doing so. A representative of a homosexual advocacy group said that because the military is a conservative organization, it attracts conservative homosexuals who would be less likely to be open about their sexual orientation. DND officials said that the new policy has not caused homosexual military personnel to "come out of the closet" in mass numbers.

Significant factors in the Canadian experience

DND officials said the military leadership's public support for the new policy and its unified front were significant factors in making a smooth transition to the new policy. DND also has been able to keep a low profile on the issue. The press corps, for example, has been required to submit all questions relating to the policy to DND's public affairs office.

The cultural and legal aspects of the issue also played a pivotal role in Canada. Canadians believe that equality is one of their basic values, and it is reflected in their laws. Legislation and court rulings concerning discrimination on the basis of sexual orientation provided a legal impetus for lifting the ban.

APPENDIX IV

GERMANY

Germany's policy has permitted homosexuals to serve in the military as conscripts since 1969; however, homosexual volunteers are subject to restrictions during their military careers. While these policies are opposed by homosexual rights groups as discriminatory, they have been upheld by German courts. Military officials acknowledged that homosexual soldiers are discriminated against, but said the policies are effective because they allow for flexibility and deal with homosexual individuals on a case-by-case basis. The officials also said there have been few problems involving homosexual soldiers and characterized the issue of homosexuals in the military as a "non-issue." Figure IV.1 summarizes the development of civilian and military policies concerning homosexuals.

[Figure IV.1 not reproducible in RECORD.]

Background

Germany has a population of approximately 80 million, with ethnic Germans constituting 93 percent. Most Germans are either Catholic or Protestant, and the Churches play an important role in German society.

The German armed forces have about 476,300 service members on active duty and 1 million in the reserves. Women are allowed to serve only in the medical and music corps. Fifty-seven percent of the forces are volunteer, and the remaining 43 percent are conscripts. Conscripts are called up at age 19 and are required to serve 12 months. An individual's military service obligation may be deferred for educational reasons. In addition, conscientious objectors may fulfill their obligation in alternative civilian service. Military officials said they try to accommodate conscripts by housing them in areas close to their homes.

The German military is a home-based defense force with no recent combat experience. Military deployment overseas is limited because operations outside of North Atlantic Treaty Organization countries are restricted by the constitution; however, certain noncombat activities are allowed. As of March 1993, Germany has supported five noncombat missions outside Germany, including a recent peacekeeping mission to Bosnia.

Civilian law provides no specific rights or protection to homosexuals

The German constitution provides for basic rights and equality of all people, and Germany has relaxed its restrictions on homosexuals over the last 24 years. However, homosexuals have no expressed rights or protection under German law. In 1969, the civilian penal code was amended to no longer consider homosexual relations among males over age 20 as criminal behavior. In 1973, the law was modified to reduce the age of consent to 18. The law is expected to be changed in 1993 to eliminate specific references to homosexuality.

The changes in the penal code appear to reflect a slow change in German attitudes toward homosexuals. Studies have shown that Germans have become gradually more accepting of homosexuality, although a portion of the population still does not accept homosexuals. Older and more religious Germans living in rural areas tend to be less tolerant of homosexuals than younger, less religious Germans living in urban areas, according to these studies.

Military policies toward homosexuals are restrictive

Germany began to permit homosexuals to serve in the military after homosexual behavior was decriminalized in 1969. Military policy, however, makes a distinction between service as a volunteer and service as a conscript. If a volunteer is discovered to be homosexual during the induction process, he will not be inducted into the military. Military officials said homosexuals are not accepted as volunteers because it is assumed volunteers will eventually rise to leadership positions. According to these officials, homosexuals in leadership positions would undermine military order and discipline.

Similarly, if volunteers are identified as homosexual during their military service, they are usually removed from assignments involving leadership, training, and educational tasks, according to military officials. If a volunteer has served for only a short period of time (within the first 4 years of service), he may be discharged from service. Additional disciplinary actions may include demotion, ban from promotions, and a reduction in salary. These measures are taken, an official said, to prevent negative acts against the homosexual soldier, such as

rejection, provocation, or ridicule, and to prevent breakdowns in discipline.

Homosexuals may serve as conscripts as long as their sexual orientation does not prevent them from living and working in the military environment. During the medical induction examination, examining physicians do not routinely ask conscripts about their sexual orientation, but they may do so if they suspect the conscript is homosexual on the basis of his dress, mannerisms, or statements he makes about his social and sexual activity. Once a conscript is identified as homosexual, he may be required to undergo a separate psychological evaluation. The physicians make this decision on a case-by-case basis, and the decision usually turns on the frequency of homosexual conduct.

If the psychological evaluation indicates that the homosexual would have problems integrating himself into a military environment, the individual will be released from his military obligation. The results of the exam and the reasons for dismissal are kept confidential.

German military policies tend to treat homosexual behavior more harshly than homosexual orientation. Under the military code of conduct, soldiers may be discharged for engaging in homosexual activity, such as acts conducted while on duty and acts involving superiors and theirsubordinates.[1] The code of conduct states that a discharge for such acts is justified when they indicate the individual lacks suitability for service in the military or his presence would imperil military order or harm the reputation of the armed services.

A senior military official said that until 1987, the armed forces had a policy of withdrawing security clearances from individuals found to have a homosexual orientation because these individuals were believed to be vulnerable to compromise by foreign intelligence agents. However, Germany's Federal Administrative court ruled in 1987 that a homosexual orientation alone was not a sufficient reason to remove an individual's security clearance. The armed forces changed its policy to reflect this decision. In November 1990, the Federal Administrative Court found that the German military is justified in not allowing homosexuals to serve in leadership or educational positions.

Officials said practices are flexible

Military officials said their practices concerning homosexuals generally are consistent with existing policies and that actions taken against homosexual soldiers vary depending on the individual involved and the circumstances surrounding each case. Military officials also said that disciplinary actions are also influenced by the rank of the soldier and his time in service. Since German military policies allow flexibility with regard to homosexuals, their cases tend to be dealt with on a case-by-case basis, according to officials.

German homosexual advocacy groups believe the military's policies and practices are discriminatory because they sanction disciplinary actions against a homosexual soldier regardless of the soldier's qualifications or skills. As a result of these policies, homosexual rights advocates state that the percentage of homosexuals in the military is lower than that in the general population. The military does not maintain its own statistics. In addition, these homosexual rights advocates said that professional soldiers are reluctant to acknowledge their homosexuality because doing so would effectively end their career.

Germany's Federal Administrative Court has upheld the military's policies regarding homosexuals. Nevertheless, if the current policy is not changed by the military or the German parliament in 1993, homosexual advocacy groups plan to present their case before the German Supreme Court.

Officials reported few problems involving homosexuals

Military officials, characterizing the issue of homosexuals in the armed forces as a "non-issue," said there have been few incidents involving homosexuals. Official documents indicate that 63 disciplinary court proceedings charging soldiers with homosexual behavior were convened between 1981 and 1992.

Significant factors in the German experience

German military officials acknowledge that homosexual soldiers are discriminated against, but believe that their policies and practices toward homosexuals have been effective for several reasons.

First, the policies allow for flexibility, and incidents involving homosexuals are dealt with on a case-by-case basis. A variety of disciplinary actions may be taken, ranging from no response to immediate removal from service.

Second, the German military focuses on behavior, not orientation. Individuals who are disruptive are separated from the military.

Finally, the regulations controlling the conduct of German soldiers are strict and clear.

APPENDIX V

ISRAEL

Homosexuals have been permitted to serve in the Israeli Defense Forces since the state was founded in 1948. There are no restrictions or limitations concerning the promotion potential of homosexuals, and no special effort is made to identify homosexuals while in the service. Government officials and others we interviewed said homosexuals have served without problems, and their presence has never been an issue. Generally, homosexual soldiers tend to keep their sexual orientation to themselves until they are well established in their units. Figure V.1 summarizes the development of civilian and military policies concerning homosexuals.

[Figure V not reproducible in RECORD.]

Background

Israel has a population of approximately 5.2 million.[1] Although 82 percent are Jewish, the society is diverse, with immigrants coming from all over the world. Israelis vary widely in their cultural, economic, and educational backgrounds, as well as their views toward religion and sexuality, but most remain bonded by their mutual religion (Judaism), their pride in the state, and the perception that the state provides the only means of ensuring their safety.

The Israeli Defense Forces has an estimated 141,000 people on active duty and 504,000 in the reserves. Service is based on universal conscription of men and women, who become eligible for service at age 18. Arabs and Bedouins are not required to serve but may volunteer. Also exempted from mandatory service are married and pregnant women and people with severe physical or psychological handicaps. Ultra-Orthodox Jews generally do not serve. Males are required to serve on active duty for 3 years, with reserve obligations of 30 to 60 days a year until they reach their mid-50s. Women must serve on active duty for 2 years, with reserve obligations until age 24. Generally, Israeli soldiers spend a minimal amount of time away from their homes.

We were told by various sources that the military is a very important part of Israeli society. Military service is often considered to be a precondition to a successful career because military service influences the networks and associations used later in life. Since nearly everyone is required to serve in the armed forces, establishing a military record is important. People with medical or psychological problems often try to hide their problems in order to serve.

The Israeli Defense Forces have been involved in perpetual regional conflicts involving the West Bank and Gaza Strip resulting from the 1987 Palestinian uprising. According to Defense officials, Israel is in a constant state of alert due to its close proximity to Arab countries.

Israeli law is supportive of homosexual rights

According to various sources, Israel in recent years has become more accepting of homosexuality, and this is reflected in recent changes in law. Israelis have traditionally held negative views towards homosexuals because Judaism condemns homosexuality. But due to Western influences, more homosexuals are revealing their sexual orientation. According to recent studies by Israeli and U.S. sociologists, Jews in Israel view homosexual rights more favorably than Americans. We were told by U.S. embassy officials that an active homosexual community now exists in Tel Aviv. Nevertheless, most homosexuals still do not reveal their sexual orientation until later in life due to fears of negative parental and societal reactions.

While Israel has no constitution or provisions similar to the U.S. Bill of Rights, the Declaration of the Establishment of the State of Israel includes language that guarantees freedom from discrimination on the basis of sex, race, or religion. Israel's laws regarding citizen rights, including homosexual rights, are still evolving and are gradually becoming more specific. In the absence of a Bill of Rights or similar legal provisions, Israel has relied on the courts to safeguard civil rights and liberties.

Israel has increasingly recognized homosexual rights. For example, Israel decriminalized sodomy in 1988. Further, in 1992, Israel amended its labor law to prohibit discrimination against homosexuals in the workplace. According to the amendment, employers cannot discriminate against employees and job seekers due to a person's "sexual inclination." The amendment covers all conditions of employment, including hiring, working conditions, promotion, training, and dismissal.

In February 1993, the Knesset's subcommittee dealing with homosexual rights hosted a conference to draw attention to homosexual equality before the law.[2] According to the subcommittee's chairperson, the subcommittee is working to obtain full equal rights for homosexuals, and is developing legislation to establish partnership rights for homosexual couples. Currently, homosexual marriages

[1] Heterosexual military personnel engaging in sexual acts while on duty will be subject to disciplinary proceedings.

[1] This figure includes Jews living in the occupied territories of the West Bank, East Jerusalem, the Gaza Strip, and the Golan Heights. The estimated 2.1 million Arabs and other ethnic groups living in these areas are not included in this figure because they are not considered Israeli citizens.

[2] The Knesset is the Israeli equivalent of the U.S. Congress.

are not recognized, and homosexual partners do not have spousal rights.

Homosexuals permitted to serve in the military without limitations

Under Israeli military policy, homosexuality is not a reason for deferment or discharge. Until recently, the military policy restricted homosexuals from serving in intelligence positions; however, this policy was not followed in practice. Currently, no special effort is made to identify homosexuals, and the military places no restrictions concerning the promotion potential of homosexuals. Further, military regulations on sexual behavior state that sexual activity is not to take place in the barracks (males and females live in the same barracks); the regulations make no distinction between heterosexuals and homosexuals. Any problems related to homosexuals are to be handled through normal channels, such as the unit psychologist.

During our in-country review, Israel officially had a military policy that placed certain limitations on the assignment of homosexuals. The regulation, established in 1983, stated that the assignments of homosexuals would be limited because their sexual orientation could prove to be a security hazard. According to the regulation, under no circumstances shall a homosexual soldier serve in a position requiring a top secret security clearance in the intelligence community.

Military officials said that conscripts are not asked about their sexual orientation during induction. However, those who identified themselves as homosexual were required under the 1983 regulation to undergo additional psychological testing. The tests were intended to determine whether (1) the individual's inclination could prove to be a security hazard or (2) the individual had the mental fortitude and maturity to withstand the pressure of serving in the defense forces.

On May 18, 1993, Israel adopted a new military policy concerning homosexuals. This policy states that no restrictions shall be placed on the recruitment, assignment, or promotion of homosexual soldiers and civilians due to their sexual inclination. This policy was implemented after we had conducted our in-country review.

Practices agree with new policy

Even though Israel's military policy toward homosexuals is new, our review shows that its practices are more consistent with the new policy than with the 1983 regulation. According to active and reserve military officials, the 1983 regulation prohibiting the assignment of homosexuals to intelligence positions requiring top secret clearance was never formally implemented. According to these officials, homosexuals were found to be capable of doing their jobs without problems, and therefore it did not make sense to enforce this regulation. Homosexual soldiers, we were told, have served and are currently serving in intelligence positions. For example, we spoke with a number of reservists and retired military personnel who stated that while on active duty they served openly as homosexuals, still received promotions, and were not restricted in their assignments. However, a former colonel in Israeli intelligence testified at the February 1993 conference hosted by the Knesset subcommittee dealing with homosexual issues that he was summarily dismissed from his unit when his homosexual orientation became known in 1983.

According to military officials, the Knesset's conference prompted the Israeli Defense Forces to reevaluate its written policy toward homosexuals. As a result of this conference, the Israeli Defense Forces drafted and adopted its new policy.

Representatives of the leading homosexual and civil rights organizations in Israel said they are satisfied with the military's practices toward homosexuals. They told us that being homosexual has no bearing on an individual's military career and that homosexual soldiers are judged on their merits like any other soldier. Other than the case involving the former colonel stated above, neither organization was aware of any cases in which a homosexual's career had been harmed because of the individual's sexual orientation.

Israel has experienced few problems related to the presence of homosexuals in the military

Military officials believe the Israeli Defense Forces has been very effective in including homosexuals in military service, and they knew of few problems associated with their presence. This was confirmed by representatives of Israeli homosexual and civil rights groups, openly homosexual reservists, and retired soldiers who told us they were openly homosexual during their active duty and reserve service.

Any problems concerning homosexuals that have arisen, officials said, generally involve a homosexual's inability to cope in the military environment. Some military officials believe that homosexuals tend to have more adjustment problems than heterosexuals and that this was one justification for the former policy requiring additional psychological testing of homosexuals.

However, military officials responsible for security and mental health said homosexuals adjusted to military life as well as heterosexuals. These officials noted that most heterosexual soldiers can control their sexual urges when they are living in mixed-sex quarters, and the same is true of homosexual soldiers. Security officials said homosexuals can hold security clearances without posing an unnecessary security risk.

Military officials said most conscripts do not declare their sexual orientation during mandatory service. We were told that most homosexual soldiers are not certain of their sexual orientation at the time of their conscription (usually age 18). Furthermore, those who are certain they are homosexual prefer not to reveal their sexual orientation while on active duty. According to homosexual advocacy groups, homosexual soldiers who openly declare their sexual orientation generally wait until their mid-20s or later when they are established in their units and are judged on their individual merits.

The military has not studied how the inclusion of homosexuals in the military affects unit readiness, effectiveness, cohesion, or morale, but officials told us that, based on their experience, the inclusion of homosexuals has not had an adverse impact on these areas. They also said homosexual soldiers performed as well as heterosexuals.

The Israeli Defense Forces does not provide any educational or training courses dealing with homosexuals to unit personnel. Military officials see no need for training because there are few problems related to the presence of homosexuals.

Significant factors in the Israeli experience

Israeli officials cited several factors that may account for Israel's lack of problems in integrating homosexuals in the military.

First, the Israeli military has allowed homosexuals to serve for 45 years, ever since the country was created. Hence, most people do not have strong feelings about homosexuals' presence in the military. Moreover, homosexuals and homosexual rights in general are not issues which are at the forefront of public debate.

Second, military service is highly regarded in Israel, and deferments are not viewed favorably.

Third, homosexuals have served creditably in the defense forces and have not hurt their units' morale, cohesion, readiness, or capability, based on the experiences of military officials.

Fourth, universal conscription in Israel results in a military force that reflects the diversity of Jewish society. Military personnel accept this diversity, and homosexuals are viewed as just another subgroup.

Finally, in peacetime, Israeli soldiers spend a minimal amount of time away from their homes and thus are not isolated from their private lives.

APPENDIX VI

SWEDEN

Sweden's military has experienced few problems since it began formally allowing homosexuals to serve in the military in 1976. Military officials believe they have been effective in integrating homosexuals, and military officials as well as unit-level officers and conscripted personnel agree with the current policy allowing homosexuals to serve in the military. However, most homosexuals keep their sexual orientation to themselves, and there was a perception among those we interviewed that openly homosexual members of the military might face subtle discrimination, harassment, or other negative treatment from their peers. Figure VI.1 summarizes the development of civilian and military policies concerning homosexuals.

[Figure VI not reproducible in RECORD.]

Background

Sweden has a population of about 8.6 million, with the vast majority being ethnic Swedes. Approximately 95 percent of the population belong to the Church of Sweden (Lutheran); however, only a small percentage are active in the church.

The Swedish military forces have approximately 53,000 active duty personnel. In the event of war, Sweden can call up a total of 850,000 troops. Women may serve in the military, but only as officers. About 225 women are currently in the armed forces.

Sweden has universal conscription of men between the ages of 18 and 47. Most young men enroll for military service at age 18 or 19 and start their service within 3 years of enrollment. After completing active duty, the men periodically receive refresher training to maintain their military skills and serve in the reserves until age 47. Swedish conscripts serve only a short time—5 to 17 months—and are permitted frequent visits home.

Military officials and others said most young men consider military service an obligation and want to fulfill their military duty. However, it has become easier to obtain an exemption from military service, and there is less stigma attached to not completing military service than in previous generations. In addition, for the first time, Sweden's current defense budget is not sufficient to conscript all available young men. As a result, about 6,000 of the eligible conscripts will not be required to serve this year.

Currently, Swedish soldiers are serving with United Nations peacekeeping forces in Lebanon, Korea, Cyprus, Angola, Kuwait, Central America, Kashmir, Cambodia, Croatia, and the Middle East.

Swedish law prohibits discrimination against homosexuals

Sweden has historically been a strong advocate of human rights, as demonstrated by its role as a "safe haven" for individuals denied human rights in their home countries. The basic rights and freedoms of Swedish citizens are guaranteed by the Instrument of Government, Sweden's constitution. Some rights are absolute, while other can be restricted by Parliament. Homosexuality is not a specifically protected right, but discrimination against homosexuals is prohibited by a 1987 law and is a criminal offense under the Swedish penal code. Sweden has no laws that restrict sexual behavior or prohibit sexual acts between consenting adults.

While homosexual rights are protected, the issue generally is not discussed in Swedish society because sexuality is considered a private matter. In 1984, a parliamentary commission on homosexuality found that "the silence surrounding homosexuals and homosexuality is virtually total." On the basis of our discussions with numerous individuals, we found that this silence is still pervasive in Swedish society. The overwhelming sentiment is that homosexuals should have equal rights, but that their sexual preferences should be kept to themselves.

Sweden began to ease restrictions on homosexuals in 1944, when it decriminalized homosexuality under the penal code, but most changes in homosexual rights have occurred within the last 15 years. In 1978, the age of consent for homosexuals was changed to 15 to coincide with the age of consent for heterosexuals. In 1979, the National Board of Health and Welfare removed homosexuality from the Classification of Illnesses Handbook.

In 1978, Parliament established a commission to study homosexuality in Swedish society. In its 1984 report, the commission concluded, "The only certain difference between homosexuals and heterosexuals is that homosexuals are emotionally attracted to persons of the same sex. In light of this background, it is obvious that homosexuals should not be discriminated against." This report, Swedish officials said, led to passage of the 1987 anti-discrimination and cohabitation laws providing rights and protection to homosexuals. The anti-discrimination law makes it a criminal offense for commercial establishments to refuse services to homosexuals or for individuals to make derogatory remarks based on a person's homosexuality. The cohabitation law provides each cohabiting individual the right to half of the jointly-owned home and household goods when cohabitation cases.

At the time of our review in April 1993, two other issues concerning homosexuals were under review in Parliament. The first was a proposal to establish registered partnerships, which would provide homosexual couples basically the same rights as heterosexual couples, but would not include the right to adopt children. If one partner were to die, for instance, the surviving partner would be able to receive insurance, pension, and inheritance benefits. The second issue was a proposal to include homosexuals as a protected category under the Act to Counteract Ethnic Discrimination. Officials we interviewed anticipated parliamentary approval of the registered partnership legislation and inclusion of homosexuals under the act by the spring of 1994.

Homosexuals permitted to serve in the military with no restrictions

Under Swedish military policy, homosexuals are permitted to serve in the Swedish armed forces. The current policy, established in 1984, states that since homosexuality is increasingly accepted by society, it is not a reason, by itself, for treating an individual differently in the military.

Prior to 1976, a medical diagnosis of homosexuality during the enrollment process was supposed to result in an automatic exemption from military service. According to Swedish Defense officials, however, this exemption was not strictly imposed, as most enrollment officers treated homosexuality on a case-by-case basis. In 1976, the Manual for Medical Personnel in the Armed Forces was revised to eliminate the automatic exemption for homosexuals. And in 1979, when the National Board of Health and Welfare removed homosexuality from the Classification of Illness Handbook, the military no longer diagnosed homosexuality as an illness. However, the military continued to maintain records of those individuals identified as homosexuals. This practice was halted in 1984, the same year that the commission on homosexuality issued its report stating that homosexuality must not disqualify an individual from serving in the armed forces.

Also in 1984, the Supreme Commander of the Swedish Defense issued a policy statement on homosexuals in the military. This policy, which is currently in effect, states that what is essential is the individual's ability to cope with his or her sexuality. If an individual has reached the level of maturity where homosexuality is an accepted or controlled part of his or her personality, there is no basis for treating this individual differently than others in the armed forces.

Under the current policy, as part of the routine psychological interview during enrollment, conscripts are asked if they have any problems that would interfere with their ability to fulfill military service, but they are not specifically asked if they are homosexual. They have the liberty and opportunity to disclose their homosexuality but are not pressured to do so. Individuals who believe they will have problems due to their homosexuality may be excused from their military obligation. If they choose to complete their military service, no record is kept of their homosexuality. There are no additional steps or follow-up tests required if conscripts declare their homosexuality.

Sweden's 1987 anti-discrimination law, which prohibits discrimination against homosexuals, also applies to the military. No separate military policies address assignments or promotions for homosexuals.

Practices appear to be consistent with policy

Our discussions with military personnel indicated that military practices are consistent with the policy on homosexuals. Senior officials and unit personnel told us that the armed forces do not make an effort to identify homosexuals, do not discriminate against homosexuals in the enrollment process, and do not formally place restrictions on the assignment and promotion of homosexuals.

Representatives of two homosexual advocacy groups said they are satisfied with the current policy of accepting homosexuals into the military, but the groups had differing opinions about discrimination in the military's promotion and assignment processes. Representatives of the Swedish Federation for Gay and Lesbian Rights believe that, despite the military's policy, homosexual officers may be denied career opportunities or promotions. However, they could provide no supporting evidence. The President of the Gay Conservatives of Sweden did not believe homosexuals were discriminated against in the military.

Few problems concerning homosexuals have occurred

Sweden has not studied the impact of admitting homosexuals into the armed forces, but military officials said few problems concerning homosexuals have occurred. For instance, the officials said that the inclusion of homosexuals had not adversely affected unit readiness, effectiveness, cohesion, or morale. Most of the unit personnel we interviewed agreed with the Swedish policy of admitting homosexuals, and few of these personnel knew of any problems concerning homosexuals. We frequently heard the comment that the important issue was whether the person could do the job.

Representatives of Parliament's Human Resource Council of the Swedish Defense and the Central Council of Conscripts[1] told us that homosexuality is not an issue in the military. The Human Resource Council makes several visits a year to various military installations to discuss personnel issues with military officials, unit-level officers, and conscripts. The Vice-Chair told us that in her 12 years on the council, homosexuality has never been raised as an issue. Likewise, the Chairman of the Central Council of Conscripts said issues related to homosexuality have never been raised to the organization.

Military personnel and others know of few open homosexuals in the military. For example, of the 42 unit personnel we interviewed, only 3 knew for sure that they had served in the military with a homosexual. Ten other unit personnel "suspected" that certain unit personnel may have been homosexual. Further, the four commanders at Air Force, Army, and Navy facilities we visited did not know of any homosexuals among the approximately 2,400 conscripts they commanded. A psychologist said that, at most, 10 conscripts a year disclose that they are homosexual during enrollment, out of approximately 12,000 conscripts that are processed through that enrollment office.[2]

Many military officials believe that openly homosexual individuals could experience some adverse impact on their careers. For example, the officials discussed two cases where homosexual officers had been reassigned. In one case, they said, the officer's homosexuality was believed to present a security risk. In the other case, the officer "was exerting his homosexuality in a bad way." Further, military officials and unit personnel said openly homosexual individuals could face harassment and other negative treatment from their peers, and possible subtle discrimination in the assignment and promotion process. Some military personnel and others said that when individuals choose to be open about their homosexuality, they tend to reveal their sexual orientation to those in their immediate unit that they know well and trust.

Significant factors in the Swedish experience

A significant factor in Sweden's ability to integrate homosexuals may be the private nature of sexuality in Sweden and the virtual silence surrounding homosexuality. We were told that few homosexuals in the armed forces are open about their sexual orientation, but that those who are could face harassment from peers and subtle discrimination.

[1] The Central Council of Conscripts of Sweden is a group of conscripts elected by their peers to represent their interests in dealings with the Swedish Defense Force.

[2] This is one of six enrollment offices in Sweden.

Three other factors may contribute to Sweden's success in integrating homosexuals into the military.

First, Swedish conscripts serve only a short time—5 to 17 months—and are permitted frequent visits home. Thus, they are not isolated from their private lives for long periods.

Second, Sweden's strong commitment to human rights is reflected in civilian as well as military policies regarding homosexuals.

Finally, many homosexual conscripts at the age of 18 or 19 may not yet be fully aware of their sexuality or homosexual tendencies and therefore tend not to make their sexual orientation publicly known.

APPENDIX VII

MAJOR CONTRIBUTORS TO THIS REPORT

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Mrs. BOXER. I would like to say, in closing this debate, I think our side has shown, first of all, that Congress has never before excluded a whole category of people from service because they told the truth about who they are. Yes, I think the chairman of the Armed Services Committee is correct——

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mrs. BOXER. I ask for 10 more seconds, if I might?

Mr. NUNN. I do not have any objection.

Mrs. BOXER. In these 10 seconds let me close by reading from Barry Goldwater, former chairman of the Armed Services Committee. "Congress will best serve our national interest by finding the courage to rally the troops in support of ending this un-American discrimination."

I hope my amendment will be agreed to.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. I yield such time as the Senator from Indiana may desire, consistent with my time.

Mr. COATS. Mr. President, we are coming to the conclusion of a very long, exhaustive process. The record is thorough; it is complete. The military has weighed in from generals to sergeants and privates and everyone in between. I believe there is a more than rational basis for the decision that the committee has made.

The issue before us and the vote before us is whether or not we should ignore the voice of Congress, the voice of elected representatives in determining what the policy should be relative to homosexuals serving in the military and rely exclusively upon the President. The Constitution of the United States not only gives us the right, it gives us the responsibility—I believe the obligation—to have our voice heard. We have done that in a thorough, thoughtful manner. I urge my colleagues to support the decisions the committee has made.

I commend Senator NUNN for his outstanding, extraordinary leadership on a most difficult issue.

Mr. BINGAMAN. Mr. President, I rise today in support of the amendment.

Mr. President, the first time I focused any real attention on this issue was when I read about the case of Col. Margarethe Cammermeyer of Washington State. Colonel Cammermeyer, a National Guard nurse given a Bronze Star for her efforts in Vietnam, was discharged last year after more than 27 years of service to this country. She was discharged after admitting during an application for security clearance to attend the War College, that she is a lesbian. Her commander apparently did not want to begin proceedings against her. He recognized her commitment to the armed services, and to our country, as strong and unwavering.

Unfortunately, he had no choice. He was bound—by law—to begin discharge proceedings against her.

From my perspective, this case was an important one because it raised serious questions about our policy for dealing with the problems of homosexuals in the military. It helped to set the stage for what we are about to vote on very soon.

As we all know, the issue became prominent on the national agenda because President Clinton, as part of his campaign, promised to end the ban on homosexuals serving in the military. After becoming President, he announced his intention to honor that promise and thus began the painful and torturous debate that has brought us to this point.

Mr. President, this is one case in which our efforts to reach consensus and a reasonable resolution of a difficult issue have fallen short. But it is a case in which the President, his Secretary of Defense, and the Joint Chiefs of Staff have deliberated long and hard on how to proceed. The Secretary of Defense has issued a directive incorporating their agreement, and I am persuaded that our best course of action is to leave the Department of Defense free to work with this new policy—without Congress legislating at this time.

Mr. President, there are many books written about the principle of judicial restraint—where courts hold back from exercising their power in deference to other branches of government or other centers of authority. Unfortunately, our history does not reflect a similar sentiment in favor of legislative restraint.

But that legislative restraint is exactly what I believe should be adhered to in this case.

Let me cite two reasons why I believe we should permit our military leaders the opportunity to implement their own policy in this area:

First, ours is a country founded on the great ideal that all men are created equal. We have not always honored that ideal, but history should demonstrate that where we have fallen short of that ideal we have come to regret our actions.

Once all the arguments have been made, the legislation we are here being asked to adopt codifies intolerance against persons with a particular propensity, even though there may be no evidence of objectionable conduct. India has its untouchables. Japan has its burakumin. and for purposes of our military, at least, this legislation makes it clear that we ourselves make no pretense of equal treatment for those with a homosexual propensity.

A second reason we should exercise legislative restraint is because military commanders need discretion to act in the best interests of their units. In many cases, that may mean that a homosexual should be excluded from the unit and discharged from the service. In other cases, a commander may conclude that unit morale may actually be heightened by permitting a soldier who has broken no code of conduct to continue honorably serving his or her country.

Commanders should be trusted with the authority to command their own troops. We in Congress should not legislate a "one-size-fits-all" solution regardless of the facts faced by a particular commander.

In conclusion, Mr. President, the proposed legislation may be good politics, but it is not worthy of the ideals upon which this Nation was founded. If our Bill of Rights means anything, it means that people should be judged on the basis of their conduct, not on the basis of being classified as part of an unacceptable group.

I urge my colleagues to vote to strike the proposed legislative language.

Ms. MOSELEY-BRAUN. Mr. President, I speak today in favor of the Boxer amendment.

After 6 months of excruciating national debate, the President and Secretary of Defense, working closely with the Joint Chiefs of Staff, arrived at a carefully-crafted compromise on the issue of gays and lesbians in the military. The policy was broadly described as "Don't ask, don't tell, don't pursue."

I was among those who was prepared to end the ban immediately, and I would still support an immediate end to the ban. The recently released comprehensive $3 million study by the

Rand Corp. confirmed what many of us in the Senate have known all along—there is not one shred of scientific or battlefield evidence that gay and lesbian Americans are unfit for military service or that their presence in the military is detrimental to order, discipline, or unit cohesion and morale.

In fact, every bit of evidence we have highlights the fact that gay and lesbians have historically served and will continue to serve their country with honor and distinction.

That is why when the President announced a new policy that would end the intrusive questioning of recruits on their sexual orientation, reinforce the importance of the strictest codes of conduct for all servicemembers—whether homosexual or heterosexual—and end the notorious witchhunts that are the real destroyers of unit morale, many Americans on both sides of this issue said "this seems like a reasonable compromise—let's see how things work."

But the language codified in this bill is not the language of the President's compromise. It omits the don't-ask and don't-pursue provisions of the compromise, ignores the Joint Chiefs' agreement that a certain zone of privacy should be respected for all servicemembers, and attempts to micromanage the Department of Defense.

So the question we face today is a simple one: Do we not trust President Clinton, Secretary Aspin, and General Powell to honorably carry out the policy that they arrived at after so much soul-searching and debate? The new policy may not be a perfect solution, but at least let us give it a chance to work before we replace it with something more restrictive, more punitive, and more in conflict with the principles of equal opportunity and fair play that we strive to uphold in this country.

One thing has become clear over the past 6 months: The American people want to move forward on the issue of gays in the military, not backward. Codifying a more restrictive version of the President's policy is nothing less than a giant step backwards. Until we reach the day when patriotic gay and lesbian Americans are allowed to serve openly and proudly in our military—a day that I know is coming—let us choose the alternative that allows for maximum flexibility and respect for individual rights. That is the President's policy. And that is the policy that the Boxer amendment upholds. I urge my colleagues to vote for this amendment.

Mr. DOLE. Mr. President, I rise in opposition to the Boxer amendment. In my view, granting the President the authority to lift the ban against gays serving openly in our military would strike a serious blow to the effectiveness of our fighting forces and would damage the morale of our military.

The sole purpose of our military is to fight and win. It is to protect our security and our freedom. Nothing else. And it is clear that the Congress has the constitutional responsibility in matters regarding military personnel policy, and to ensure that our forces are fully capable of securing our freedom.

This amendment ignores the massive evidence and testimony presented to the Congress by the experts that lifting the ban on open homosexuality in the Armed Forces would seriously degrade unit cohesion which is at the core of an effective fighting force.

In my view, military service is not a right—it is a privilege. And as a privilege, our military leaders are charged with setting standards of conduct and discipline which will strengthen their ability to meet their vital mission. So, I believe that we should listen to the experts when they warn us that lifting this ban would result in a serious degradation in our ability to fight and win. General Powell, General Schwarzkopf, and other military leaders provided compelling testimony that lifting the ban would cause serious harm to good order and discipline of the force. I received the same view from over 20 veterans groups who brought their concerns forward.

Now, I oppose discrimination. My record is long and clear on that point. But, I do not believe that this is an issue of discrimination. It is not a question of fairness or equal rights. It is a question of preserving the effectiveness of our fighting forces and ultimately, our national security.

It is for these same reasons that the military refuses to accept people who are overweight, too short, too tall, people who are color blind, or who are handicapped. While it might be more fair to allow anyone to serve, no matter that their presence might harm the effectiveness of the force, it is simply not a prudent course.

Conducting social experiments with our security is simply not good policy, and I commend the Armed Services Committee for crafting a policy which provides our military leaders with clear and unambiguous standards of conduct. That those standards specifically state that "homosexuality is incompatible with military service" is a result a careful analysis and testimony by our military experts. In my view, that finding is both rational and appropriate.

I urge my colleagues to oppose the Boxer amendment. The agenda of our military should be to secure our freedom.

Mr. PELL. Mr. President, I wish to express my support for the amendment offered by my colleague from California, Senator BOXER. Her amendment, which I believe is based on reason and fairness, would leave up to the President, our Commander in Chief, and his Secretary of Defense, the enactment and enforcement of a policy concerning the service of homosexuals in the Armed Forces.

My own view, Mr. President, is that men and women should not be prohibited from serving in the Armed Forces solely because of their sexual orientation. I believe such a prohibition is discriminatory and is just as inappropriate as discrimination based on race, gender, or religion. I believe all our service personnel should be judged on performance and behavior and held accountable to the strict code of military conduct which is necessary for the effective operation of military units.

I believe, Mr. President, that the section of this bill dealing with this issue is a less than perfect approach to an issue that has a profound impact, both real and emotional, on our society. When Congress entered into a compromise agreement with President Clinton on this issue on January 29, it was my hope that the 6-month period would provide an opportunity for the President and congressional and military leaders to explore an approach which, when implemented, would be positive, fair and equitable. However, to the dismay of many, Mr. President, the committee provision is indeed far more restrictive than President Clinton had envisioned and articulated earlier this year.

Moreoever, Mr. President, a $1.3 million study commissioned by Secretary Aspin and conducted by the Rand Corp. found most of the concerns stated by opponents of lifting the ban to be unfounded. Rand, a respected think tank in California, concluded that homosexuals in other countries have served admirably and with no adverse effect on unit morale or cohesion. The study also concluded that a proper approach to this vexing issue is the implementation of a policy which "emphasizes actual conduct, not behavior presumed because of sexual orientation, and holds all service members to the same standard of professional conduct." This, Mr. President, is the approach and resolution that most of us thought would be implemented subsequent to President Clinton's January directive to end the ban on gays from serving in the military.

Mr. GORTON. Mr. President, I am going to vote in opposition to the amendment that Senator BOXER has introduced today. This amendment would strike the current sections of the Defense authorization bill that outline policy on homosexuals in the military, and require that the President dictate policy on this issue.

While I agree with the broad outlines of the policy set forth by the President in July, I believe that the provisions Senator NUNN has included in this bill are preferable. According to those provisions, homosexual conduct will continue to qualify a service member for

dismissal, as will a statement of homosexuality, unless the service member later disavows the statement or affirms celibacy while in the service. This policy also clearly defines homosexual conduct, and gives military commanders discretion in initiating investigations into homosexual conduct, while still demanding that they do so only when an activity appears to affect unit cohesion. This should end witchhunts into service members' sexual orientation.

Most importantly for the purposes of this amendment, this approach will also make the ban law, avoiding the lawsuits that would have resulted under the President's ambiguous policy, and effectively concluding this painful and divisive debate by removing it from the realm of administrative policy. I believe that those on both sides of this issue have been disappointed with the manner in which the President has conducted this debate.

Over the 6 months set aside for examining this policy, I listened closely to those people who would be most affected by it, paying special attention to those who serve in the Armed Forces. I also met with homosexual groups concerned with how this policy will affect their service in the military. While I understand their concerns, I disagree with them on this issue. I believe that the provisions included in this bill represent a balanced solution—one that will maintain our armed services high morale while allowing for some of the obvious changes in our society's attitudes and customs. As a result, I consider it the best possible solution to a difficult situation.

The Boxer amendment leaves entirely to the President a policy judgment which should be made by the Congress after listening to its national constituency.

The PRESIDING OFFICER. The Senator from Georgia has 18 seconds.

Mr. NUNN. Mr. President, I will use my 18 seconds to commend the Senator from California, the Senator from Massachusetts, who testified so eloquently before our committee, and all of those who have a very sincere, strongly held view on the other side of this issue. I think it is a very tough issue. It involves a balance between individual rights and the Nation's security, and people of good faith can come down on different sides of it.

I do think we have had a very high level debate both in the committee and on the floor, and I thank all of our colleagues for their attention.

The PRESIDING OFFICER. Under the previous order, all time having expired, the question occurs now on the adoption of the amendment.

Mrs. BOXER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN], is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Texas [Mrs. HUTCHISON], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. WALLOP], are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. WALLOP], and the Senator from Texas [Mrs. HUTCHISON], would vote "nay."

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

The result was announced—yeas 33, nays 63, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—33

Akaka	Feinstein	Metzenbaum
Biden	Harkin	Mikulski
Bingaman	Inouye	Moseley-Braun
Boxer	Jeffords	Moynihan
Bradley	Kennedy	Murray
Campbell	Kerrey	Pell
Chafee	Kerry	Riegle
D'Amato	Lautenberg	Robb
DeConcini	Leahy	Sarbanes
Dodd	Levin	Simon
Feingold	Lieberman	Wellstone

NAYS—63

Baucus	Durenberger	Mathews
Bennett	Exon	McCain
Bond	Faircloth	McConnell
Boren	Ford	Mitchell
Breaux	Gorton	Nickles
Brown	Graham	Nunn
Bryan	Gramm	Packwood
Bumpers	Grassley	Pressler
Burns	Gregg	Pryor
Byrd	Hatch	Reid
Coats	Hatfield	Rockefeller
Cochran	Heflin	Roth
Cohen	Helms	Sasser
Conrad	Hollings	Shelby
Coverdell	Johnston	Simpson
Craig	Kassebaum	Smith
Danforth	Kempthorne	Specter
Daschle	Kohl	Stevens
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Dorgan	Mack	Wofford

NOT VOTING—4

Glenn	Murkowski
Hutchison	Wallop

So, the amendment (No. 783) was rejected.

Mr. NUNN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the Byrd amendment No. 782, as modified. There is no time agreement.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Chair.

Madam President, our revered President pro tempore has agreed that I might speak at this point, and we will proceed to his amendment directly thereafter.

LYING TO A U.S. SENATOR

Mr. MOYNIHAN. Madam President, I rise on a point of personal privilege. I rise to say that as a United States Senator on an official visit to Bosnia and Herzegovina—specifically on a flight to Sarajevo—I was diverted by the United States Armed Forces, the United States Air Force in this particular case, and I was lied to. I have attempted in the most restrained manner to bring this to the attention of the Department of Defense and the Air Force.

The distinguished chairman of the Committee on Armed Forces has forwarded a letter of mine with the particulars to Secretary Aspin. I was on a plane flown by the West Virginia Air National Guard, a C-130, headed for Sarajevo. We were told to land at Zagreb—on the grounds that the Sarajevo airport was closed by weather. It was not closed. I was lied to.

Now, that is an act which no officer in the U.S. Armed Forces can ever allow to happen to a subordinate, much less himself or herself.

A moderate request was forwarded by the chairman of the Armed Services Committee to the Department of Defense on March 9. There has been no effort to explain. In response to repeated phone calls, to conversations with the Secretary of the Air Force, there has been no explanation. This Senator has been lied to with evident indifference and manifest impunity.

Madam President, I have a term of speech which was commonly used about 50 years ago in the Navy, the old Navy. Next year it will be 50 years ago that I joined the Navy. There was an offense in that Navy, and may still be—a former Secretary of the Navy is in this Chamber and may know. The term is "dumb insolence." It had been a flogging offense; it is not yet. Not silence, but expressed contempt.

I was lied to in the following manner. And I ask the Senate if it will indulge me to read the letter I prepared at the request of the chairman of the Committee on Armed Services, that he would forward to the Secretary of Defense. Which Secretary of Defense, we read in this morning's New York Times, is going to fly to Sarajevo himself—if he is not lied to.

We learn that the National Security Adviser does not wish him to. A tug-of-war appears to have broken out between the Pentagon and the White House over Defense Secretary Les Aspin's planned trip to Sarajevo.

I hope Mr. Aspin is listening to me because it is not a light thing to lie to

a U.S. Senator on an official mission nor to the Committee on Foreign Relations. It is an occasion for censure. It is an occasion for court-martial. It is an occasion for dismissal from the service, and this Senator has seen too much of this through too many Presidencies, from John F. Kennedy forward, to think it may be shrugged off.

Madam President, I will take the liberty of reading the letter which I wrote to Chairman NUNN on March 9, 1993.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 9, 1993.

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

DEAR MR. CHAIRMAN: During Thanksgiving week of last year, I travelled on Foreign Relations Committee business to assess the conflict in the former Yugoslavia. My travel had been authorized by Chairman Pell and concerned, of course, one of the most difficult and immediate foreign policy issues facing our country. In addition, I spoke to president-elect Clinton before my departure, and he asked me to prepare a report for him on my findings.

Because of the difficulty of travel in that region, I had requested and been promised in theater military aircraft. To go to Sarajevo I planned to hitch a ride on one of the U.N. relief flights. Thus it was on the morning of November 23, 1992, that I set out for Sarajevo from Frankfurt on a West Virginia Air National Guard C-130 loaded with meals ready to eat. En route, I was advised that EUCOM wished to divert the plane to Zagreb because it was Pentagon policy not to fly a U.S. Senator into Sarajevo. I told the crew to radio back that if the West Virginia Air Guard were prepared to take the risk of flying into Sarajevo, so would I. EUCOM seemed to acquiesce and on we went.

A short time later, we were advised that the Sarajevo airport was closed, and we would have to land in Zagreb after all. At the tarmac we were met by the U.S. Charge in Croatia, the estimable Ron Neitzke, who had been hastily summoned to greet the arriving dignitary. As I apologized for arriving on such short notice explaining about the Sarajevo weather, Neitzke looked at me with astonishment. Flights, he said, had taken off from Zagreb for Sarajevo just minutes before my arrival.

It happened I had been lied to. The next day I made my way to Sarajevo on a Canadian C-130, stayed through a night of incessant shelling, and returned to Zagreb on a British flight. Upon my return I received the following message from the Pentagon: "Further cooperation with Codel Moynihan is cancelled." Without the in theater aircraft I could not visit Belgrade, Kosova, or Macedonia. And, as a result, a mission undertaken for both the Foreign Relations Committee and President-elect Clinton was partially thwarted.

I can understand that the bush Administration did not want a U.S. Senator to see what was going on in Sarajevo. What is unacceptable, or so it seems to me, is for the U.S. military to mislead a United States Senator. Sarajevo airport was not closed on Monday morning, November 23. I was told it was. Before the Senate considers the nomination of the next Secretary of the Air Force, I would like to have a full written explanation of the decision to divert our aircraft to Zagreb, as well as for the subsequent petulant act of retribution.

As I know you recognize, the professionalism of our military is undermined when it is asked to mislead to Members of Congress. That is why I attach such importance to this matter.

Sincerely,

DANIEL PATRICK MOYNIHAN.

Madam President, this letter was sent by Senator NUNN to the Pentagon. He has talked to persons at the Pentagon about this letter. He has received no response. I have talked. We have received no response.

What do they think Iran-Contra was about? It was about lying. What do they think that whole sequence of troubles we have had in 40 years of cold war so frequently has been about? It has been about deception.

I indicated I would hold up the appointment of the Secretary of the Air Force, which I did not do. The President at that time was talking about air strikes in Bosnia, and it seemed to me no time for him to be in a situation that he did not have a Secretary of the Air Force. I have spoken to the distinguished incumbent and asked to have some explanation. None comes forward.

There are several possible explanations for this silence. One is that they could care less whether the Department lied to a Senator or not. This was not a pleasure trip. We were putting our lives at risk, as was that West Virginia Air National Guard crew. Something very large, important—genocide is important—was at stake. The whole post-cold-war international order was at issue. Mr. Clinton met with Mr. Izetbegovic yesterday. We met with him in Sarajevo. I drove in an Egyptian armored personnel carrier from UNPROFOR headquarters to the President's offices with shells landing nearby. I do not want to be dramatic about this, but this was not a trip to the beach.

Evidently, the Air Force does not mind that this is my view, or it knows that the view is correct and is concealing it. I do not know if there is any alternative view. They do not answer. I know that over a year ago, Senator WARNER went to Sarajevo. And a relief flight was shot down, and they became apprehensive about trips of this kind. I understand that.I do not understand that they lied, and do not even think my inquiries require some response.

Madam President, I will vote against this legislation and any legislation having to do with the Defense Department until they bring a response. I also propose to put a hold on any nominations from the Department of Defense. I have not, in 17 years in the Senate, done anything like this. But I was a member of the Select Committee on Intelligence for 8 years, and 4 years vice chairman with my esteemed colleague, Barry Goldwater. I saw Barry Goldwater lied about. I feel I have been lied to.

If Senators accept this, what else will we accept?

I see my able and gallant friend, the Senator from Virginia, on the floor. He got into Sarajevo in the spring of 1992. I got into Sarajevo later that year. Now the Secretary of Defense means to go. We did so in circumstances which were, at minimum, made difficult and, at worst, became duplicitous.

You cannot ask uniformed officers to lie to Senators. You cannot order them to do it. It breaks down the entire code of military honor. Clearly—I cannot say clearly, but I hypothesize that the order came from Washington, and it came from a civilian officer, and now the uniformed service is being allowed to suffer from it.

I think that is dishonorable in the utmost. Why their successors do not wish to clear it up is a mystery to me. Do they understand the military? Have any of them been in the military? Do they care about military honor? I hope they do. I hope they are listening. I hope they are ashamed. And I shall be happy to come to this floor and say this whole matter has been cleared up and put behind us. But Madam President, it happened almost a year ago. That war goes on, that war which evidently they did not wish people to see. I regret that it happened.

I see my gallant friend, the former Secretary of the Navy, has risen.

I yield the floor.

Mr. WARNER. Madam President, it is just by coincidence that I am present on the floor here today, and I am absolutely astonished by the facts revealed by our distinguished and most respected colleague. He is a former sailor in World War II. He has taken innumerable trips on behalf of this body and the respective committees on which he has served through the years. It is imperative that we get to the bottom of this.

It has been my experience, in the 14 years I have been privileged to serve in the Senate, that the military has always treated me and—so far as I know—other Members of the Senate with complete accord, dignity and honesty. Therefore, we must get to the bottom of this promptly.

The Senator mentioned that I did, in the spring of the same year, manage to get into Sarajevo. Again, it was facilitated bythe U.S. military, together with UNPROFOR commanders. It took modest persuasion, because at that point no other Member of Congress had actually gotten beyond the airport into Sarajevo, and I shall always be grateful to the French commander who took it upon himself to make that possible. That is the spirit in which all of those parties dealt with me and, presumably, other Members of Congress.

I think the chairman of the House Subcommittee on Defense Appropriations made a similar trip shortly thereafter, or in that basic timeframe, because it is important for those of us who by virtue of our committee assignments have some special responsibility

for that particular conflict to get in and see it for ourselves. Indeed, that visit did, as I am sure did the Senator's visit, enable me to have a far better understanding of the situation and the complexity and indeed the insolubility of the problems in that region.

So I will join with my distinguished colleague and friend, the Senator from Georgia, together with the ranking member from South Carolina, to see what we can do to get a prompt response to the Senator's inquiry.

It is most regrettable and embarrassing that the Senator had to bring this matter to the floor of the Senate. I feel that he is perfectly within his rights not only to bring this up but also take his stance with respect to the nominations until this is resolved. I think those of us on this side of the aisle have some special responsibility, in that Secretary Cheney at that time was Secretary of Defense. I will personally undertake to work with our chairman to see if we can expedite a reply, and I am hopeful that that reply would be satisfactory.

Mr. MOYNIHAN. May I express my great gratitude to the Senator from Virginia. My concern is simply that the military not ever be put in a position of having to commit an action which to an individual officer would be dishonorable. This can be cleared up. Not to do so suggests that it does not matter. It matters a very great deal, as I know it does to the Senator from Virginia and the Senator from New York. I thank him very much.

Mr. WARNER. As the Senator said, he had taken of his time to go to that part of the world, and then to be thwarted in an attempt to get in to reach his destination, and to compound it, thereafter other portions of the trip he was undertaking, not only for the body of the Senate but also for the President-elect, were terminated. That is my understanding.

Mr. MOYNIHAN. Exactly.

Mr. WARNER. I think he is doing a service to this body, to refine whatever rules are out there so we have a full understanding such that other Members, when they might travel atsome point in time, will have a better understanding of what can and cannot be done and who has the discretion.

Mr. MOYNIHAN. I could not ask for more. I thank the Senator.

I yield the floor.

Mr. WARNER. Madam President, parliamentary inquiry. What is the status of the Senate?

The PRESIDING OFFICER. The pending business is the Byrd amendment. There is no time agreement, but Senator MOYNIHAN asked Senator BYRD to yield.

Mr. WARNER. That is clear. I ask unanimous consent to proceed for a period not to exceed 5 minutes on a matter related to the underlying bill, the armed services bill, and then I will yield the floor.

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

Mr. WARNER. Earlier today, I addressed the Senate regarding an amendment which I now send to the desk and simply ask that it be printed in the RECORD and laid upon the desks of the Members for possible action tomorrow.

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

Mr. WARNER. Madam President, I would like to read this amendment.

It is the sense of the Senate that no person who was a member of the Armed Forces of Iraq during the period from August 2, 1990, to February 28, 1991, and who was in a refugee camp in Saudi Arabia as of the date of enactment of this act, shall be granted entry into the United States under the Immigration and Nationality Act, as amended, unless the President certifies to Congress prior to such entry that such person, No. 1, assisted the United States or Coalition Armed Forces after defection from the Armed Forces of Iraq or after captured by the United States or Coalition Armed Forces and, No. 2, did not commit or assist in the commission of war crimes.

In essence, this amendment is to indicate to the administration that it is the sense of this body, and hopefully of the other body, that those persons who were serving in the Iraqi military, and in that capacity took up arms against the coalition military forces during Desert Shield and Desert Storm should not be allowed into this country for resettlement and given a status from which they can compete for jobs and other benefits with our own veterans, many of whom are still struggling with the aftermath of their heroic service in that Persian gulf conflict.

I should hasten to add that it is my understanding that the vast majority of Iraqis who have been admitted to the United States as refugees since the end of Desert Storm have been civilians who have a legitimate fear of persecution in Iraq, and thus qualify for refugee status.

My concern is with that small number of Iraqi refugees who served in the Iraqi military during the time of Desert Shield and Desert Storm against United States and a coalition Armed Forces. My amendment does make an exception for these former Iraqi soldiers who assisted the coalition war effort after their capture or defection. There are a number who fall in this category and who should be helped because of their assistance to our war effort.

I know that each Member of this body, including the Senator from Virginia, is receiving numerous inquiries from constituents, and indeed from Americans all across our land, expressing indignation at a policy which would enable our former adversaries in the Iraqi military to come to the United States and be given rights and privileges and protections. It is an affront to every Persian Gulf war veteran that this policy is in place.

The purpose of my laying this amendment before the Senate at this time and having it printed is, first, to suggest to my colleagues that they might wish to join me as cosponsors, and, second, to give the Departments of State and Defense an opportunity to come back and express an opinion on this amendment. I have made preliminary inquiries of both Departments, but I am still awaiting definitive responses.

I thank the Chair and I thank my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. NUNN. Madam President, I ask unanimous consent that the Byrd amendment, which I understand is the pending amendment, be temporarily laid aside for the purpose of the Senate deliberating and deciding on a Sasser amendment which is an amendment on SDI funding as I understand it.

Mr. SASSER. The Senator is correct.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 785

(Purpose: To reduce the amount provided for ballistic missile defense programs and to allocate the total amount among the ballistic missile defense programs and program elements.)

Mr. SASSER. Madam President, I send an amendment to the desk on behalf of myself, Senators BUMPERS, JEFFORDS, SIMON, BOXER, and WOFFORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Tennessee [Mr. SASSER] for himself, Mr. BUMPERS, Mr. JEFFORDS, Mr. SIMON, Mrs. BOXER, and Mr. WOFFORD proposes an amendment numbered 785.

Mr. SASSER. Madam 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 64 strike out line 21 and all that follows through page 65, line 3, and insert in lieu thereof the following:

more than $2,684,535,000 may be obligated for programs managed by the Ballistic Missile Defense Organization, of which—

(1) not more than 48 percent of the total amount may be obligated for Theater Missile Defense;

(2) not more than 32 percent of the total amount may be obligated for the Limited Defense System;

(3) not more than 9 percent of the total amount may be obligated for Other Follow-On Systems;

(4) not more than 10 percent of the total amount may be obligated for Research and Other Support Activities; and

(5) not more than 1 percent of the total amount may be obligated for Small Business Innovation Research program and the Small Business Technology Transfer program.

Notwithstanding paragraphs (1), (2), (3), and (4), the Secretary of Defense may obligate for a ballistic missile defense initiative or program element referred to in any such program a total amount that exceeds by not more than 10 percent the maximum amount determined under that paragraph, except that the total amount obligated for all programs managed by the Ballistic Missile Defense Organization may not exceed the total amount authorized in the matter above paragraph (1).

(b) LIMITATION ON NUMBER OF TMD PROGRAMS.—(1) Subject to paragraph (2), the amount authorized to be obligated for Theater Missile Defense may be obligated only for—

(A) the Patriot PAC-3 Missile program;

(B) not more than 2 other lower-tier theater missile defense programs;

(C) not more than 2 upper-tier theater missile defense programs; and

(D) not more than 2 boost-phase intercept theater missile defense programs.

(2) The President may waive the limitation in paragraph (1) to the extent that the President determines appropriate in the national security interest of the United States.

(c) FUNDS NOT TO BE MADE AVAILABLE FOR BRILLIANT EYES.—None of the funds authorized to be obligated under subsection (a) may be obligated for the Brilliant Eyes space-based sensor program.

(d) REPORTING REQUIREMENT.—Not later than 60

Mr. SASSER. Madam President, the defense authorization bill that we have been debating off and on for the past 2 days comes before the Senate at a time when virtually every Member of this body has gone on record vigorously many times, time after time, if not on the floor, back in their home States in favor of additional reductions or cuts in Government spending.

That is precisely what this amendment that I am offering the body addresses today. We will be reducing the authorization if this amendment is adopted for the SDI, the old strategic defense initiative, and its follow-on programs, reducing the authorization from $3.4 billion for fiscal year 1994 to $3 billion for fiscal year 1994.

In essence, what I am seeking to do today is to save $400 million of taxpayer money over the next fiscal year.

When my colleagues have been stating time after time that we need to cut spending, then I think they are speaking as they should. As we debate this bill, we speak not only to our national defense needs. We also speak to a threat that is burrowed deep into the economy of this country, and I am referring to the budget deficit that threatens the very survival of our Nation.

This budget deficit saps our economic strength. It tears at the very fiber of our republic.

Our former colleague, one that I had the great pleasure of serving with for 12 years, Senator Barry Goldwater, made this frightening prediction just a few months ago about what would happen if we do not control the budget deficit in the next 5 years. Senator Goldwater said: "This country will not last 10 years. It will be bankrupt."

So, the question before us today, as reflected in the amendment which I will offer, is one of balance. It is one of responsible management.

It goes to the heart of the fights that we wage on different fronts—one fight on the front of national defense and the other on the front of fiscal responsibility. We simply cannot ignore either, and if we do so, we do so at our peril.

We do not live in a world unvexed by war. I wish that we did. We do not live in a world that is not troubled by those who would plunge us once more into darkness and bloodshed. The despots are out there. Saddam Hussein and the unrelenting horrors of Bosnia show us how fragile the peace can be.

Of course, this country must never let down its guard. And charters, covenants, and treaties alone are not going to keep the peace. We know we must be strong and we know we must be vigilant.

But we also know in our hearts and we know intellectually that the world has changed since the late 1970's when we began the onset of the largest peacetime military buildup in the history of this country. Much has happened. No need to recount it all. It is obvious.

The other military superpower in the world, our chief rival, the Soviet Union, has disintegrated. It is no more. The Berlin Wall, or the few pieces that are left standing of it, is nothing more than a ghostly relic.

In light of the radically changed international order, the Senate Armed Services Committee moved decisively to review the military threat to our Nation and to set priorities for a new defensive strategy. I wish this afternoon to commend the committee and to commend its able chairman for moving in that direction.

During the 102d Congress, the committee charted a new course that would adapt to the changes in the post-cold-war era and ordered a military builddown. This military builddown had five guiding, bellwether principles that were as valid when they were enunciated as they are today.

The first principle is maintaining nuclear deterrence at lower levels and with greater stability.

Second, emphasizing a reinforcement strategy that comes about with increased military mobility and increased rapid deployment capability.

Third, increasing the utility of the reserve forces of our military.

Fourth, applying a flexible readiness, which is defined as keeping those echelons of our military that are likely to be first committed to be the most ready and those unlikely to be committed or, if they are to be committed, only when there is long lead time to prepare them for their commitment, allowing them to stay at a lower edge of readiness.

And, fifth, thinking smarter, not richer, in making procurement and force structure decisions.

But I submit to my colleagues that our task here today, in this Congress, is more difficult than it was in the 102d. It is made more difficult because the budget deficit looms even larger. The imperative call is to cut spending. The people are demanding that we cut spending. All spending, whether it be military, domestic, discretionary, entitlement spending—all spending. And no department of the Federal Government, no agency of the Federal Government, no program of the Federal Government is immune from scrutiny and immune from cuts.

Every Senator in this body who sits on an appropriations subcommittee or an authorizing committee knows the harsh realitythat we face. We no longer ask: What do you need? The question is: What can you cut further?

I think it is elementary that the American people have a right to expect their Government to watch every dollar and to husband every resource, and this must include military spending, as it does all other Government spending.

Even recognizing that military spending has steadily declined in real terms since the mid-1980's, we have to take cognizance of the reality that the starting point for this spending reduction was an all-time peacetime high in military spending.

Yes, the cuts have been real, no question about it. But they have been dictated by monumental world events. We still have to weigh every dollar of military spending in balance against the threat it would aim to deter.

That is why, Madam President, I am very concerned about the authorization for what we now call the ballistic missile defense organization, formerly known as the strategic defense initiative, SDI, or Star Wars, contained in this legislation.

Madam President, whether you call it ballistic missile defense, whether you call it strategic defense initiative, whether you call it Star Wars, or Brilliant Pebbles, or some other name, there can be little doubt this program took on almost mythic proportions after its creation in 1983.

We all remember very well the dramatic announcement made by President Reagan of this new wonder defense that was going to put an invisible shield all across the United States. Some of us were incredulous at the time.

Tens of billions of dollars later—tens of billions of dollars later—we learned that Star Wars was more dream than reality. We have learned that there really are no miraculous technologies to protect us from a nuclear nightmare.

In fact, it was revealed just 3 weeks ago that SDI was oversold to this Congress and the American public.

Quoting from an August 18 New York Times article:

Officials in the Star Wars project rigged a crucial 1984 test and faked other data in a program of deception that misled the Congress.

On that particular point, Madam President, I heard the distinguished senior Senator from New York just a moment ago eloquently describing what he perceived to be a misinterpretation, to put it as charitably as possible, of the facts to him by persons in the Department of Defense last year.

On this whole question of officials in the executive branch or judicial branch, for that matter, actively and with knowledge and malice aforethought, misleading the elected representatives of the American people, and that is what the Congress is, I do feel that very strict penalties and very severe measures should be taken against those who actively and deliberately mislead the American people by misleading their elected representatives.

Mr. NUNN. Will the Senator yield on that point?

Mr. SASSER. I am pleased to yield.

Mr. NUNN. I know the Senator is referring to the New York Times article. I myself was disturbed when I read that article. I asked our committee staff to immediately get in touch with the Department of Defense about that, those series of allegations in the New York Times. I also asked Dr. Perry to come over and give us a description of what they found.

I ask the Senator from Tennessee to please get briefed on that subject this afternoon. I hope we will have an unclassified version of what actually happened, because Dr. Perry has informed us this morning that story was distorted and inaccurate and portrayed a false impression of what actually happened.

So I know the Senator has every right to be concerned about the allegations in that New York Times article. But I hope here in this debate no one will make judgment based on that article until they have heard the version that has been looked into in the new administration by the new civilian leadership, working for a Democratic President who had no responsibility whatsoever for the program at that time. Because that article, according to Dr. Perry's thorough examination, is grossly inaccurate.

I did want to let the Senator from Tennessee know that, as we proceed in this debate. I hope before the afternoon is over, I will have a statement from Dr. Perry that will show what did happen and what did not happen, and how that article is distorted.

Mr. SASSER. Mr. President, I thank the distinguished chairman. I must say, I certainly hope the article is incorrect. Because I would be very disturbed indeed if the article should prove accurate, that data was faked in a program of deception, to deceive the Congress, as the New York Times had previously reported. I will look forward to getting additional information on that subject as described by the distinguished chairman.

But, Madam President, I am not here this afternoon to revisit previous debates on the strategic defense initiative, nor to call for its elimination, for that matter, although the elimination of the whole SDI—strategic defense initiative, star wars, ballistic missile defense concept, whatever you want to call it—would be justified in the eyes of many.

This body has decided in the past that ballistic missiledefense has a place in our national defense, but that it must be tailored more closely to fiscal and strategic reality. In the post-cold war world, the threat posed by theater missiles to our forces deployed abroad and to our allied civilian population is real and it is immediate. But I would say that the threat of an intentional attack by a long-range ballistic missile against the United States has become almost nonexistent.

I believe the Armed Services Committee funding levels, providing nearly $3.5 billion at a time when the most serious threats facing this country in my view are not military threats from abroad but economic and fiscal threats within our own borders, I would say that funding this strategic defense initiative, or ballistic missile defense program, at a level of $3.5 billion is more in line with cold-war strategic thinking and a cold-war strategic threat.

The administration reoriented the ballistic missile defense focus away from Star Wars and directed it toward what I will call Scud wars, defense against short-range-type, Scud-type missiles that we saw operating in the Persian Gulf war. I think that war provided graphic rationale for increased vigilance against this type of short-range theater missile. So what is the problem here today with the funding for the ballistic missile defense, or the SDI funding? I think there are two problems and I think this amendment will address both of them.

First, there is a larger budgetary problem with the entire bill. I ask my colleagues to examine this chart. The first bar, the blue bar labeled cuts provided describes the action of the Senate Armed Services Committee in the bill before us. The distinguished chairman and the members of his committee are to be commended for the $188 million in spending cuts they have already made in this authorization bill.

However, based on a preliminary estimate of the appropriations allocation process, defense outlay cuts of nearly $2.6 billion could be required. Therefore, comparing the Congressional Budget Office estimate of the defense authorization bill with the cuts required, means the authorization bill totals could exceed the defense appropriations subcommittee's outlay allocation by about $2.4 billion.

What am I saying? What I am saying is that the Senate Armed Services Committee in this bill before us today has authorized the spending of about $2.4 billion more than the defense appropriations subcommittee is going to be able to fund or appropriate. So a final resolution of this outlay problem is going to have to be found.

But as things stand today, the defense appropriations subcommittee may have to reduce by over $2 billion the spending recommendations in the Armed Services version of the authorization bill to comply with its 602(b) appropriations allocation. And I am saying we ought to start today by trying to make the authorization bill comply with the appropriations that are available. And the easy way to begin is slicing $400 million off the SDI authorization.

I understand there are various scorekeeping issues surrounding the discrepancy. I do not minimize the difficulty involved, if the defense appropriations subcommittee must come up with the entire difference. But I would submit that cutting SDI a bit would be a good start toward bringing this bill into compliance with defense cuts likely to be required to meet the budget caps. And would do so in a manner which would not affect the two most important components of our military: Personnel and readiness.

We are all familiar with the argument that we are met with when we try to make cuts in the defense appropriations bill in large measure. We are told the only really substantial cuts you can make immediately are in personnel and readiness, and those are things that simply must not be sacrificed if we are to meet our defense obligations.

So let us begin today by slicing $400 million off the strategic defense initiative, saving this $400 million and not putting ourselves on a crash course or a collision course with the appropriations process when we get to the defense appropriations bill.

Second, and perhaps equally as important, SDI or BMD has become a program of pay now and then pay even more later. Since the program's inception, we have spent well over $30 billion on ballistic missile defense and, as you can see by this chart, if we closely follow the $3.8 billion request for fiscal year 1994, as this bill does, it will lead

to even larger SDI costs in the outyears. You can see, if we fund here at the level of $3.8 billion, in order to maintain that funding level in the programs that we have started, by 1995 we are funding at $6.5 billion, culminating in a $7.1 billion program in fiscal year 1999 for the SDI.

In other words, the level of ballistic missile funding today has a direct effect on the level of funding in the future. One triggers the other. We have already put $30 billion in this strategic defense initiative since President Reagan announced it in 1983. Let me just give you some idea of how that $30 billion expenditure compares with other expenditures during the same period of time.

As we were putting $30 billion into the strategic defense initiative, we were putting $8 billion into drug interdiction to try to keep drugs from coming into this country. I ask my colleagues, what is the greatest threat to this Nation today? Intercontinental ballistic missiles coming across our borders or cocaine and heroin and other drugs coming across our borders by the ton and poisoning our youth?

As we were putting $30 billion in SDI, over the same period of time, we put $16 billion in Head Start, a program to take the disadvantaged children and give them a leg up in our society; twice as much, almost twice as much into SDI as into Head Start.

I ask my colleagues, if you will, to walk two or three blocks away from this Capitol Building today and walk through some of those neighborhoods. I will ask you, where do you feel the most threatened, by what you see around you in those neighborhoods or by an intercontinental ballistic missile that might be launched against the United States?

Or how about the environment? As we were spending $30 billion on SDI, we were spending $28 billion on protecting the environment right here in the United States of America.

So I refer to these other programs to give my colleagues some frame of reference in making a determination as to just how much money has already been spent and what we have gotten from that.

I see the distinguished Senator from Louisiana on the floor, and I will be pleased to yield to him.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I want to congratulate the distinguished Senator from Tennessee. This is a battle over SDI that I have fought many years and this is, in a sense, a replay of that same battle.

I remember very well when Ronald Reagan, President of the United States, announced the first Star Wars Program. He announced we were going to have an astrodome over the United States, a leakproof defense, which was going to make this country impervious to Russian attack with their thousands of nuclear missiles.

Shortly thereafter—a few months—and after he had convinced millions of Americans that they need no longer worry about Russian nuclear arms, the ground shifted and we were told, "Well, the President did not literally mean that. What he did mean was we would have a continental defense which would insulate this country from the vast majority of Soviet missiles. But we were assured shortly thereafter that there would be a test applied to any kind of missile defense called the Nitze test, named after the distinguished arms control adviser, Paul Nitze.

That test was that we would build no system, that we would expend no money unless it was spent pursuant to a plan that would get us more defense than the opposition could get by spending more in additional weapons; in other words, we would not spend $2 to stop a weapon that it would take them $1 to build. Common sense. And it was, in fact, very reassuring to many of us who were highly skeptical of the fact that you could ever meet a Nitze test on any ballistic missile defense.

Nevertheless, that was declared as the policy of the Armed Services Committee, the Department of Defense, the policy of this Nation that the Nitze test of financial feasibility would always be applied. Then, Madam President, it is amazing the number of iterations and reiterations that we have gone through on Star Wars or SDI.

We started with a presumed architecture in which the missiles would orbit the Earth in more or less a bus—that is, a bus which would carry many missiles—with the control mechanism being a series of geosynchronous satellites which in turn would give the command to the bus to fire at the missiles.

There were some problems with that. We found that it could not shoot down the Russian missiles in the boost phase which meant that they would then deploy all of the warheads that came out of the missile which, in some cases, would be 20 or more, so that it presented a huge problem in being able to shoot down that many individual warheads coming over since you could not get them in the boost phase because we could not have that many buses orbiting.

We also found that there was an almost insurmountable problem with decoys because they could deploy out of one missile hundreds of Mylar decoys, which would be balloons, in effect, but would travel like missiles and look on the radar as if they were missiles in fact. Indeed, there was no answer to that.

Then the strategic defense initiative announced we had a new plan to deal with that. They called it interactive discrimination. They were going to have a neutral particle beam from another satellite which was going to be able to shoot neutral particle beams which, in turn, could get inside the Mylar fascia, the skin of the balloon, and, in effect, discriminate between that which had a lot of mass and that which did not have a lot of mass and, therefore, be able to give the command to shoot down only the real missiles rather than the Mylar decoys. This had a few problems, too.

First of all, they were not sure they could make it work to discriminate. Second, there were absolutely huge computing problems in being able to do all this discrimination, get the information back, and put it with all the millions of lines of code that the computers would require. Indeed, in all of these iterations, they never solved the computing problem. Computer experts would come in to see me and say absolutely you cannot solve that problem.

Mr. NUNN. Will the Senator from Louisiana yield just for a brief observation?

Mr. JOHNSTON. Yes.

Mr. NUNN. I think it is a fascinating bit of history we are hearing here about the SDI Program, and much of what the Senator from Louisiana says the Senator from Georgia agrees with in terms of over-described, rhetoric, excessive expectations that were portrayed.

As the Senator knows, we cut down the amounts and channeled this in a very precise way in the Limited Missile Defense Act of 1991, so we changed directions on this program very substantially 2 years ago.

But I would just ask the Senator from Louisiana if he recognizes that the administration, this administration, new President, Democratic President, new administration, new people in charge, are now allocating two-thirds of the money, of all this money to theater missile defense?

Mr. JOHNSTON. Madam President, I am perfectly aware of what the administration is saying and was going to get to that. But I think you have to get this history before you can vote those kinds of dollars.

If the Senator will allow me to go through the history, then in fact I would like to engage him in debate, because one of the problems with this whole thing is that this has always been sort of a confession and avoidance on the part of my dear friend from Georgia, skilled debater that he is, always caught with the faults of the administration, the overclaims, the exaggerated claims of the administration. Every year we would come in and see my distinguished friend from Georgia on the floor and say, "Do you not know that you cannot deal with this interactive discrimination?"

"Yes, we know that, but we have a new plan." And so I just wanted to go through these steps in the new plan.

Mr. NUNN. I understand the Senator's point, but I would also ask the Senator if he would think back just a couple years to the Persian Gulf war and recognize that the largest number of casualties we suffered in the Persian Gulf war was directly attributable to a theater ballistic missile basically killing 38 of our people. And this is what this program is primarily designed for now. Two-thirds of the program is designed for that.

I think it is interesting history here and there is nobody that could—I have given the Senator's speech myself several times in committee to the Reagan administration officials and even to some extent to the Bush program, although it changed substantially. But the question is what we are going to do now. This business we have heard this morning—I know the debate will become more enlightening as we go along, but so far all we have heard is about the Reagan administration. We have not heard anything about the theater defense. That is where two-thirds of the money is going to go. That is a present danger and threat to our military forces wherever they are deployed in the world and we have to have the defense for that.

Mr. JOHNSTON. I am ready to get to that if the Senator would permit me to go through it, because if it is not interesting to him, I think it is very salient history because it is a replay in some respects of what we have had——

Mr. NUNN. I would emphasize the word history.

Mr. SASSER. Will the Senator from Louisiana yield for just a moment?

Is the Senator from Louisiana aware that under the Senate Armed Services Committee bill there is no allocation to theater missile defense?

True, under the administration's provisions they are allocating 48 percent to theater missile defense, but under the authorization bill before us there is no allocation. In other words, we are simply asked to authorize a lump sum of money here that may go to theater missile defense; it may go to national missile defense; it may go to research and support. We do not know where it is going to go. We are leaving that to the administration. The Armed Services Committee authorization bill as I understand it has made no allocation.

Mr. NUNN. Will the Senator yield?

Mr. JOHNSTON. Madam President, if I could reclaim my time.

Mr. NUNN. Will the Senator let me answer the question. I will take 30 seconds.

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

Mr. NUNN. If I could just answer that one question, then I will yield back to the Senator.

The Senator's chart is also history. The administration has two-thirds of their total request now, which is an average of $3.6 billion a year, that is allocated to theater defense. The Armed Services Committee bill allows the shifting of funds within this account. Presumably, the administration which has two-thirds in mind for theater defense would shift funds in accordance with the authority of the Armed Services Committee bill. It is the Sasser amendment that would limit the theater defense to 48 percent. So you would be cutting in your amendment the percentage that would be allowed in addition to cutting the amount, so this would go strongly against the President's program. And I would ask the Senator to update his chart on this because it is not in keeping with the bottom-up review.

Mr. JOHNSTON. Madam President, if I may reclaim my time.

Mr. NUNN. I thank the Senator.

Mr. JOHNSTON. We tried interactive discrimination, Madam President. It was found wanting. It did not work. Next they tried a ground-based laser. They built huge facilities out in New Mexico, and there were certain problems with the ground-based laser. First of all, it took an enormous amount of power, in the hundred megawatts of power. In effect, you had to build a huge, big powerplant or drop off on huge supplies of power. You had trouble focusing it and, indeed, getting it to propagate through the atmosphere. It is like trying to shine a huge light through the atmosphere. The atmosphere simply stops it.

Madam President, I think it is safe to say that the ground-based laser did not work. Then we were told, well, we have a new machine called the x ray laser, and the people from Lawrence Livermore came in, and they said, look, this is a pop-up laser, so you do not have to have these things orbiting in space. You can shoot them out of submarines upon word of the launch.

In other words, when the sensing satellites find that the launch has occurred, they can send the signal to the submarine which is waiting right under the water, send a rocket up into space and could have this—the rocket then goes up into space,senses where the warhead is coming in. There would then be a nuclear explosion which would propagate an x-ray laser. That is, in fact, how the x-ray laser was going to be propagated—by a nuclear explosion.

That obviously had huge problems, Madam President. For one thing, you could not reuse the laser once the explosion took place. And secondly, you would have to have a huge number of submarines all around the United States ready to pop up with their lasers and with many rockets.

And then there was a problem, what do you do with Canada and protecting that part from the x-ray laser.

And then there was a huge problem again with the computers.

But we had that debate here on the floor about the x-ray laser and the fact that it did not work.

Then, Madam President, they came up with a new solution. It was called Brilliant Pebbles. And the advantage of Brilliant Pebbles was that you would have these low-cost little machines. I was literally told that you could launch a rocket with an independently computerized sensor for $300,000; and therefore you would be able to put up thousands of them, independently targeted, so that they would be, in effect, swarming around the world in low altitude orbit. They would be able to sense—there would also be some kind of undescribed connection between the geosynchronous satellite, but they would be independently targeted and sensed and each with a portion of the atmosphere to guard against.

Well, Madam President, it was perfectly obvious that you could not solve the problem of cost with thousands of these machines, and you never could figure out how to get the computers to match, and how you would keep these from shooting down your own friendly satellites or somebody else's friendly satellites. In any event, Madam President, Brilliant Pebbles was finally abandoned.

Then we came up with a continental defense, Madam President, and this is more recent times. We were told there would be some seven sites that would be required, but it would be able to defend against an accidental launch only because when you are dealing with continental defense, which is in effect a ground-based defense, then there are too many warheads, if you are dealing with an intercontinental ballistic missile attack from at that time the Soviet Union or Russia or Ukraine or wherever it is.

And you reach to catch these things in the air or in the atmosphere, should I say, or better still in the boost stage in order to be able to guard against this. So it was really only for accidental launch that this was to guard against.

We further inquired about it. They said, well, there are some holes in it. Low trajectory from a submarine would not be covered, when a submarine would come off our coast and launch a low-trajectory shot at the United States. Actually it was not for nuclear attack so much because the preferred means of delivery, talking about a terrorist bomb, or one or two bombs, is in a suitcase. That way you cannot trace who did it. And a nuclear bomb can be carried literally in a briefcase, and certainly in a suitcase. If you cannot stop bales and bales of marijuana coming into this country, a sophisticated terrorist operation could clearly get in nuclear weapons.

So we began to scratch our heads and say: What is it we are defending against and who are we defending against?

The latest iteration before this one was that marvel of ambiguity which was sold to us as continental defense with one or more ground-based stations, one or more. And with a space option in between.

This was sold as a compromise in the Armed Services Committee, a compromise because they did not want to reveal what the full cost of seven sites in this country was, which would have been absolutely enormous. They did not want to reveal that if you built all seven sites you still would have to defend against the suitcase bomb and the low trajectory.

So they said one or more, and they held out the hope that one would cover the country. There was not a scientist in the country who believed that one ground-based site could cover the continental United States, absolutely could not do it. And it still did not solve the problem of the suitcase bomb. So why spend a huge amount of billions of dollars to do just that?

Madam President, the ground has shifted again. Now we have theater missile defense. But do you know what? There is no architecture for theater missile defense.

We are not told what kind of missiles, or where they are going to be. Oh, they describe it as a theater high elevation or something defense. We are not told how many, whether they are ground-based, whether they are ship-based, what they cost, what the delta for the program is; that is, what the spending delta will be.

Literally, Madam President, if you call them up today, well, at least if you called them up yesterday, because I did and asked for this information and they said that is not available. It is somewhere in the bottom-up review. We are being asked to support a program of this size and not only is there nothing in writing, you cannot call them up on the telephone at the Department of Defense and get a description. I am not kidding you.

So that maybe this is history. But I can tell you what I got yesterday is pretty recent history.

Madam President, the French have an expression that says the more things change, the more they stay the same. And that is certainly true with SDI and Star Wars.

Oh, there has been a huge amount of change. We started with a leakproof astrodome. Then we went to a continental attack defense, which was mostly leakproof. Then an accidental launch protection for continental defense. Then a continental point defense against accidental launch. Then a foreign ortheater nonnuclear defense. Now we are at someplace that at some time they come over and give you a briefing. I was told this morning as I was told a few months ago that as soon as this is available they will come over and give a private briefing. Only they want the money now.

So there has been a lot of change in the program. Let me tell what has not changed in this program. There is still no architecture. And $30 billion later we do not know what kind of machines, rockets, devices are going to make up this defense. We do not know where they are going to be deployed, on land or on sea, or in which theaters. We are just told theater. Does that mean NATO? Does that mean the former Soviet Union? Does that mean only Israel? Does that mean all of the Middle East? How many is it going to take?

How do we even know that these numbers have any meaning at all, because they will not give you the numbers, Madam President, if you call them up today.

The second thing that has not changed is it still does not meet the Nitze test. That is to say there is no proof given that the billions we spend here will be cost effective in the number of missiles they defend against. It never has in the past. We do not even know what this plan is.

Third, and I am sorry my friend from Georgia is not here, but every single year there has been this confession and avoidance tactic of the Armed Services Committee. Yes. We know the program was flawed in the past. But now it is different.

Madam President, at each one of these steps along the way that I described when they were talking astrodome, when they were talking interactive, Brilliant Pebbles, the bus delivery system, the ground-based laser, the X-ray laser, it was always, yes, we know that program is flawed but we have a new solution.

I sat here on the floor last year and inquired about this continental defense system where they had more than one continental-based system, and still a space-based system. And I was told that candidate Clinton is for the program. Well, I do not know what President Clinton is for, because they will not tell you over there, Madam President. And I think they have not focused yet on what the program is. If they have, they will not give that information to the Senate.

Madam President, I say this not in criticism of the Armed Services Committee because it is their job to carry out to some extent at least the program of the White House and of the Department of Defense. But the program of the Department of Defense has been found wanting for $30 billion.

The only thing that you can really count on as consistent policy from the Department of Defense is they want full funding. They will confess the errors of the past but, they want full funding for today's program even though they will not describe what today's program is, what it will cost; how it will be carried out; what kind of research will be done; where it will be deployed; how many countries; whether it is cost effective. All of these questions have never been answered. They do not even attempt to answer these programs.

Madam President, the Senator from Tennessee does not go nearly as far as I think he ought to go. Certainly until we are given a plan, with justification for that plan, we should not be spending $3 billion, $4 billion, whatever it is this year, $6 billion next year. It is madness, madam President.

This body which is so concerned about Federal spending. You talk about one of these programs of research and development on the civilian side and it involves fractions of this. You say, oh, we cannot do that, but if you do it in terms of SDI, you do not even have to explain the program. I mean you get a program that is changed from A to B to C to D to E to F every single year, it changes like night and day. You are still asked to fully fund it without being given justification for it.

Why we should do that, I do not know, Madam President. I can tell you this: The Senator from Tennessee has a plan here that saves a few bucks—I think $450 million.

Mr. SASSER. Slightly over $400 million. Let me say to my friend, the Senator from Louisiana, I applaud him for his long and vigorous fight against what I perceive to be exorbitant funding of this whole Strategic Defense Initiative over many years.

I remember the distinguished Senator from Louisiana telling me this some years ago when he first began fighting against the growth of this SDI Program: "Mark my words. Once they get this thing started, they will put a piece of it in this university, they will put a piece of it in somebody else's State. By the time they get through with it, they will have it spread around so you will not be able to stop this program, and it will not work." That is what the Senator from Louisiana said almost a decade ago.

I agreed with him then, and I agree with him today. I would be trying to cut more out of this Strategic Defense Initiative today if I thought we could, if I thought we had the votes to do it. You will remember that, last year, Senator BUMPERS and myself were successful in reducing the funding by $500 million here on the floor of the Senate. This led to a filibuster. The debate went on for days. The bill had to be taken down off the floor. And finally, we were able to compromise and save, I think, $250 million out of a total of $3.8 billion that was spent that year.

So we take as much as we can take, I say to my friend from Louisiana. If I could take $2 billion out today, I would be standing here doing it. But I think we may have a chance at getting a majority of votes to cut out over $400 million today. That is the reason I am proposing that. I would like to propose more.

Mr. JOHNSTON. Madam President, I appreciate the practical politics of being able to do as much as you can do, and I think that may be a worthwhile compromise.

I see that the Senator from Georgia has left the floor. I wonder if my friend from Maine—if he is sort of manning the shop—can tell us what the Department of Defense has in mind. Have they told the Senator from Maine how much is going to be spent, whether these things can be ground based, based at sea, how many theaters are going to be there, and what the cost is? I wonder if he knows the answer to those questions.

Mr. COHEN. If the Senator can wait a few moments, we are going to present some detailed information to him since he has not been able to get it directly from the Pentagon. We will see that he gets the information he has been looking for.

Mr. JOHNSTON. Have they given it to you then?

Mr. COHEN. I think you will find there will be satisfactory answers presented to you.

Mr. JOHNSTON. There will be answers.

Mr. COHEN. They may not be satisfactory to you, but they will be answers.

Mr. JOHNSTON. If they are satisfactory, Madam President, there have been technological breakthroughs that have occurred in the dark of night and have not been revealed to anybody on the Intelligence Committee and Defense Appropriations Committee, both on which I serve.

Madam President, there is another thing that has not changed about this program, and that is that there is an element of sort of a flim-flam, where the Senate somehow falls for it. There used to be a scam called a pigeon drop that I guess is a nationwide sort of thing. But they used to do it in Louisiana. They would get some poor, relatively poor, usually old, fairly ignorant person coming out of a bank, having made a deposit, and somebody would come up to him on the street with a bag of money and say, "I found this money. What do you think we ought to do with it?"

That person would say, "I do not know."

Then about that time the third person who is a confederate of the first would come up and say, "Well, I think we ought to split it up. But I will tell you what, you are going to have to put up some good faith money."

Then they get the first person to go back in and withdraw his or her life savings, and they would come back and say, "You give it to me, and the other person will come up with the money, and we will divide it up in just a minute."

Lo and behold, the real money would be gone, and they would be left holding the bag. It would work year after year after year, and I just heard—

Mr. COHEN. I think only in Louisiana.

Mr. JOHNSTON. I heard of a new part of that scam which was practiced, and I do not know whether it was in Maine. They called up somebody and said, "You have just won the Publishers Clearinghouse Sweepstakes, but you are going to have to pay your taxes in advance, so send us a certified check." They borrowed the money and sent a certified check of $200,000 or $300,000, the check was cashed and, of course, they had not won.

The Senate, Madam President, is falling for this pigeon drop year after year. I mean, they come in with this nonsense, such as interactive discrimination, Brilliant Pebbles, continental defense; every year it is something new. They say, oh, that is right, last year they did not have the right information, but this year we are right.

This year we do not even know what the program is. We are promised somebody is coming with a plan. We have sent a message to Garcia, and Garcia will at some time arrive, we hope, we think, but Garcia is not here, and the plan is not here.

Madam President, why we cannot cut this modest amount before we receive the plan, I do not know. At a time when everybody wants to cut the budget, why can we not at least cut a program that does not even exist? I mean, it is a concept over there in the Department of Defense. Somebody has an idea that they want to protect theater missile defense. Yes, we had a Scud missile that hit the barracks, but is that a reason to go into this multi tens of billions of dollars program sight unseen? That is what we are being asked to do, sight unseen. I hope we vote for the SASSER amendment.

Mr. SASSER. May I inquire of my friend from Arkansas how much time he would like?

Mr. PRYOR. I really want to ultimately ask a question, if I might, of the manager. But I would like to make a statement of 3 or 4 minutes before. So I will need 5 minutes.

Mr. SASSER. I yield to the Senator from Arkansas.

Mr. PRYOR. Madam President, first, I compliment my friend from Tennessee, because he has been a steadfast, concerned Member of this body about this program, which has grown by leaps and bounds, and whether it was good or bad in the mid-1980's or not, that remains to be seen. Notwithstanding all of this, he has been a steadfast and concerned United States Senator about the taking of taxpayers' money for this particular purpose.

I applaud him, and I also applaud my friend from Louisiana who left the floor, Senator JOHNSTON, and also my colleague and friend from Arkansas, Senator BUMPERS. The three of those Members of the Senate, I think, have been very responsible for years and years of attempting to shine light upon this particular subject.

When our friend from Louisiana just mentioned the pigeon drop scam, there is another one that has been around even longer than that—the old-fashioned snipe hunt. I do not know if they have that out in California or in Maine. I think in Tennessee there are some snipe hunts that go on.

But in Arkansas, the old snipe hunt is an old, fun game, where when somebody new came to town, you would say, "Let us go snipe hunting tonight." You say to the new person in town, "We are going to let you climb up in that tree and hold this big bag, and you sit up in that tree and do not move, do not wiggle a leaf, do not do one thing but sit there and hold that bag open. And at a certain time tonight a snipe is going to fly right into that bag, and you are going to close that bag, and you will have caught a snipe, and you will have won the prize. You climb up in that tree, do not say a word, and we are going to come get you when the time comes."

Of course, the person climbs up in the tree, holds the bag, and the snipe never comes.

We have been holding the bag, Madam President, the snipe bag, and the snipe has never come into the bag yet. And year after year after year, we have seen this debate over and over. This is not new. We are not going to hear a lot of new concerns and a lot of new allegations because this debate has been going on for a decade—for one decade—on the floor of the Senate and the floor of the House of Representatives.

For example, there is one thing, talking about a snipe hunt, that I have been trying to find out for the last week. It is the simplest of all questions, but there is no answer to it. There is no answer from the Pentagon. There is no answer from SDIO. There is no answer from the Armed Services Committee. Not one member of the committee has bothered to answer.

The question is this, Madam President: What today, after some $30 billion of appropriations—$30 billion—what today would be the unobligated balance in the SDI account? That is a pretty simple question. You can call HUD today and say, "What is in the section 202 program?" Or what have you. What is the unobligated balance in this or that program? They can tell you.

You can call the Small Business Administration. You can say, "What is the unobligated balance in the Small Business Administration account for small businesses in Arkansas?" They can tell you.

You call SDIO, the Armed Services Committee, or anyone in charge of this

program: "Oh, we do not have that figure. We do not know how many funds we have that are unobligated."

Madam President, I think this is one of the key questions that we must have answered before we can continue appropriating money for this program.

Madam President, I was not on the floor a few moments ago, and I am sorry I was not. But at 4:30, or sometime—and I have been waiting all afternoon for someone to please tell me that a New York Times story was not correct relating to the testing of the SDI program in 1983 and 1984—I am available. I have canceled every appointment this afternoon. I am ready for someone from the Pentagon or the Armed Services Committee to come and show me why that New York Times story was not correct.

Until they do that, I am going to assume that we have seen some fraudulent testing of this program. I am going to assume that. Maybe they can disprove it, and I look forward to that briefing. I look forward to any report the distinguished chairman of the committee can bring out to help disprove this story.

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

Mr. PRYOR. I am glad to yield.

Mr. NUNN. I say to the Senator, I appreciate his remarks and his concerns. I think they are well placed because if that story is accurate, I think we have not only big problems in the Department of Defense over SDI, but the whole question of integrity.

I have just been briefed this morning, Senator EXON and I and Senator THURMOND and others, by Dr. Perry. He informs us that after a very thorough investigation, which we and others have requested, that that story is not accurate. In fact, it is badly misleading and distorted.

I hope the Senator will be briefed, as I mentioned to the Senator from Tennessee, by Dr. Perry, and I hope this afternoon.He is supposed to make a release this afternoon. As soon as he does that, we will be able to use that information in the public debate here on the floor of the Senate.

Mr. PRYOR. Madam President, perhaps the distinguished chairman may not have been on the floor. I have just stated I have been waiting for a briefing. I have canceled all appointments, all meetings of every kind this afternoon, awaiting the briefing. I am very hopeful that someone will tell me this story was not true.

But up until that time, I am going to believe it is true because I think there was a lot of testing going on at that time. It may have been in the area of disinformation, to fool the Soviets. But in the process of fooling the Soviets, which might or might not be bad, I think they also tried to fool the Congress, and I want some answers to that question.

Mr. NUNN. The Senator has every right to that, Madam President, and I hope he will be able to be briefed this afternoon. I hope we will be able to have information from DOD that we can share with all our colleagues this afternoon.

Mr. PRYOR. I thank the chairman. I thank the Chair and my colleague from Tennessee, and I yield the floor.

Mr. SASSER. I thank my friend.

Madam President, this committee mark that we have before us today reduces funding slightly below the administration's request. But, as I said earlier, it does not pare back or eliminate a single program within the SDI budget.

Therefore, the committee did not address the principal factor driving this cost growth—too many programs moving too quickly toward development.

Now, failing to make programmatic changes this year is going to leave us with some very unpleasant options.

First, if all of these programs live for another year, they are going to demand nearly $6 billion next year.

Second, if, as is likely, Congress does not appropriate $6 billion for SDI next year, then several of the programs that we failed to cut this year will have to be scaled back or eliminated next year.

In this case, failure to act immediately means we are going to dump scarce resources into programs for another year, only to have to turn around and make the cuts a year later.

What I am saying, Madam President, is we can either make the cuts now or we can make them later and waste money. If we make the cuts now we will not be spending the money in fiscal year 1994 on programs we are going to have to cut in fiscal year 1995.

Why do we not just make the decision now?

The amendment before us seeks to avoid this Hobson's choice. As you can see by our chart, we are accomplishing this by providing over $3 billion for ballistic missile defense. As I said earlier in response to the Senator from Louisiana, I think that is $1 billion too much. And a former distinguishedChairman of the Joint Chiefs of Staff, Admiral Crowe, who I think is the finest soldier/statesman that we have produced since George Marshall, indicated that $2 billion was adequate per year for this whole business of ballistic missile defense.

But under my amendment, recognizing the realities that we face today and recognizing that before you can make any cuts, you have to get 51 votes, we say, "OK; we are going to provide $3 billion for ballistic missile defense." We go ahead and say yes, and we preserve all of the administration's priorities, including 48 percent of the funds being allocated to theater missile defense in fiscal year 1994, with an option in the amendment for the Secretary of Defense to allocate an additional 10 percent of the overall funding to theater missile defense if he chooses to do so, or allocate it wherever he should wish to do so.

We allow full funding of the administration's core theater missile defense programs. We adopt the Armed Services Committee's position on "Brilliant Eyes." We protect the full range of ballistic missile defense options, but what we do is simply reduce the costly redundancy.

As I stated earlier, funding alone is not the whole story of the SDI cost explosion. Far from it. Much of the problem comes from the absence of direction emanating from the Congress, and indeed from the authorizing committee.

The committee, in this bill before us today, remains silent on just which programs should be funded and at what level, and left it completely to the discretion of the Defense Appropriations Subcommittee and the Department of Defense.

The distinguished chairman made the assertion that what I was talking about earlier with regard to allocations of resources—48 percent to theater missile defense on the part of the administration—was history. But that is incorrect.

In the fiscal 1994 request, the administration asks that 48 percent be allocated to theater missile defense. In fiscal year 1995, which is not before this body today, the administration goes forward and says, yes, they would like to allocate as much as 66 percent for theater missile defense. But that is not what is before us today. We are dealing with the fiscal year 1994 bill.

Mr. JOHNSTON. Would the Senator yield for a question?

Mr. SASSER. I am pleased to yield to my friend from Louisiana.

Mr. JOHNSTON. Madam President, when I just left the floor, I was given the latest bit of information that I could get, which is that there are 11 different programs under consideration.

Mr. SASSER. If the Senator would just yield, I was coming to that.

It is not 11 programs. There are presently 12. I counted 12 different theater missile defense programs.

Mr. JOHNSTON. And they have not downselected any of them?

Mr. SASSER. They have not selected any of them. The Army is the leader. The Army has four separate theater missiles. For instance, they have the Patriot PAC-2 upgrades; the Patriot PAC-3 multimode missile, extended range interceptor; the Corps Sam; and they have the THAAD. That is just the Army. They are the leaders.

The Navy has two programs. The Marine Corps has a program. The Air Force has two programs. And then, of course, we have Israel's program.

Mr. JOHNSTON. Can the Senator from Tennessee tell me how much

would be spent on any of these, either short term or long term, or when they might ripen into a downselect or a mature technology, or what the outlook is?

Mr. SASSER. We have no way of knowing that. All we do know is that clearly they cannot fund all these programs. We do not know how much they intend to put into each particular program at this juncture. And the bill before us is totally silent as to the allocation of funding that is going into the so-called ballistic missile defense program, not just with regard to theater missile defense, but with regard to the whole spectrum of things that are funded under the title of ballistic missile defense.

So it is going to be left up to you, I say to my friend from Louisiana, on the Defense Appropriations Subcommittee, to either make the allocation there, or no allocation will be made.

Mr. JOHNSTON. In effect, what we are being asked to do is come up with this big multibillion-dollar pot of money and they will decide later how they want to spend it?

Mr. SASSER. Precisely. The Senator from Louisiana is precisely correct. But we do know that in fiscal year 1995 they are going to shrink these programs down. We do know that, in all likelihood, they are going to continue to fund these programs, all 11 or 12 of them here, in fiscal year 1994 and then come along in fiscal year 1995 and shrink them down.

Mr. JOHNSTON. Shrink them down, but with twice the budget request.

Mr. SASSER. Well, what they are going to do is delete, we assume, some of the programs here, because they simply are not going to be able to fund them in fiscal year 1995 unless we agree to increase the funding level from up to in excess of $6 billion.

Mr. JOHNSTON. The $6 billion, where does the Senator get that figure? That is a wish list?

Mr. SASSER. That is the bow wave that would be created if we are to continue funding all these programs.

Mr. JOHNSTON. So far as the Senator knows, none of this is for protection of the United States. None of it is for really nuclear defense against the former Soviet Union or any of those, and we do not know where these would be deployed if they are ever mature enough to use as a ballistic missile defense.

Mr. SASSER. Well, I think the Senator is correct. I cannot state that from my own information, and I do not know who has the answer to those questions. I do not know who has the answer to those questions. But I do think if the U.S. Senate is being asked to authorize $3.5 billion for ballistic missile defense, we ought to have the answers to those questions before we allocate 3.5 billion dollars' worth of taxpayers' money here.

Mr. JOHNSTON. Have we asked the distinguished floor manager if he has an answer to those questions?

Mr. SASSER. I see our friend from Nebraska is managing the bill. Perhaps he might be able to shed some light on that question.

Mr. EXON. I would be glad to respond to any question that I possibly could, although I have been waiting to make, at the appropriate time, the committee's position on this matter.

I simply say that some of the statements that I have heard made on the floor of the Senate today deserve an answer. The people that are suggesting the cut deserve an answer.

I am sorry you have not been able to get an answer to some of the questions that you have been seeking an answer to from the Department of Defense. As you know, the bottom-up review thing has not been thoroughly completed yet.

I will make a thorough statement on the committee's overall position on this and, at that time, after I have completed, try to round this out into the position that the Armed Services Committee has taken. I will be glad to try to respond to pertinent questions, but I would prefer to reserve that until I have a chance to put this in the overall context.

(Mrs. MURRAY assumed the chair.)

Mr. SASSER. I thank the Senator from Nebraska.

So, clearly, the answer to the question of the Senator from Louisiana is, I do not think anybody knows at the present time.

Last year, Senator BUMPERS and I offered an amendment here in this body to cut funding for SDI and the whole galaxy of programs or constellation of programs, ballistic missile defense programs, that come under that cover.

At that time, the distinguished chairman of the Armed Services Committee raised the alarm that there was a lack of allocation of resources in the SDI amendment that we were offering; that we were not saying specifically what programs in SDI should be cut, and we were not saying how the funds should be allocated.

My friend from Georgia, at that time, was very concerned, at least he appeared to be quite concerned, that the SDI Office and its Director, Ambassador Cooper, could, in the absence of congressional action, take the whole funding pot and spend it on anything they wanted. In other words, under the amendment we offered last year, the distinguished chairman was saying that, well, Ambassador Cooper could take all the money and put it in Brilliant Pebbles and there would be nothing left over for research and development.

Well, now, if this concern was valid then—and I assume it was—then it remains so today. I think the Congress must and can play a role in determining what are the Ballistic Missile Defense Office's priorities.

As I indicated earlier, I have compared here the administration's request, how they have allocated funding under their request, with what we have in the Senate Armed Services Committee authorization bill before us today.

Forty-eight percent, according to the administration—I see the Senator from Georgia is on the floor now. We are talking about fiscal year 1994, not fiscal year 1995. In fiscal year 1994, the administration said they intended to allocate 48 percent to theater missile defense.

In fiscal year 1995, they say they intend to allocate up to 66 percent for theater missile defense. But we are dealing with the present now and not the future; 48 percent is allocated to theater missile defense by the administration, 48 defense by the Sasser amendment. There is no allocation in the authorization bill before us.

The administration said they intended to allocate 32 percent to the national missile defense; 32 percent is allocated under the Sasser amendment; no allocation under the Senate Armed Services Committee mark.

It is the same all the way down. In other words, it appears to me what we are doing is simply handing DOD a pot of money, and that is precisely the criticism that was leveled at the Sasser-Bumpers amendment last year by the distinguished chairman. I would say nothing has changed.

If we did not want to trust DOD to make all of the allocations last year, why do we suddenly want to trust them this year?

Mr. NUNN. If I can just respond to that, if that was a question: I thought we had a new election. When the Senator said nothing has changed, we have a new President. We have a new Secretary of Defense. We have a new Under Secretary of Defense. There is no longer any SDIO office. The whole office has been changed. We have a new Under Secretary for Acquisition. We have a new administration set up. We have a bottom-up review.

The purpose of leaving the funds unallocated this year is because the administration was reviewing this very program and we wanted to give them the flexibility to shift those funds if they determined they were not being properly allocated and they have determined that they want two-thirds of them spent.

So when the Senator says, "What is new?" the answer is very clear. We have a different administration, a different President, a new philosophy, a new focus, a new effort on the whole SDI program which is much more oriented to theater defense.

The Senator's chart a month ago would have been accurate. It is not accurate now because we have had a bottom-up review. These things move. All

I am saying is the Senator was accurate in terms of where we were a month ago, but he is not accurate to where we are now.

Mr. SASSER. Let me just say I disagree with the chairman on that statement. The chairman was stating a moment ago the administration's intentions for fiscal year 1995. There is no dispute that they have said that 66 percent of the funding should go to theater missile defense in 1995. We are talking about the fiscal year 1994 bill today.

I do not care who is over in the Department of Defense. I do not care what political persuasion they come from. I think we have a responsibility here, just as we did last year—the chairman said we did—to make an allocation and make a determination and assign priorities as to how this money is to be spent.

I am extremely uncomfortable with simply sending a pot of money of over $3 billion over there and saying to the people in the SDI Office, or BMD Office—they have changed the namenow—many of whom are the same bureaucrats who have been there under both administrations, just saying here it is, fellows and gals. Spend it any way you want to.

That is not what we are all about here. We ought to be making some allocations, and particularly in view of the history of this whole program.

Mr. NUNN. Will the Senator yield for just a moment?

Mr. SASSER. Let me just finish my statement.

We spent $30 billion on this program so far and what have we got to show for it? The Senator, a moment ago, talked about casualties that were incurred in Saudi Arabia by a very primitive Scud missile. The missile defense there was a Patriot, an old antiaircraft missile that had been modified. It had nothing to do with this program that we had spent $30 billion on.

But my point is this. I do not want to get into debating the whole program here because we have had that debate. I have lost that debate. The Senator from Louisiana has had that debate. We have lost that debate.

All I am saying now to my colleagues is, let us shave $400 million off this program, let us save it, because $3 billion is enough for SDI, or ballistic missile defense. And you can take that $3 billion, under my amendment, and allocate it just the way the administration had it allocated when it made its submission over here.

We provide in our amendment that the Secretary of Defense shall have the discretion to add as much as 10 percent, to shift funds around as much as 10 percent if he should make that determination that it would be necessary as a result of this bottom-up review that the Department of Defense has been going through.

I think that is our point, Madam President.

A look at this chart that my friend from Louisiana and I were discussing a moment ago illustrates one reason, I think, why Congress simply cannot afford to follow the approach recommended by the Armed Services Committee. This chart, contained in a recent study by the Congressional Budget Office, lists the various programs within just the theater missile defense component of the ballistic missile defense. In an ideal world we would have three, or at most four theater missile defense programs. But look at this real world we are living in.

As the Senator from Louisiana and I discussed a moment ago, the Army itself has four theater missile defense programs going; the Navy has two; the Air Force has two; even the Marine Corps has one going. And, of course, then you have the Arrow program of Israel.

That is really an incredible overlap of roles and missions.

My friend, the chairman of the Armed Services Committee, made this point last year. In an excellent floor statement—I compliment him for it—

Mr. NUNN. Is the Senator always 1 year late in admitting that?

Mr. SASSER. The statement was "the need to overhaul DOD's roles and missions."

Mr. NUNN. I am in need of some current reinforcement. The Senator always commends my statement from the previous year.

Mr. SASSER. As the Senator will recall, I was very laudatory on his statement to overhaul DOD's roles and missions. I did raise the question, how soon do we get to the execution of this whole concept?

But the chairman pointed out that despite some recent progress in sorting out each service's proper role and mission, redundancy is rampant and much more work needs to be done.

The chairman said this, and I quote, and I take pride in quoting the chairman of the Armed Services Committee. He said, "this redundancy and duplication costs billions of dollars each year."

The distinguished chairman of the Armed Services Committee was right then and he is right today in that statement. The chairman went on to note, and I quote him directly, "progress on these issues will require outside pressures and determined oversight by Congress." Precisely what the Senator from Louisiana and myself, and others, are trying to do today on this whole missile defense concept.

If we do not start setting priorities, and if we do not start making specific allocations ourselves, we are going to continue funding at least a dozen similar theater antimissile defense programs, all of them designed to counter theater missiles, all of them making increasingly large budgetary demands on us.

I say to my colleagues, how in the world can we justify it? How in the world can we rationalize it? When everywhere we turn our constituents are saying, "cut spending. Cut spending."Cut spending. And we are cutting spending in areas where it hurts. Surely we can make some savings and start reducing these 11 or 12 different programs down to 3 or 4.

There is a lot of talk in this body about the need to control entitlement spending. I have been hearing that for a long time and heard it ad nauseam during the budget debate that took place a few weeks ago. They argue that entitlement spending is growing at an unacceptable rate, and I agree with that. I do not disagree with that statement.

But let me show you some real entitlement growth. As this chart shows, entitlement-like growth is not restricted to entitlements. Since 1991, funding for theater missile defense programs has grown by over 500 percent. And if we comply with the administration's request, a possibility that is not ruled out in the bill before us today, theater missile defense spending could grow to $1.8 billion this year and to $3.2 billion next year. I ask my colleagues: How many programs, entitlement programs, or otherwise, can grow by nearly 1,000 percent in just 3 years?

Even our friends in the Defense Department see a problem here. David Israel, the deputy assistant manager for theater missile defense programs recently stated that even if the Ballistic Missile Defense Office received the full amount requested by the administration—that is $3.8 billion and under the bill I think it is $3.4 billion—"* * * we would have," he said, "a tough time proceeding with all the theater missile defense programs on the table."

According to Mr. Israel, it would not be possible to carry all the theater missile defense programs to full maturity and that a reduction of the number of programs was necessary.

That is not the Senator from Tennessee, the chairman of the Budget Committee, speaking. That is the deputy assistant manager for theater missile defense programs, David Israel, saying even if we funded all these theater missile defense programs at the $3.8 billion level for the whole Ballistic Missile Defense Program the administration was requesting, it would not be possible to carry all these theater missile defense programs to full maturity, and they have to be reduced.

Finally, Mr. Israel stated that there is a host of technical problems that need to be overcome before a successful theater missile defense architecture could be put in place.

I say to my colleagues, in all sincerity, it strikes me as the prudent approach to heed the words of David Israel, the theater missile defense organization's own official, and that we should harness this theater missile defense funding frenzy. That is all I can call it.

As the previous chart showed, the theater missile defense budget is simply going through the roof, and we believe it is time to bring it back to Earth and to manage it more closely and effectively.

Mr. President, the amendment that I am offering today, in conjunction with others, brings a small bit of fiscal responsibility and management to the Department of Defense authorization bill. These are small steps we are taking today, but they are not small deals. The American people expect us to take this type of action to rein in spending wherever we could see escalating cost, waste and duplication. I think we have made a case today for our colleagues that there is excessive duplication, that there is waste.

Why in the world does the Army need four theater missile defense programs? Why in the world does the Navy need, in addition to the four the Army has, two for themselves? And why does the Air Force, in addition to the four for the Army and the two for the Navy, need two additional programs for themselves? And why does the Marine Corps, a branch of the Navy, after seeing four theater missile defense programs ongoing for the Army, two for the Air Force, two for the Navy, why does the Marine Corps then have to have their own theater missile defense program?

So I say to my colleagues, you can strike a real blow for liberty today. You can make some very substantial savings and you will not be impacting adversely one iota the whole Ballistic Missile Defense Program. You are simply going to be saving some money, and if you do not do that, if we do not make some savings today, if we do not assign some priorities, we are going to befunding programs that, just as sure as night follows day, are going to have to be jumped either in fiscal year 1995 or fiscal year 1996 and that is simply pouring money down a rat hole. That is what it will amount to.

Madam President, I see the distinguished Senator from California on the floor. I will be pleased to yield.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is seeking recognition.

Mr. COHEN. Madam President, I would like to take just a few moments to perhaps offer a couple comments concerning the arguments being advanced by my friend from Tennessee.

First of all, it was news to me to learn of the type of sculduggery that is practiced down in Louisiana and Arkansas, pigeon drops in Louisiana and snipe hunting in Arkansas. I think after listening to the description of those kinds of activities, I now know why the North won the battles in the Civil War. If the folks in Louisiana and Arkansas were listening to those kinds of scams and falling for them, then you deserved to lose the war during the Civil War. But, in any event, let me come back to the points made by the Senator from Louisiana.

Just a moment ago, he ridiculed the whole notion of providing any kind of protection for an accidental launch against the United States by the former Soviet Union, or anyone else, or by some kind of a miscalculation of a limited attack. He ridiculed that notion but then stood on the floor and asked the Senator from Tennessee: "Is there anything in here that will provide protection for the Continental United States?" So, on the one hand, he accuses the Senator from Georgia of pleading by way of confession and avoidance—an old lawyer's technique—and then he engaged in one himself by pleading in the alternative, on the one hand saying this is ludicrous to even think about protecting the United States and then arguing, on the other hand, why does it not provide anything to protect the United States? So he is having it both ways.

Second, he says, "Where is this system, assuming it is ever developed, ever going to be deployed? Someone stand on the floor and tell me." Well, we could take the map of the world and we could perhaps point to the Persian Gulf where it could be deployed in the future. We might point to other regions, perhaps in Asia, where it might be deployed sometime in the future. Perhaps any point on the globe where the United States might have an interest or personnel deployed at some future time. But for anyone to stand on the floor and say where is it going to be deployed right now, tell us, is absurd. The whole purpose of having this capability is to prepare for contingencies.

I might call the attention of the Senator from Tennessee back to the debate during the Persian Gulf war where, once again, he cited Admiral Crowe as his expert and said that sanctions would be sufficient to drive Saddam Hussein out of Kuwait. At that time, I suppose you could have asked the question, "Why do we need the Patriot? Why do we need the Patriot deployed here? Why should we ever have funded the research for the Patriot?" You should tell that to the American forces who were serving.

Mr. SASSER. Will the Senator yield?

Mr. COHEN. I will not yield. I have been sitting on the floor for the past 2 hours for an opportunity to make a statement. I would like to finish my own comments, and then I will yield to the Senator. Madam President, I would like to continue if I might.

The PRESIDING OFFICER. The Senator retains the floor.

Mr. COHEN. Madam President, I suppose you can go back and look at the films of the Wright Brothers and watch them try to take off in their flying machines, those wonderful flying machines, collapse, fall, crash and look foolish and then extrapolate that and say, "Where would we be without those foolish attempts?" Some cost lives, undoubtedly cost money.

The research that has been poured into the aerospace industry has taken years to develop. I doubt if any scientific or technological breakthrough has ever occurred that has not been preceded by failure and by expense. And that is particularly true in the field of defense.

The Senator from Tennessee says, well, let us compare what we spent for missiles and look what we spent for drugs and Head Start and the environment. Easy to say right now. I suppose you could have raised the same issue just 2 years ago in the Persian Gulf: You have 500,000 American troops on the ground and get up here on the Senate floor and say just think about it, should we spend money on missile defense against Scuds or anything else? Would it have been better spent on defending against missiles coming into our deployed forces or should we have spent it on something else—on domestic concerns?

I wonder how any of us would have answered at that time. I wonder how many of us would have answered the mothers and fathers of their sons and daughters who were in fact deployed in that region.

Well, the Soviet Union no longer poses a threat to us. It no longer exists as a union. There are still some 30,000 nuclear weapons rolling around somewhere in the Soviet Union. They have not yet been dismantled. The political situation has not stabilized. Hopefully, it will at some future time.

But forget about the Soviet Union. Forget about Russia. Forget about the Ukraine. They are not the only countries in the world that are interested in missile technology. There are other countries, like China, by way of example. Just recently this administration raised questions about the sale of missile technology on the part of China to the Pakistanis. There will be other issues, I am sure, that will arise in the future in terms of who is engaging in the proliferation of missile technology to regions that are unstable or unfriendly toward the United States.

Unless we think that only advanced countries, technologically speaking, the like of the former Soviet Union or China or perhaps even Japan or other countries have access to this technology, remember that Saddam Hussein came very close to launching a

satellite. And if you can launch a satellite into space, you can launch a missile intercontinentally.

Let us not forget that Saddam Hussein was on a fast track to developing nuclear weapons. And I doubt very much whether he has given up on that dream of acquiring them. And that it will not be just Saddam Hussein but those who follow and other nations in that region that might bear us ill will in the future.

So we can sit here and say, well, there is no threat out there; we do not have to worry about it. We do not care whether it takes 10 or 12 or 15 years to develop the kind of technology that will provide some kind of limited protection to our people and to our forces in future years.

By the way, the Senator from Louisiana, I suspect, and perhaps even the Senator from Tennessee, will not be here. I will not be here. Most of us will not be here at a time when this technology is fully developed and available for our forces. We will either be retired or long since have past from this Earth. But there will be young men and women we will still be calling upon to defend this country's interests and they will want to know at that time what is it that we have to defend us against this kind of technology.

So I know it is easy to ridicule this particular system. They say, what have we gotten for it? Well, I would submit to you that we got something in the way of some serious and substantive arms control agreements as a result of this country's commitment to the SDI program.

And I find it ironic that I should be on the floor defending the Clinton administration when for a number of years—and the Senator from Georgia will recall this—I was the only Republican on the Armed Services Committee who voted to cut the Reagan program, the only one, and subjected myself to substantial criticism for that because I did not agree with the dome light concept that was going to be erected over the United States to protect us from incoming missiles. I too found some fallacies in the thinking and voted to cut the program year after year.

But to the credit of the Senator from Georgia, he insisted that we try to design a system that would protect our populations and our people against an accidental launch, against a limited attack from whatever source. That has been his persistent goal. And now we have a new administration but apparently President Clinton cannot be trusted to manage this program; Vice President Gore, a former Member of the Senate Armed Services Committee, he cannot be trusted. Maybe I could sit here as a Republican and say, well, they have time to go on David Letterman and smash ashtrays but they do not have time to give the Senator from Louisiana the answers to his questions.

So I want to say, Madam President, that we look at these arguments that because you cannot defeat every conceivable type of attack, therefore you should have nothing. That is the argument the Senator from Louisiana was addressing initially.

I think that the Senator from Georgia and the committee have tried their level best to fashion a program that will achieve the goals that were set out by the Senator from Georgia and others several years ago. It has been endorsed by this administration, by President Clinton, by Vice President Gore, by Secretary Aspin, by Under Secretary Perry, and others. And here we come on the Senate floor once again let us just take another $400 million out.

Maybe they have the votes to do so. But I say that we are compromising our ability to really achieve the goals that each of us should be eager to achieve. And that is a program that is scientifically sound, technologically sound, and fiscally responsible. I believe that the Senator from Georgia has worked to that end.

So I will have a few more comments to offer at a later time, Madam President, but I do not want to see this debate simply degenerate into a ridiculing of a program and say, well, there is no threat, or we cannot identify where the threat is coming from. Therefore, we should not prepare for it or we should continue to cut the program back to the point where it jeopardizes its efficiency.

So I wish to commend the Senator from Georgia for his efforts to design a program which is supportable, which is technologically sound and responsible and hope that the amendment will be defeated.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Madam President, I will yield the floor in just a moment. I know the Senator from Nebraska will be making his statement. He heads up the subcommittee that handles this, and he is one of our most diligent and best informed members in this entire area. I would defer to him in just a moment.

I would say to my friend from Maine that I remember not only on this matter but on many matters where he has been either the only or almost the only Republican who was willing to take on the Reagan administration when the rhetoric was excessive and when it was out of tune with scientific reality.

And as he well knows, I have always greatly respected and admired him not only for his wisdom and integrity but for his pure own fortitude and courage. So I do appreciate very much his remarks.

The entire missile defense act is what we have done in recharting this program and channeling it to the actual threats, toning down the rhetoric and getting it into a scientifically sound basis. Moving in that direction has been largely attributable to the influence of the Senator from Nebraska, and the Senator from Maine has played a key role. So I thank him for his remarks but most of all for his leadership.

I would like to propose a brief question to the Senator from Maine and the Senator from Nebraska. The Senator from Tennessee might want to listen to this one, too—if the Senator from Tennessee does not mind putting that entitlement chart back up. I am not entitled to his charts. That is his entitlement. But I would like to discuss that for just a moment.

Mr. SASSER. Let me say to my friend from Georgia in the interest of comity and being sporting in these matters, I will be pleased to put this chart back up.

Mr. NUNN. I thank the Senator from Tennessee. I will want to use that chart to demonstrate its inaccuracy, I will have to tell the Senator from Tennessee.

Mr. SASSER. In that case, Madam President, I may want to take it down.

Mr. NUNN. The Senator from Tennessee can stand in front and block the camera, but I will still talk about it. I remember it. I do appreciate the Senator's indulgence.

First of all, on that chart, if I could propose a question to the Senators here on the floor, the word "entitlement" is in my view a misnomer because every year we appropriate the money. We not only appropriate the money. There is nothing on automatic pilot about this program. We debate it. We not only have a debate on the defense authorization bill as we are doing now. We have a debate on the appropriations bill. So this is not an entitlement program by anyone's definition.

The second thing I would observe—and the Senator made this remark himself a few minutes ago. He made the remark that the Patriot missile was not developed in the SDI program.

He is correct. It was not. But guess what? That chart showing theater missile defense does two things. First of all, it leaves out the Patriot missile development which was in the Army, in the early years—not in this, in the 1980's.

And second, it incorporates it as the line goes up because of the shift-in recently to the overall ballistic missile defense program. So it is a double distortion in the sense that a program that was very much a theater missile defense program was a part of another category of spending during the low level of this line. And then, as the line goes up, that program had been shifted into the theater area.

The second thing I would observe is that obviously, during the early years

of the SDI Program under the Reagan administration, the theater defense program was not the top priority; it was a very low priority. And many of us on the committee—and Senator COHEN from Maine led the way in this respect, that it was not a high priority—tried to make it much more of a priority because we felt, long before the Persian Gulf war, that that was going to be the most immediate threat to our military forces.

So these strategic programs have been deemphasized and now the line is going up, based on this Congress. This Congress decided to shift the money more toward theater defense. I am gratified by the fact that the new administration has agreed with that, and they are naturally moving much more money into theater defense.

I repeat what I said a little while ago; that is, if you look at what happened in the last meaningful conflict that we have been engaged in, we had 148 people killed in action in the Desert Storm operation—148 total. We had 467 wounded in action. Of those 148 killed in action, 29 of them were killed by one Scud missile, a very unsophisticated weapon, one that is very crude, one that has been supplanted in technology by a number of Third World countries and other countries, and one that will not even represent the same kind of future threat that we will have to design these defenses to meet in the future.

So we have approximately 20 percent of all the individuals killed in the Persian Gulf war that were killed by one Scud missile, exactly what we are trying to protect here with the theater missile defense allocation. I would say if you look at the number of wounded, it also is a substantial percentage of the number of people wounded because in that Scud missile attack, there were approximately 98 people who were wounded by that attack, as well as the people who were killed.

So it is a threat. It is not a future threat; it is a present threat. We are behind the curve in trying to meet that threat. The Patriot missile was the first effort. But we have a number of programs, as the Senator from Tennessee has observed; there is redundancy now. That is what you have when you have experiments. You try to have a number of different options, and then you try to boil them down as you determine which ones have the best chance, technologically speaking, of succeeding.

So we are in that process. In fact, the committee this year consolidated a number of programs and is trying to accelerate the process of narrowing these programs down. But redundancy in an area of high technology in terms of determining which kind of technology is going to be the most successful is absolutely essential. If you already knew which missile and which defense system was going to be the best, then you could just narrow it down to one and say, "Let's go." But if we wake up 5 years later and it turns out we were wrong, then we are exposing our military forces in a way that is reckless, indeed.

So we do not choose to do that, nor do we do it in any kind of high-threat area.

I say finally, in my brief observations here—I will end up framing a question to my colleagues particularly relating to the Patriot system and the theater emphasis—that there are a number of Members here who urge us constantly to put more money into the Patriot, put more money into ERINT Arrow Program. We hear from people who vote against SDI wanting more money in these programs.

Everyone who has an interest in any of these programs should know that this amendment will cut both programs. Not only will it cut them in the overall amount, but it will allocate a percentage of 48 percent, which was the original administration position but is no longer the administration position.

So I think everyone should reexamine their position, even those though voted to cut this program last year, in light of the fact that we have a new administration; we have the kind of priorities that now are beginning to make sense in this program; we have a number of technological options that are going to be narrowed down. And if we arbitrarily make this kind of cut, we are going to pay a severe price in the future in terms of the very high area of priority; that is, theater defense.

Finally, I will just pose a question to my friend from Nebraska as to whether he would agree with my assessment of this particular chart in terms of the Patriot missile not being shown and in terms of it not being an entitlement program.

Mr. EXON. Let me respond in this fashion. I am delighted that the——

Mr. SASSER. Madam President, who has recognition?

The PRESIDING OFFICER. The Senator from Georgia retains the floor.

Mr. NUNN. I yield to the Senator from Nebraska for a question, and then I yield to the Senator from Tennessee for a question.

Mr. EXON. I would simply like to say, Madam President, that the Senator from Nebraska has been waiting for a long time and has a 4 o'clock appointment on a matter related to this issue.

I would like to make my statement as soon as I can on this matter.

I was delighted when the chairman of the committee referenced the chart that the Senator from Tennessee used. I was going to make some of the points but could not make them as well as the chairman of the committee.

I would certainly agree to the question asked by the Senator: That, exactly, this chart is totally meaningless if you look at the historical perspective of what we are talking about. I would also say that, due to television, since charts have become famous in this institution, we also like to have charts that show sharp increases or sharp decreases, depending upon which point of view one is trying to express.

The facts of the matter are—I cannot read the figure on the chart from here, but it would seem that most of us would agree, and I believe that even the Senator from Tennessee would agree—that if there has been a lack of funding, it has been for theater missile defenses; and, therefore, although the chart is now being covered up, the line that goes up so very abruptly is something that the Senate has expressed itself on on many occasions in the past. We are simply responding to what the Senate has voted for. I think we should not be criticized.

I would like to gain the floor in my own right, if I might.

Mr. NUNN. I yield to the Senator for—does the Senator have a question?

Mr. SASSER. I just wanted to make a retort to the analysis of the distinguished Senator from Georgia of my chart.

Mr. NUNN. Other than what I said about it, it is a wonderful chart. I like the colors.

Mr. SASSER. The Senator said that my chart was flawed. I want to indicate my view that the Senator's analysis of my chart is flawed, and that the chart itself, I think, is an excellent chart. I can make this point in just 2 or 3 moments.

One, with regard to the title of the program, clearly that is tongue in cheek. We all know that the military programs are subject to the appropriations process.

With regard to the Patriot missile being included in this upward thrust here, the Patriot PAC-2 is included in here, but that would mean a very small part of the upward thrust of this funding for theater missile defense.

Let me just say this, and then I want to defer to the distinguished Senator from California, who is on the floor. She has been here for a while. Let me just make this point, and I will retire.

We are not talking about emasculating this whole program of ballistic missile defense, as you might believe.

Mr. NUNN. Madam President, I would certainly be glad to answer any question. But the Senator from Nebraska has to preside over a meeting on this very subject at 4 p.m.

If the Senator will pose the question, then, so I could yield the floor.

Mr. SASSER. I yield the floor, and then my time will come.

Mr. NUNN. I thank the Senator. I yield the floor.

Mr. EXON. Madam President, I rise in opposition to the amendment before the Senate and others like it that might be proposed which would be cutting ballistic missile defenses and that

organization of funding below—and I emphasize to the Members of the Senate "below"—the already significant reductions made in this overall program by the Armed Services Committee.

I believe that the Senator from Tennessee and also the Senator from Louisiana would agree that this Senator has been no shrinking violet on giving in to requests of the administrations in the past for defenses from outer space that would fall upon the United States of America.

I compliment my colleague and friend from Maine. He, too, has been with us on many occasions when the Armed Services Committee felt that the billions of dollars scheduled for appropriations by previous administrations were out of line.

I also did not buy the overall umbrella concept originally introduced by President Reagan under the heading of Strategic Defense Initiative many, many years ago. I thank my friend from Maine for a very excellent presentation, and I believe he has hit the mark as far as the defense that I think is necessary of the significantly reduced amount recommended by the Armed Services Committee for ballistic missile defenses.

At this time, I would like to insert in the RECORD—and I will furnish a copy of this to the Senator from Tennessee and the Senator from Louisiana, who an hour or so ago, while I was here waiting to make these remarks, were very upset about the fact that they were not able to get the unobligated balances in this overall program. I have that information. It was not difficult to obtain. It just might be that they asked the wrong party.

I ask unanimous consent that this material be printed in the RECORD at this point.

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

BMDO OBLIGATION STATUS

[In millions of dollars]

Program, element and appropriation	Program	Obligated	Unobligated as of Aug. 31, 1993
SBI, 63214C, RDT&E	211.637	196.661	14.976
LDS, 63215C, RDT&E	1,672.613	1,582.228	20.385
TMD, 63216C, RDT&E	1,027.350	971.933	55.417
TMD, 28060C, Procurement	75.200	40.200	35.000
OFO, 63217C, RDT&E	300.210	296.074	4.136
R&S, 63218C, RDT&E	417.990	355.053	62.937
Total	3,705.000	3,442.149	262.851
Less Potential Withdrawal (OSD requested de-obligation)	[1] −50.000		−50.000
Total all programs	3,655.000	3,442.149	212.851
Theater program, RDT&E, procurement	1,027.350	971.933	55.417
	75.200	40.200	35.000
Less Potential Withdrawal	−2.000		−2.000
Total theater program	1,100.550	1,012.133	88.417
Non-theater ballistic missile programs (all programs less theater prog)	2,554.450	2,430.016	124.434

[1] Pending withdrawal by OSD.

Mr. EXON. In any event, this indicates that the total remaining unobligated balances on the program in question are $212.851 million and $124 million, or the largest portion of that unobligated money is for the ballistic missile defenses for our troops. The Senator from Maine went into a considerable discussion on that, and I agree with the remarks he made in that regard. So to indicate and end this alleged abuse of the Senate's not being able to get the right figures, I cite those figures from the Department of Defense, which, as of now, are made part of the RECORD.

Madam President, I would also like to discuss at this time, the concerns that have been expressed by several on the floor, including the junior Senator from Arkansas, with regard to the report in the New York Times of the Department of Defense under the Bush administration, as I understood it, who were trying to fool not only the Soviet Union, but the Congress of the United States with regard to previous programs.

As indicated by the chairman of the committee, we were briefed on this this morning. When I first heard about this story, I was concerned, too, because I had never received any information that would have led me to believe that the previous administration officials—and maybe this went back farther than the Bush administration; it may well have been gone back to when Caspar Weinberger, who I worked with for years, was Secretary of Defense. I always found Caspar Weinberger, and the people who succeeded him, to be people that I trusted. I did not always agree with them, but I never felt they were out to deceive me or other Members of the U.S. Senate. Therefore, the New York Times story was of great concern to me, and it was of great concern to the new administration as well.

Dr. Perry, whom most of us know very well—especially those of us in the Armed Services Committee—was a key member of the Carter administration. I believe Dr. Perry is one who had general trust on both sides. Dr. Perry briefed us this morning on the New York Times story that, as I understand it, went back to 1984 and may have carried over sometime later, but probably occurred, at least as alleged in the New York Times story, when Caspar Weinberger was Secretary of Defense. I am pleased to report to the Senate—and I believe something will be coming in writing this afternoon; I understood that it was going to be released at 1:30. I have just been handed the statement by the Honorable Les Aspin, Secretary of Defense, September 9, 1993, and I ask unanimous consent that it be printed in the RECORD at this particular point.

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

STATEMENT BY HON. LES ASPIN, SECRETARY OF DEFENSE, SEPTEMBER 9, 1993

A recent news account of a 1984 missile defense experiment raised a number of serious questions about conduct of the program. Those questions fall into three categories.

First, was the experiment "rigged?" That is, were the apparently successful results demonstrated in the experiment the product of misrepresentation?

Second, was there a deception program aimed at convincing the Soviet Union that our missile defense capability was greater than it was, and did this program have the consequence of also misleading the Congress?

Third, have any such deception programs misled the Congress about test results on other systems and could that happen in the future?

I want to say at the outset that we take these questions with the utmost seriousness. They go to the heart of the integrity of our testing programs and to the integrity of our dealings with the Congress on testing. I want to assure everyone that we will have honest testing and we will report the results honestly.

In this case, I asked Deputy Secretary Perry to get to the bottom of the assertion of rigged testing. He directed an inquiry by Under Secretary for Acquisition and Technology John Deutch. It is this effort we are reporting on today.

Let me begin by briefly describing the experiment in question. It occurred on June 10, 1984. It was conducted by the Department of the Army and was called the Homing Overlay Experiment. It's aim was to demonstrate that an interceptor missile could hit an incoming simulated Soviet re-entry vehicle. The test on June 10 was the fourth in a series. The previous shots had failed to hit the target.

On June 10, a missile carrying the simulated Soviet warhead was fired from Vandenberg Air Force Base in California. An interceptor missile was fired from Meck Island in the Kwajalein Missile Range in the Pacific. The interceptor's on-board, heat-seeking detector picked up the target in the last few seconds of flight and guided it to a direct hit.

Let me now take the three questions in order. Was the experiment rigged? A New York Times story August 18 quoted unnamed sources as saying it was "rigged" because a radar beacon had been placed on the target re-entry vehicle that directed the interceptor to the target.

There were four elements of the experiment that might give rise to questions about the validity of the results. Here is what we found:

Finding One. There was a radar beacon aboard the target vehicle. We also found that there was no receiver on board the interceptor for this radar. The beacon had been placed to assist in range and safety tracking of the target from the ground. The beacon was of a type not capable of the final guidance of interceptor to target. Our conclusion is that the experiment was not rigged, and in fact could not be rigged, by the presence of the radar beacon.

The inclusion of the beacon was discussed in unclassified portions of a 1984 report on the experiments written for the Army's Ballistic Missile Systems command. The report was available to Congress at the time and we have a declassified version of that report available here today.

Finding Two. The re-entry vehicle was heated to increase its visibility to the heat-seeking interceptor. The RV was heated to 100 degrees Centigrade. The heating of the RV and other aspects of the experiment were discussed in an unclassified study published by the congressional Office of Technology

Assessment in 1987 which was available to the public. The OTA report suggests that the RV may have been heated to temperatures higher than were expected in actual Soviet re-entry vehicles. Had the experiment been an operational test, this would have been a suspect action. As it was, the experiment was intended to demonstrate the basic process rather than test the sensitivity of the heatseeker.

Finding Three. There was a data link from the ground to the interceptor that could have been used to guide the missile to the target independent of the radar beacon. It was not used.

Finding Four. The target carried optical enhancers to make a direct hit more visible. These enhancers included flash powder. Since these enhancers come into play only after there is a direct hit, their presence does not constitute rigging of the result.

Overall, our conclusion on the experiment is this. It was not rigged by the inclusion of a radar beacon on the target, nor by other means. The experiment demonstrated what it purported to demonstrate, that the final guidance of the interceptor to a direct hit was done by the on-board heat seeker. We should also understand that this was not a test of a developing system, but rather a demonstration done under experimental conditions. The independent Office of Technology Assessment said in its 1988 report that the Homing Overlay Experiments were "sound experiments properly designed * * *."

That brings us to the second set of questions. Was there a deception program associated with the Homing Overlay Experiments designed to deceive the Soviets and did it also deceive the Congress?

The answer is that there was a deception program aimed at the Soviet Union associated with the experiments, but it deceived no one because it was not used.

The deception program was part of that category of highly secret activities called special access programs. It consisted of an explosive charge aboard the target vehicle. The plan was to detonate the charge in order to give a near miss the appearance of a direct hit to give Moscow our efforts were more successful than they were. In the early flights, the interceptor did not come close enough to the target to allow detonation of the charge. In the final flight, the charge was not activated and could not have been detonated.

So, our conclusion is one, that there was a deception program associated with the Homing Overlay Experiment, two, Congress was not informed about, but three, ultimately it was not used.

I should point out here that conducting such a program today without informing Congress would be illegal. But in 1984, there was no requirement to tell Congress about special access programs. That changed in 1988 when Congress required that all special access programs be reported. I had a hand in establishing that requirement as chairman of the House Armed Services Committee, as did Senator Sam Nunn, chairman of the Senate Armed Services Committee, then-Representative and now Senator Barbara Boxer, and former Senator Lowell Weicker.

That bring us to our third set of questions. Has the Congress been misled on test results on other systems and could it be misled about results in the future? Let me deal with the part about the future first. We do not confirm or deny the existence of any particular special programs, but we do state that Congress is being informed of all special access program. The Homing Overlay deception program could not happen today without Congress knowing about it.

Now on other systems. We have gone to serious lengths to determine if past test results were tainted by deception. Our conclusion at this point is that no past test results have involved deception programs that could have deceived Congress or the American people. The Homing Overlay Experiment episode could not be repeated today.

Our conclusion is that past test results were unaffected by the kind of deception effort attempted on the Homing Overlay Experiments, and that the Homing Overlay episode could not be repeated today.

To sum up, the experiment was not rigged and deception did not take place, although a program to practice deception existed. And I guarantee this. While I am here, Defense Department tests will be conducted honestly and reported honestly.

Mr. EXON. Madam President, I have not had a chance to read this in great detail. It simply says, I am sure, what we were briefed on by Dr. Perry today, that the New York Times story was simply wrong. The New York Times story was not accurate. The allegations that were directly or indirectly made against Caspar Weinberger and other distinguished members of the Reagan and/or Bush administration were wrong. There was no coverup. There was no attempt to fool the Congress of the United States. And it only proves, once again, that you should not believe everything that you read in the newspapers, even though some people jumped at that opportunity. And I particularly hope the junior Senator from Arkansas—who had some legitimate concerns about this, and I agreed with him—will understand that we were more misled by the New York Times story than any of us were misled—which we were not—by any officials of the previous administrations that had something to do with this program.

I believe it is important, Madam President, to place in perspective the ballistic missile defense funding level. There has been some talk on the floor of the strategic defense initiative. There is no Strategic Defense Initiative anymore. It is gone. The program is now known correctly as the Ballistic Defense Program, Ballistic Missile Defense Organization, BMDO, and it is a significantly scaled-back program, a drastic reduction in what we had before. Listening to the debate today by the Senator from Tennessee and the Senator from Louisiana, I had envisioned that we were talking about the days of yesteryear when we were talking many, many billions, $6, $7, or $8 billion for this program.

It has been drastically scaled back by the new administration. In so doing the administration made recommendations through the Armed Services Committee. We even scaled back, Madam President, the drastically reduced request by the new Clinton administration.

As has been said by others, I would hope that the bottom-up review, the drastic scale back of our total expenditures on defenses by the new administration, would give Members of the Senate, especially those on this side of the aisle, a little bit better understanding of what is going on and what is not going on.

To try to put this in some degree of perspective to demonstrate what we have done, I would simply say that the original request for the strategic defense initiative for 1994 by the Bush administration was $6.3 billion.

The Clinton request that matches with that called the Ballistic Missile Defense Organization, as I have just referenced it, cut that in half, from $6.3 billion to $3.7 billion.

The Armed Services Committee transferred an additional $253 million of that money from the Brilliant Eyes program to a warning account that would be under the control of the Secretary of Defense, and that money could not be expended until the Secretary of Defense had advised the proper committees of the Congress as to how he was going to be using it. It is designed for a surveillance and warning account to address what the Senate has repeatedly, in the last few years, said. That was simply, get off of the star wars concept, Madam President, and get back to the realistic field of building a defense that would be the defense of our troops on foreign shores.

The Senator from Georgia, the Senator from Maine, and others, have made excellent references as to where and how that would come into use and where an inadequate ballistic missile defense for our troops in combat caused a substantial amount of the casualties that we had in the gulf war.

In addition to that $253 million that we fenced in the Armed Services Committee, we cut an additional amount to bring the total recommended expenditures by the Armed Services Committee to $3.2 billion.

A refresher: The Clinton budget request was for $3.7 billion. The original Bush request was for double that, $6.3 billion. The Armed Services Committee, that some people have indicated have not acted responsibly in this fashion, cut the amount another 15 percent to a net figure of $3.2 billion.

If the Senate, unwisely in the opinion of this Senator, accepts the amendment offered by the Senator from Tennessee, there would be an additional cut of $400 billion, and the figure would be reduced from the Armed Services recommendation of $3.2 billion to $2.8 billion, about the same level that the House Armed Services Committee has marked to.

I believe it is important, therefore, to place in perspective the ballistic missile defense funding level contained in the authorization bill. As I have just referenced, the $3.75 billion proposed by the administration is indeed a far cry from the over $6 billion request projected for fiscal year 1994 by the Bush

administration. More importantly, the administration's request reflects a missile defense program along the lines mandated and demanded by Congress. That is a program that emphasizes early deployment of theater missile defenses of a limited national defense system defense inballistic missile.

The defense authorization bill before the Senate funds the Ballistic Missile Defense Organization Programs, as I have referenced, at $3.2 billion; $553 million, or 15 percent, less than requested by the administration. The committee was able to achieve this savings by transferring $253 million requested for the space-based Brilliant Eyes Program from the Ballistic Missile Defense Organization to the consolidated surveillance and warning account, and by further reducing overall ballistic missile defense funding by $300 million.

Madam President, we have made the cuts. Any further reduction in this program, given the fact at what level we have funded previous, is simply irresponsible regardless of who proposes the amendment.

The committee also directs the Defense Department to begin promptly reviewing numerous ballistic missile defense systems, including the improved Patriot, the Erint, and the Thaad for compliance with the ABM treaty.

The important point here is that for the first time we seemingly have an administration that is proposing a missile defense program in keeping with the wishes, the requests, and the demands of Congress, and now we have an amendment on the floor that would do them in. The architecture being proposed is ground-based, not space-based, not star wars—it is realistic—thereby ensuring compliance with the ABM treaty.

Emphasis is now on the protection of our troops. Let me emphasize, Madam President. The emphasis is on the protection of our troops in the field in combat against theater missile attack, not on the increasingly unlikely proposition of an ICBM attack against the United States. On balance, therefore, the administration's missile defense program is now more realistic and a more affordable and practical program, as the Senate has been demanding.

Still, the committee was able to achieve modest savings in the ballistic missile defense account in the markup of the bill while the entire program was being evaluated as part of the bottom-up review. The bottom-up review findings released on September 1 reconfirm this emphasis on the development and deployment of a theater missile defense, once again what the Senate has demanded.

By also focusing on existing technology development in the national missile defense architecture, the bottom-up review concluded that it could reduce the 1995–1999 ballistic missile defense budget by $21 billion from the $39 billion, therefore, down to $18 billion.

Let me repeat that, Madam President. With regard to the bottom-up review, the new administration, which I think is taking a very realistic, reasonable look at this proposal, emphasizing the need to, as quickly as we can and reasonably build up protection for our fighting combat forces in the field wherever they might be located, that has been reduced from a figure of $39 billion for the 4 years, 1995 to 1999 program, down to $18 billion.

I suggest that is a significant and realistic reduction.

Based on my initial reading of the administration's findings, I believe that they have made a good-faith effort in streamlining this program by dealing with the theater missile threat first while preserving our investment in a national defense system that can protect the continental United States against ICBM threats emerging over the next 15 to 20 years.

To cut the ballistic missile defense organization budget below the $553 million reduction already taken in the committee, therefore, even before the ink is dry on the bottom-up review findings, is premature and would threaten our Nation's ability to field, in a timely manner, the weapons technology necessary to protect our combat troops in the field.

I hope and I think the Senate is not prepared to do that.

I certainly recognize the help that we have all had over the years, from the Senator from Tennessee and the Senator from Louisiana, in cutting back what I even agreed on many occasions, as the Senator from Tennessee I think would be willing to recognize, I think that the cuts that they are suggesting at this time is more of the same that we practiced in the past, while not recognizing that we have a new administration, that the Armed Services Committee felt were making significant reductions in this program and we felt it was important.

We felt it was important, since significant reductions were being made, to give them the flexibility that we think they need to make it all work.

Madam President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. THURMOND. Madam President, a point of personal privilege.

Is it not customary in debate to alternate from side to side?

The PRESIDING OFFICER. That is correct, Senator. The Chair has to recognized the Senator——

Mr. THURMOND. That has been the policy in the past.

The PRESIDING OFFICER. The ruling of the Chair is the Chair recognizes——

Mr. THURMOND. Did not the Senator from South Carolina speak up first and ask for recognition?

The PRESIDING OFFICER. The Chair recognizes the first Senator who seeks recognition under no time constraints. The Chair, in her opinion, heard the Senator from California seek recognition.

The Senator from California has the floor.

Mrs. BOXER. Thank you very much, Madam President.

I say to my friend from South Carolina that I have been on this floor for several hours waiting to speak and I appreciate this opportunity and I will not take very long.

Mr. EXON. May I interrupt for a point of personal privilege?

Mrs. BOXER. Yes.

Mr. EXON. May I make a statement in behalf of the majority leader that will just take a moment?

Mrs. BOXER. Certainly.

Mr. EXON. If it has not been announced previously on the floor of the Senate—maybe it has—at 4 o'clock in the Armed Services Committee, Room S. 222, Assistant Secretary of Defense Deutch will be there for a full and thorough description of the inaccurate story in the New York Times.

Any Member of the Senate is invited to go and listen to that, because it has become a prominent part of this debate and we think every Senator should have the right if they want to go to that meeting.

I thank my friend from California for her courtesy.

(Mr. DORGAN assumed the Chair.)

Mrs. BOXER. Mr. President, it is always a pleasure to yield to the Senator from Nebraska.

I rise to support the amendment by my Budget Committee chairman, Senator SASSER of Tennessee.

Mr. President, for several years in the House of Representatives I served on the Armed Services Committee and I have tried for quite a while to return the star wars program to a basic missile defense program.

I think it is important to point out that that program—the basic missile defense research program—was started by President John Kennedy.

And when my colleague on the House side, RON DELLUMS—who is now chairman of the Armed Services Committee—and I put forward our amendments each and every year on star wars, we made the point that we favored a basicmissile defense research. We argued that if you took the amount of money that President Kennedy had dedicated to the program and you added enough funds for inflation year after year, then now, the program would be about $2 billion.

So I think it is very important to recognize that even with this modest cut in the program, which would in fact match the House-approved authorization, it would still be more than the

missile research program plus inflation that started with John Kennedy.

I would like to say to my friend from Maine, Senator COHEN, who, unfortunately, is not on the floor, that he made an excellent presentation on behalf of this program. He was very eloquent in describing the kind of dangerous and unpredictable world that we live in.

He also said that, when Ronald Reagan was President, he, though a Republican, stood up and opposed the initial Star Wars program.

I think he makes the point very clearly: We should not be partisan when it comes to budgeting. We should not be partisan when it comes to debating a weapons system. Instead, we ought to look at the system, see what it is supposed to do and determine where it fits into our limited resources.

The Senator from Maine also stated that we Democrats supporting this modest cut were implying that we did not trust this administration.

Nothing could be further from the truth. Of course, we are going to have disagreements once in a while with this administration. It does not mean we do not trust them. It just means that we must do our job as well.

When Secretary Aspin announced the end of star wars, the end of the strategic defense initiative and the beginning of basic missile defense research, I thought we would see a commensurate reduction in funding, down to about the $2 billion level. Unfortunately, we did not see that and, as Senator EXON points out, the authorization we are considering is $3.2 billion.

And I would go back to the Senator from Maine's eloquent defense of a missile defense research program and say to him that the Senator from Tennessee is very clear in his amendment. He is still coming up with an adequate number for thisprogram.

I would say to my friend from Nebraska, Senator EXON, that he called this amendment irresponsible, but yet it matches the number that the House Armed Services Committee reported.

I want to tell him and my colleagues about the House Armed Services Committee, because I served on it for several years.

The House Armed Services Committee, I might say, Mr. President, is not a committee of doves. On the contrary, if you were to use the word "hawk" or "dove," you would say there were more hawks than doves on that committee. And I think the Chair knows what I mean because he knows the makeup of the committee. They are very strong and I do not think they would come up with an irresponsible number.

Mr. President, back in the days when I was on the Armed Services Committee in the House—and I think you might find this story kind of amusing—we were in a heated debate on whether or not we should fund star wars. I was making a passionate plea to bring it down a notch or two or three. One of my colleagues on the other side of the aisle got up quite agitated at me—I understood why; because he thought it was a great program—and he said, "Will the Congresswomen yield?"

I said, "Of course, I would be happy to yield."

He said, "Do you know, Congresswomen, that we spend more on panty hose in this country than we do on star sars?"

And I was kind of taken aback. And I thought quickly, and I said: "You know, I can understand why. Because panty hose are affordable. They do not change their mission every day. And panty hose are reliable. And if you look at star wars, it certainly is not affordable. It has not been reliable. And it changes its mission almost every day."

As I sat in the chair and I listened to the Senator from Louisiana talk about the changing missions of star wars, I was absolutely taken with how masterful he was.

He talked about the change from the shield that would protect us all, impenetrable, to a partial shield, to the continental defense, to the Brilliant Pebbles, to the ground-based defense system, to the space-based defense system.

Star wars changed its missions more times than Imelda Marcos changed her shoes. I do not think there is any question about it.

And then there are those who are against this amendment who say: Yes, we have had our problems in the past, but that should not be used against the program today.

I would like to challenge that assumption. I think if this were any other program on the social spending side and we did not have results to show for it, be it immunization or Head Start, if such a program had a bad record, I think that it would be fair to raise it. We need to make our decisions in the present based on what has happened in the past.

We are spending more money on this particular program than we are on any other weapons system. We have spent $30 billion so far without very much to show for it.

Some people say, "Did the Patriot missile come out of star wars?" I think the Senator from Tennessee, the sponsor of this amendment was very clear on that point. No, it did not come out of star wars. It came out of the Army's research into an antiaircraft program. So, really we do not have much to show for Star Wars except ever changing missions and a lot of money wasted.

Senator JOHNSTON of Louisiana said the program has been a flimflam. He said, basically it has been a shuck and a jive.

The Senator from Georgia says yes, that is true, but let us not bring up the old history.

I think we would be remiss if we did not. We have to learn from history.

So, to sum up, this amendment is very modest. There are many of us here who would like to see it go further. I think the Senator from Tennessee himself said that an argument could be made for reducing this program further, but he chose a $400 million cut for this amendment because he wants to be realistic. I support him in his effort. He knows the crunch we are in.

We have to look at drug wars. We have to look at the education wars. We have to look at crime wars. We have a lot of wars we have to fight. We have a deficit we have to bring down.

I appeal to my colleagues on both sides of the aisle. It is really time to support the Senator from Tennessee in what I think is an extremely responsible amendment. And then I think we can truly look the American people in the eye and say we are doing something, not only to make sure we have a solid missile defense system in place, but that the dollars that are behind it are not wasted.

Mr. President, I yield my time.

The PRESIDING OFFICER. The Senator from California yields the floor.

Who seeks recognition?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I regret that the Senator from Tennessee has proposed this Draconian and ill-considered cut in funding for ballistic missile defense. I oppose it strenuously.

This amendment would cut $400 million from the Armed Services Committee recommended level of $3.5 billion. But I must point out that the funding level recommended by the committee already represents a $300 million reduction from the administration's budget request. Thus this amendment would make a total cut of $700 million from the administration's BMD request.

In his letter explaining the amendment, the Senator from Tennessee claims the amendment would allow robust growth in theater missile defense, and protect key components of national missile defense. No one seriously believes this. It simply is not so, and merely saying so does not make it so. If this amendment passes, I believe no meaningful missile defense will be possible. It would not only kill any hopes of national missile defense, but cripple the theater defense program as well, which is the administration's top priority.

Under Secretary of Defense John Deutch, in a letter to our chairman on September 7, urges the Senate not to cut BMD below the $3.5 billion committee mark.

> Budget cuts below the Armed Services Committee level and program fences this year will endanger our ability to deliver our new plan.

He is speaking of the BMD plan just released from the bottom-up review, which is frankly a very modest plan.

The Sasser amendment ignores the realities of a still troubled and uncertain world. While the threat of ballistic missile attack from the former Soviet Union is remote, there is still tremendous turmoil in the former Soviet Union. The Russians still have a powerful arsenal of nuclear missiles aimed at the United States. We must have a limited homeland defense to guard against a renewed threat from a hard-line Russian regime should one return to power. We must also guard against a long-range missile threat from a hostile Third World nation as well, which Director of Central Intelligence Woolsey says could be possible by the turn of the century. We already face a severe threat from theater ballistic missiles proliferating in the world's most hostile regions.

Members of both parties, including traditional opponents on the SDI issue, all agree that theater missile defense is absolutely essential to protect our forces and vital interests in the Middle East and Korea, and to discourage missile proliferation. Missile defense must continue, not just as research, but as an acquisition program that will protect American lives. I urge the defeat of the amendment.

The PRESIDING OFFICER. Senator THURMOND yields his time.

The Chair recognizes the Senator from Arkansas, Senator BUMPERS.

Mr. BUMPERS. Mr. President, I regret Senator JEFFORDS is not on the floor. He said he had only a 5-minute statement and I was perfectly happy for him to go ahead of me. Since he is not here, I will go ahead with what I had to say.

First of all, Mr. President, as you know, charts have become very trendy in the Senate. This just happened in the last 2 years. Nobody comes to the floor anymore without a fistful of charts. I think that is very healthy. As a former trial lawyer I used to put charts and displays in front of the jury. They are very fine instruments.

I brought my own chart here today. We have spent $30 billion since 1983 on SDI. And this is what we got for it.

Can everybody see that chart? It is a little difficult to see. But this is what we got for $30 billion—nothing.

Mr. President, harking back from this day of September 9, about 33 days ago this Chamber was full of Senators and on both sides of the aisle you heard all this rhetoric about what was wrong with the President's economic package; namely, that it did not go far enough, it did not cut enough.

I told some people at that time on both sides of the aisle, those people who were fearful that economic package was the beginning and the end of budget cuts around here, they would have a great opportunity to put their rhetoric right over their heart and head, and vote for one spending cut after another. Today is the first one. There are going to be many more. The space station, the collider, the advanced solid rocket motor, the Trident II, the intelligence budget—all of those are coming.

I hate to say this—I hate to say it to my colleagues and I hate to say it to the American people—I will predict that at least 75 percent of those cuts will be defeated. They will be defeated by the people who screamed the loudest about how the President's budget package did not go far enough.

Sometimes this is the most surrealistic place I have ever seen in my life.

I read a story in this morning's Washington Post about the space station. I can tell you as a trial lawyer, you should never mix apples and oranges. We are here talking about SDI. But the point ought to be made about how difficult it is to get anything done around here.

One of the reasons morale is lower in the U.S. Senate right now, in my opinion, than has ever been in the 19 years I have been here is because you cannot get anything done.

When I started running for Governor in 1970, I said the people have a right to be wrong if that is what they choose.

I can tell you one thing, the people are right about one thing: They have this crowd's number when it comes to spending cuts. They know rhetoric from reality. The rhetoric is, before the Chamber of Commerce back home, about what a great fiscal conservative you are, and about all those big taxers and spenders up there. And they come right back up here and vote for tens and hundreds of billions of dollars that are absolutely, utterly worthless; that have nothing to do with the real priorities of this Nation.

Here is a space station article of this morning:

> "We can't keep floundering around searching for a new configuration trying to decide how to build it—and with whom. We're spending $2 billion a year," said a House staff member who follows the issue.

They are talking about a design. I want you to listen to this:

> Meanwhile, because of significant uncertainties remaining as to "what we're buying," Mikulski's panel wrote in language that locks up until January 31 about $946 million of the space station funds, according to the aide, who spoke on condition of anonymity. That means "NASA can't spend it until they come back and tell us what the redesign looks like."

Then the aide says:

> In addition * * * "the President or his designee" must certify that the new design provides the same capabilities for scientific researchers that existed in the previous design: "It is the linchpin of whether this space station is worthy of support."

You think about that. The President said we are not going to build space station *Freedom;* we are going to build a much smaller version. And now they are saying the linchpin is whether or not this new design will have the same capability as the one we just torpedoed.

Now, we spent $8 billion on that. Let me go back to my chart. We spent $8 billion on the space station, and so far this is what we have gotten for it. There is $38 billion down the tube; I mean gone forever, for nothing except a bunch of macho spirits around here.

So now we come to the defense authorization bill, and as we head into the latter part of this month and October, all these appropriations bills will come sailing through here, and the first one is SDI. No, it is not SDI anymore; it is BMDO or BD. What is it? BDIO, ballistic missile—BMDO, Ballistic Missile Defense Organization. I said SDI and SDIO for so many years, I am having trouble with that one.

And so now there is a lot of talk here about did the Defense Department deceive us? Did they rig a test? The New York Times wrote this front-page story that in 1984, in order to scare the Russians and deceive Congress, they put a homing radar on the target so you could not miss it. Then they put some powder on it so that when it did explode, if they had to detonate it in case it was a miss, they could detonate it and it would make a big flash and the Soviets would think it was a hit.

That story came out just 2 weeks ago, that Congress had been deceived by an artificially rigged hit under the SDIO program in 1984, and before the ink got dry, all the conservative writers all across America say, "Are we smart or what? We got the Soviets to spend all those billions of dollars by deceiving them into thinking there had been a hit."

That was the first thing that happened, and the next thingthat happened, Mr. President, happened today. Now, is it not curious that the Secretary of Defense and his Deputy waited until noon of September 9, 2 hours before Senator SASSER and some of us were going to offer this amendment? It is the same old story.

On the super collider, the Secretary of Energy said, "Well, I fired the project manager. Everything is going to be hunky-dory now. The cost overruns are over. There is not going to be any more whiskey money spent, no potted flowers, no cost overruns. Everything is going to be hunky-dory because we fired the project manager."

This year, it is the same old story. Not SDI anymore. We already spent that $30 billion. We have even changed the name of it to the Ballistic Missile Defense Organization for theater missile defense, Patriot upgrade calculated to recall all those evenings you watched the Patriot missile during Desert Storm.

The truth of the matter is the Patriot did not perform as well as many believe. You get slightly varying versions of that, but the truth of the matter is the Patriot did not perform all

that well. But we are not here to debate the desirability of a theater missile defense system. I agree with that.

But everybody in this body should realize that if you had an absolutely fail-safe, foolproof ballistic theater missile defense system, you still would not have anything that would intercept a cruise missile. The Iraqis shot some of our cruise missiles down with BB guns or .22 rifles or whatever. But I can tell you one thing, you are not going to shoot down a cruise missile with this system and the cruise missile is easily the most revolutionary system of this century. When the President chose to punish Saddam just recently, what did he do? He sent 20 cruise missiles. He did not sacrifice one single person or life to put 20 cruise missiles on what was designed to be an attack on their intelligence system.

It is not designed to shoot down bombers. If Saddam or some of the Islamic fundamentalists want to rent a Piper or Beech Baron in Miami and load an atomic bomb on the back of it, the ballistic missile system is not going to stop it. If somebody could bring a nuclear device into this country in a suitcase and plant it at the base of the Washington Monument, this system is not going to stop that.

So we are working on a Patriot upgrade.

Mr. President, I will tell you one of the most interesting stories you will hear in this particular debate. Let me turn to another chart. We had this very curious situation where the President was asking for $3.8 billion this year and saying—now listen carefully—the President said: I want $3.8 billion for 1994 for the Ballistic Missile Defense Organization, and then I want $7.8 billion each year thereafter.

So if you gave the President what he asked for until 2 weeks ago, $3.8 billion and $7.8 billion in 1995 through 1999, you have just spent $39 billion.

The Senator from Tennessee made the very cogent point this morning that this bill is enough over the budget resolution we passed, on the assumptions of the economic package, which brought blood all over this place—this bill is above that. So we passed that deficit reduction package and went home and patted ourselves on the backs and said, "We know you're unhappy, but, after all, this is going to cut $496 billion out of the deficit."

This morning, CBO shot a hole in that bone. So we have more work cut out for us to find that roughly $40 billion I think that CBO says we have to come up with to keep faith with the American people.

But shortly after we passed that thing, I think precisely 2 days, the Secretary of Defense said: We made a slight mistake. The defense numbers in this economic package are $20 billion short.

Then, later on, as recently as a couple of days ago, I had been advised the Defense Department now says we now have that $20 billion overrun down to $13 billion, and we will find the rest of that.

So give the devil his due. Let us assume the Defense Department is, indeed, going to find the $20 billion short that they said existed shortly after we stood up and took all those slings and arrows to vote for that economic package.

But, Mr. President, that does not satisfy all the rhetoric we heard around here for 6 months about why we have to cut more. And so the President, until 2 weeks ago, said, give me $3 billion this year, $7.8 billion thereafter and we will get the show on the road for $39 billion through 1999.

Two weeks ago, they changed it—2 weeks ago. This was the result of the bottom-up review. In the bottom-up review they said give us $3.8 billion this year, and $3.8 billion each year thereafter.

But if you take the $3 billion that Senator SASSER is asking for and correlate it to what they originally said, $6 billion a year thereafter, you spend $30 billion. Now, I assume that may be obsolete now.

But while I am a cosponsor of the Sasser amendment, I do not like it. The reason I do not like it is because it does not cut nearly enough. The reason it does not cut nearly enough is because I believe in Bill Crowe. I think Admiral Crowe is the best Chief of Staff this country has had since George Marshall. Certainly he is the first soldier-statesman we have had since George Marshall. But Bill Crowe is an honest man. He is a very, very capable military theatrician. And here is what he said:

> In any event, I would argue for a throttle-back effort which seems to accord with both economic and military reality, perhaps in the neighborhood of $2 billion annually to keep the program moving and our knowledge ahead of our competitors.

Two billion dollars is what the 8-year Chief of Staff of Ronald Reagan says the budget ought to be, and that was back when we were talking about SDI. That was back before Les Aspin said SDI is dead.

Admiral Crowe went on to say:

> I must admit that the case for a credible SDI mission, in my mind, grows weaker every day.

And then he goes on to say:

> The critical point is that defense is 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.

I like to coin a phrase, but I tell you he is a poet. He says these things so everybody understands. He says there is no viable threat to the continental United States for the foreseeable future.

Everybody in the Pentagon will tell you that the only three nations that will have ballistic missiles capable of hitting the United States by the year 2010—17 years from now—the only three nations that could hit us are Brazil, India, and Israel. Three friendly, for many, many years, friendly nations.

Mr. President, what does it take to get people not to knee-jerk these issues? As I read that Post article this morning, I thought, we have a lot of Senators who do not care what the facts are. Here they are saying on the space station, they are saying we have a new design but we do not know what it is. And this guy says we are floundering all over the place. How can we expect this station to survive when we do not know what we are trying to build?

Never fear, unidentified aide, you will get the money. You do not have to show us the design. You do not have to guarantee capability. Just throw it out there and say it will cure cancer.

The Senator from Texas [Mrs. HUTCHISON] said the other day the super collider is going to cure cancer. I have heard the argument year, after year, after year, that the research we are going to do on the space station will cure cancer, arthritis, corns, warts, burns, bruises. I submit to you that you will get more cancer cure out of a tube of Neosporin than you will get out of a $100 billion space station.

And yet the reason I said a moment ago this place is surrealistic at times is because it just does not seem to make any difference. You can point out that seven of the eight technologies we have tried on SDI have been discarded. Do not worry about the technologies of 1984 and whether the thing was rigged or not. Those have already been discarded, all of that technology. On the whole SDI concept, about which some of us stood in this Chamber and screamed our lungs out year after year since 1984, saying this is foolishness, in the year of Our Lord 1993, the Secretary of Defense says SDI is dead. But he did not say we could get back our $30 billion that we had wasted on it.

Mr. President, I do not mind telling you I am so weary. I have stood behind this desk now for 5 years and taken this on. Senator JOHNSTON, one of the most knowledgeable Members in the Senate on SDI, actually understands a lot of the technology. I confess I do not. All I know is they have tried every technology under the shining Sun, and they have just discarded them one after another, the technology. We have gone from Brilliant Pebbles now to Brilliant Eyes. What is that? What are Brilliant Eyes?

I am telling you, I sometimes think these acronyms and names they put on things are designed to confuse us further. You have to look at these things almost instinctively and with belt buckle native intelligence. You start trying to follow the Pentagon or CIA's acronyms, and I promise you you will go stark raving batty.

Senator JOHNSTON led the fight here for 2 or 3 years and, like everybody, grew weary and quit. I took it over for about 3 years. Then Senator SASSER started last year, and here we are back again this year.

But you know, in this environment, after everybody here has taken so much heat over the President's program, if we cannot cut this sucker this year, we never will.

I am tired of beating my head against the wall. I believe the deficit threatens the very economic future of the Nation, and I believe in doing something about it, not just talking about it.

So, Mr. President, as I say, that is not a threat. I guess I have worn out my welcome to my colleagues on SDI, the space station, and a lot of these other things. But I tell you. I would rather try to lose, as long as I am absolutely satisfied that I am on the side of the angels with this one.

I hope, and I really believe, the Senate might vote for the Sasser amendment this year. It is not very much. When I told you a moment ago I did not finish the sentence. I said I did not like his amendment, and the reason I did not like it is because it does not cut enough. When the appropriations process comes back I am going to offer an amendment to still cut it further because I believe what Bill Crowe said; $2 billion is enough. If the chief military officer of this country says that, why on God's green Earth do we not listen to him? When he says things we agree with, we say is he not wonderful? But if he happens to say something you disagree with, he is just dead wrong about that one. I think he is dead right about most all of these things, but especially this.

So I am hoping that Senators will honor their commitments that they made 33 days ago when they said we have to cut a lot more money. You are either serious about deficit reduction or you just want to talk about it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have listened intently to the very excellent statement and arguments of my good friend from Arkansas. There is little, if anything, that I disagree with. Certainly we have heard enough about the proponents of the plan, and the change of the name will somehow make it a very important difference.

I cannot conceive that something is a different system than the old SDI that we worried about, strategic defense, and that now the primary emphasis is supposedly on theater defense and other things, but the same weapons systems are being investigated; the same money is being spent; and the same, in my mind, wasteful progress toward the future.

I would like to change the argument to some extent. I think it is time, at this time in our history, that we just stop and look at the big picture, to think about what kind of priorities we are still dealing with, how we should change those priorities to meet the problems of the day and not of yesterday.

We can no longer afford to spend all that we might like to on the many programs that we have funded in the past. I have been sounding this same theme, prioritization in many areas, in education, health care, in foreign aid and defense. We cannot continue on the path we have trod for the past decade. We must once and for all decide which roads are most likely to get us to our destination and stick with them.

We can no longer afford to keep all of our options open to fund every worthy program and just see which program performs best over time, or to examine every conceivable problem which may come in the defense area and say that even though that threat seems to have disappeared it might reoccur and thereforewe should go forward with the same kind of funding. The American people elected us to show some leadership, and this is one of those moments when it may not be easy but it is truly necessary.

With the end of the cold war, the changing nature of threats to our national security, the defense budget has declined over the last few years. The bill before us continues that trend, as well it should. I have not been calling for radical cuts in defense spending, but I do advocate careful review of all defense programs to determine where our priorities now lie. The easy cuts in defense spending have all been made. From here on every cut we make helps in some quarter and causes some pain in some community. But we have been elected to do that job responsibly.

Let me say basically what we are talking about here. We are talking about research and development regarding defense systems for our future. But is that our greatest threat right now?

I believe our greatest threat right now is our inability to compete on the world markets, and that this Nation which has always prided itself at being the best in research and development has slipped dramatically in many areas. That slip has occurred primarily because our brains and our efforts have been working on the military side, and rightfully so. And it is because of that that we have developed the cruise missiles and to some extent the more elaborate defense systems.

But the situation now is different. We are competing with countries like Japan, Germany, and others who have spent all of their research and development in commercialization and how to win on the world markets.

We are being faced with cutting back on money. We are being faced with many issues of cutting back in research and development.

I say to the Senator from Arkansas that in some areas we agree, and in research and development we disagree. But in some ways I agree with him on that. But if I were to make a choice between the other things like the space station or the super collider or the strategic defense initiative, now called the ballistic missile defense, I would put the ballistic missile defense at the bottom of those three critical areas that we are examining. Each of the other two, the space station and the super collider, will give us an edge and hope to provide better research and development for commercialization, to make sure we can go to the future in hopes of being able to improve our standard of living by being able to compete on those international markets.

I may still vote against one of those other two, but if I had the choice between taking the money out of SDI and putting it in those, I would much rather do that. I think the national interest would be much better served.

Actually, the amendment we are seeking cuts nowhere near as much as I think ought to be cut. But it is a step in the right direction of reordering our priorities, and we will reopen these funds in other areas where R&D may be more than those three which I discussed.

In order to come within the limits allocated by the Appropriations Committee with respect to the system which we are talking about, $2.6 billion must be cut from this bill.

The Armed Services Committee, under the able leadership of Senators NUNN and THURMOND, has made great progress in articulating these tough decisions. But more needs to be done to this bill. And I believe the ballistic missile defense category stands out as one area where increased funding has been the norm, and we have little concrete progress to show for all of the money.

The strategic threats to the United States have changed rapidly since President Reagan first proposed converting the modest ballistic missile defense research program into his aggressive strategic defense initiative.

Now I fear that the greater threat to this Nation comes not from an ICBM strike by some former Soviet Republic, or a fledgling nuclear power, but rather from the inability of the United States military to carry out some future mission because Congress and the White House have refused to make the hard choices in the long-lead, high-technology programs, and have fallen instead into the easy trap of sacrificing readiness, operations and maintenance, or personnel accounts in order to make the short-term savings requirements.

I urge my colleagues to look closely at this to understand its very modest nature and to realize that this amendment will put us closer to more manageable Defense budgets in the years to

come. Unchecked, the current SDI Program in the proposed budget, followed to its logical extension over the next few years, will quickly reach $6 billion, almost twice what it is in the bill today. The consequences of that type of funding explosion on the unworthy Defense programs would be very severe.

The Sasser-Jeffords amendment cuts $400 million from the committee's bill setting SDI funding at $3.06 billion, still a very robust program of research and development.

The amendment would eliminate redundancies in the BMD [Ballistic Missile Defense Program] without hampering the most productive lines of research. It is time to make some tough choices to decide what is the core of our national defense so it will not be sacrificed in this time of increasing fiscal constraints.

I urge my colleagues to vote in favor of this amendment.

Mr. President, we are facing many challenges in this world. These challenges require us to have the courage and resolve to take action.

There are areas in which we should be expending our efforts in defining our policies so we can better deal with such situations that are existing in the world today.

I, along with a number of others, met today with the President of Bosnia, who is seriously concerned about the future of his nation, and the inability of this Nation to provide any assistance whatsoever.

I came away from that meeting depressed in a sense, but encouraged in another sense that we do have an opportunity to be able to help that nation, and that is where we should be spending our time and effort now in redesigning our policies and efforts on what to do.

Mr. President, twice in the past year I have traveled to the war-torn land that was once Yugoslavia and have seen first hand the terrible human suffering. To talk with victims of ethnic cleansing and to hear their stories of rape and torture was a truly shocking experience.

Now I have just returned from Warsaw and a conference on Eastern Europe attended by representatives of most European countries. The key topic was the Bosnian situation, and I came away fully as shocked as by my earlier trips, but for a much different reason. What alarmed me this time was the absolute lack of resolve on behalf of the NATO nations. It has me thinking—what is the value of NATO if it is unable to act with conviction in situations like this?

The horror continues unabated in Bosnia, under a U.N. policy that, stripped to its essentials, amounts to this: The United Nations will make sure you are fed before you are raped, murdered, or displaced. Meanwhile, no effort is being made to stop ethnic cleansing. Indeed, the presence of U.N. peacekeepers often accomplishes little more than freeing more Serbs troops from occupation duties in conquered territory to fight on the front lines.

As a member of the Senate Foreign Relations Committee, I have written President Clinton urging that this country act now, and forcefully, to bring about at least two very reasonable objectives of the Bosnian Government in current peace negotiations. First, Bosnia wants a seaport on the Adriatic, a way to reach the outside world without having to pass through Serbian or Croatian lines. Second, it wants theboundaries that are agreed upon to be guaranteed with force.

While I consider it preferable to work within the framework of international organizations, if European allies remain unwilling to take decisive steps to bring about an equitable solution to the conflict, it may well be necessary for the United States to take unilateral action.

The time has come for us to bring real pressure to bear in the negotiations. This is the 11th hour, the last chance to exercise our responsibility as a world leader and to salvage a modicum of self-respect for the role we have played when confronted by Europe's greatest post-war tragedy. Winter is approaching, threatening to bring catastrophic starvation to Bosnia. Yet the near total collapse of the Serbian economy provides strong leverage. American willingness to ratchet up pressure still further on both Serbia and Croatia could secure an agreement which meets the very reasonable requests of the Bosnian Government. In the case of Serbia, which bears principal responsibility for the conflict, those pressures should include the threat, backed up by action if necessary, to carry out air strikes on tactical or even infrastructure targets held by the Bosnian Serbs or in Serbia itself.

At stake in the Bosnian crisis are the very credibility of the United States as a world leader and the effectiveness of the United Nations as an instrument of peace. Failure, once again, to take decisive action will merely feed the growing perception that the international community is not willing to stand up to aggressive behavior that deliberately flaunts U.N. mandates and is even less willing to do so when the victims of aggression are Muslims.

Such perceptions can only feed the ambitions of would-be aggressors elsewhere and heighten resentments in the Islamic world that have helped spawn international terrorism.

Mr. President, these are the kinds of issues we should be spending our time on. Yet, it is essentially important that we reorder our priorities so we can better meet these new demands being cast upon us. I urge support of the Sasser-Jeffords-Bumpers amendment as being a step forward in reevaluating our goals and priorities and placing ourselves in a better position to meet the needs of the present and the future.

I yield the floor.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. SASSER. I renew my request.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. KEMPTHORNE. Mr. President, I rise today in opposition to the amendment currently before us on the floor. The amendment proposes to cut the budget for the ballistic missile defense program by $400 million. This cut would be enacted in addition to the reduction of $300 million imposed by the Armed Services Committee on which I serve. Further, the proposed cut offered by the senior Senator from Tennessee would be in addition to the $21 billion cut in the former SDI Program in the 5-year defense plan that is recommended in the bottom-up review.

Mr. President, the ballistic missile defense program is, in my view, one of the most important programs in the entire defense authorization bill. The SDI Program is a research and development effort designed to give the American people and its troops deployed overseas protection against ballistic missiles.

No one in this Chamber can deny that the threat of missile proliferation is a growing challenge to U.S. security. As we witnessed so vividly in the gulf war, nations such as Iraq will use ballistic missiles, such as the Scud, in the pursuit of their military objectives. The United States currently possesses only a very modest capability, the Patriot antimissile defense system, to defend its troops. During the gulf war we were fortunate to have a Patriot. But now in an effort to increase our capability against far more capable theater ballistic missiles than the Scud the Armed Services Committee has focused its funding recommendation on the theater missile defense initiative, known as the TMDI.

Unfortunately, while we emphasized development of theater missile defenses we have dramatically reduced funding for the national missile defense initiative, known as NMDI. This program is designed to give the United States' homeland a defense against long-range ballistic missiles. In fact, the movement toward actual deployment of a national missile defense system that took place under the Bush administration has been reversed by the current administration. Now, instead of moving toward deployment of a national defense system, this program has been slowed and stretched out into a technology development program.

The decision to delay the development and deployment of defense for the

American people is a serious mistake, in my view. As we all know, more and more countries are acquiring longer and longer-range ballistic missiles. Indeed, it was earlier this year that President Clinton's director of the CIA, Jim Woolsey, warned that a nation hostile to the United States may acquire a ballistic missile that could reach the United States sometime after the turn of the century—the turn of the century, which is less than 7 years away. At the same time, the Clinton administration proposes delaying the deployment of a national missile defense system until sometime late in the next decade. In other words, we are leaving ourselves vulnerable to a threat that the CIA tells us is coming. I fear we will indeed regret this decision.

Mr. President, the SDI program has contributed more toward deficit reduction than any program in the Federal budget. As I noted earlier, the Clinton administration proposes to reduce spending on missile defenses by $21 billion over the next 5 to 6 years. And at the same time that it is proposing a deep cut in spending on missile defenses, Secretary of Defense Les Aspin has warned that the proliferation of weapons of mass destruction and the means to deliver them is one of the top threats facing this Nation.

In light of this acknowledged threat, I find the proposal to reduce spending on the program designed to counter this threat unwise.

Mr. President, the administration opposes any additional funding reductions in the ballistic missile defense program. We have a growing threat of ballistic missiles, and our troops and citizens need a defense against these weapons.

Mr. President, the question was asked what have we gotten for the $30 billion that has been invested in the SDI Program. I would like to quote from a report that has been released entitled "What Did We Get For Our $30-Billion Investment In SDI/BMD?" written by James A. Abrahamson and Henry F. Cooper, the first and second directors of the SDI Program.

In this report, it states:

Marshal Sergei Akhromeyev (former Soviet Chief of Staff, close advisor to Gorbachev, and head of the Soviet Experts Group at Reykjavik) told Ambassador Vernon Walters (who was our Ambassador to the UN at the time of the Reykjavik Summit), that Reagan's refusal to give up SDI at Reykjavik was a "watershed event," by which Walters understood that Gorbachev was then persuaded that the Soviets could not compete. This view is shared by other world leaders, including former British Prime Minister Margaret Thatcher. At a February 1993 Princeton University meeting, former Soviet Foreign Minister Alexander Bessmertnykh (who was close to the US-Soviet negotiations throughout this period) and former Gorbachev aid Anatoly Chernyaev indicated that SDI had a decisive effect on Soviet political and economic calculations that hastened the end of the Cold War. (See press accounts in the February 27, 1993, Washington Post and Washington Times.) About the same time Russian Deputy Foreign Minister Grigorly Berdennikov, in an ABC interview in Madrid, said, "The Soviet Union fell precisely because it could not afford 'star wars' and the arms race against the West."

I think that quote is worth repeating:

The Soviet Union fell precisely because it could not afford 'star wars' and the arms race against the West.

Finally, Ambassador Vladimir Lukin (Chairman of the Supreme Soviet Foreign Relations Committee during the 1980s and now Russia's Ambassador to the United States) has observed that SDI accelerated the end of the Cold War "by five years."

Mr. President, I think this is dramatic evidence suggesting what SDI has meant for the welfare of the Nation and the world, the fact that it accelerated the demise of the former Soviet Union by perhaps 5 years. And this is according to the Russians themselves.

But, Mr. President, it does not mean that we simply live now in a world that can rest in peace. We do have countries that are undergoing multibillion dollar arms buildups and it is not for peaceful measures.

We have had a great deal of discussion, too, Mr. President, about the accusations that have been made on the report that was in the New York Times. The New York Times says that former officials of the DOD stated that the fourth homing overlay experiment was faked to deceive Congress about the feasibility and success of SDI, and that is a serious charge. The Pentagon has looked into this charge. The Office of Technology Assessment has looked into it, and this morning Under Secretary Perry told Senators the result of his own inquiry. He concludes that the accusations are "wrong, dead wrong."

Let me review for you, Mr. President, the particulars. The New York Times says that the interceptor did not track and guide to the target on its own but rather homed in on the radio beacon on the target.

The truth is that there were beacons on both the target and the interceptor. The beacons were mandatory for range safety so the range safety officer could determine if the missiles had gone out of control. In fact, the frequency of the beacon was such that the interceptor would have had to have an antenna 10 feet across to track the target. That was not the case.

The New York Times says that the target was artificially heated to make a better target. Yes; it was heated. The real target enemy reentry vehicles are quite hot because they go through the atmosphere so fast, but this target was sitting in the cold night air at Vandenberg. So the target in this case had to be heated to match the real targets.

The New York Times says that the target was not destroyed by impact but by an explosive charge. There was an explosive charge, but it was meant to accelerate and amplify the impact so it could be seen from the ground. It is called a marking charge and it is used all the time to make a cloud last for a few minutes so that the location of the impact can be determined. It was not exploded by anything but the impact, not by a proximity fuse and not by a signal from the ground. The New York Times article was inaccurate.

Now, Senators ought to know there was a deception program in effect at Pacific test range. There was a Russian trawler gathering intelligence on the test. It was meant to convince the Russians there had been a hit even if the interceptor missed. This would have been done by detonating the target on command. This was a planned feature of the first three tests. The deception plan was canceled for the fourth test.

Mr. President, I believe that we have sufficient information here that points out that the article in the New York Times was not correct. We have had the Pentagon, we have had Dr. Perry, who has now given us evidence, and Secretary of Defense, Les Aspin, released a statement that has been made part of the public record.

Mr. President, I believe that again the SDI Program has proven great worth to the United States. The continuation of the program in its current form is absolutely essential to us.

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

Mr. HEFLIN. Mr. President, on behalf of the unprotected members of our Armed Forces, as well as our civilian population, I urge the Senate to reject the ill-advised attempt to take an additional $400 million from the ballistic missile defense budget for fiscal year 1994. This amendment, if passed, will undermine our capability to defend ourselves against the threat posed by the global proliferation of ballistic missile technology and weapons of mass destruction.

As the Persian Gulf war graphically illustrated, even the limited use of unsophisticated, short-range ballistic missiles such as the Scud, can have a dramatic impact on our ability to protect our national security interests at home and abroad. One need only take note of recent headlines concerning the activities of such countries as North Korea and Iraq to realize that many of our potential adversaries are perfectly capable of buying, not necessarily producing, but buying ballistic missile hardware and technology on the open market, and they have been doing so for years. Unfortunately, the collapse of the Soviet Union has created new opportunities for acquiring such weaponry throughout the world and the problem is getting worse by the day.

Our new Secretary of Defense, a respected former Member of Congress, chairman of the Armed Services Committee of the House, has repeatedly

identified the proliferation of ballistic missile technology and weapons of mass destruction as one of the four major dangers that threaten our national security. In a recent address to the graduating class at West Point, President Clinton himself referred to this threat as one of the key challenges that our military leaders will face in the future. To quote the President,

A particularly troubling element in the world you face is the proliferation, around the globe, of weapons of mass destruction and the means for their delivery. Today, ambitious and violent regimes seek to acquire arsenals of nuclear, biological, and chemical warfare weapons. As we discovered in Iraq, surging stocks of ballistic missiles and other advanced arms have enabled outlaw nations to extend the threat of mass destruction a long way beyond their own borders * * *

Our goal in reducing defense spending must be to maintain a healthy balance between offensive and defensive military capability without putting our national security at risk. For decades, we have pursued advanced offensive weapons, under a policy of mutual assured destruction [MAD], without investing in any type of defensive system. The threat has certainly changed, we no longer fear a massive attack by the Soviet Union. Unfortunately, though the Soviet Union has disappeared, we are still without any means of defending against attacks from hostile and possibly irrational third world leaders who are not deferred by threats of retaliation. How long will it before our luck runs out and we lost thousands of troops to a ballistic missile attack with chemical, biological, or nuclear warheads? How long before we are blackmailed by a fanatical third world leader with the threat of ballistic missile attack against one of our major cities?

I, too, recognize the need to reduce spending, to cut the deficit, but some costs are simply to high. Saving a few dollars now, at the cost of untold lives in the future, is no bargain. I, therefore, urge my colleagues to remember our experience in the Persian Gulf, to recognize our current vulnerability, and to then join me in defeating this unwise amendment.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, thank you very much.

Mr. President, if we had in this Chamber a map of the State of North Dakota, and if you were conversant with the communities and the regions of North Dakota, and if you looked in the northeast corner, you would find a small spot on that map called Concrete, ND.

That spot designates a major weapons program built in this country, the only antiballistic missile program built in the free world, a monument to colossal wasteful spending in our country. We built the only antiballistic missile system in the free world in the northeastern corner of North Dakota. We spent billions of dollars, and then we closed it 30 days after it was declared operational. It is truly a monument to Government waste.

I have spent now some months watching interest groups and politicians parade around this town with pins that say "cut spending first." I do not know who printed these pins, but clearly there is a political movement that says the national interest now on fiscal policy is to cut spending first.

Well, today, and increasingly in the days ahead, on appropriations bills, we will see whether those who wear the pin "cut spending first" have an appetite to cut spending at all. If we cannot cut spending on this program, then we cannot cut spending.

These are not rocket scientists' decisions. These are yes or no decisions on whether we should spend this money or not spend the money. Do we support this amendment to cut spending or do we not? Yes or no.

Now, that yes-or-no decision is made in the context of a dramatic change in the world. If, 5 years ago, someone had said, "You know, 5 years from now, the world is going to look different. We are not going to have an arms race. There won't be a Soviet Union. East Germany will not be East. Most of Eastern Europe will be free. There will be no Warsaw Pact," you would have said, "Well, clearly, you have been drinking something stronger than you should. That is not what the world is going to look like. There will remain a Communist threat. There will remain a Warsaw Pact. And Eastern Europe will still be under Soviet influence."

The fact is that in a very short period of time, things have happened that almost take our breath away. The people who make maps, people who draw the lines and create the maps of the world, simply cannot keep up. Countries are changing, the lines are changing, the names are changing. And democracy has been winning. The world has changed for the better in a breathtaking way.

You all remember the arms race. There was a time in the arms race when it did not matter what the other side did. We had to do it, too.

I said on the floor of the House a number of times, if the Soviets had been buying horses to start a new cavalry, we would decide we needed to start buying horses, as well. It did not matter how goofy it was, the arms race meant we spent and spent and spent. We spent with no object.

Well, I was on a bomber base not too long ago. And it looks different because the world has changed. Where there used to be crews sleeping in buildings on alert pads near their B-52's and B-1's, there are now no crews on alert. Where, for over30 years, an airplane used to fly 24 hours a day in an operation called Looking Glass, a flying command center, in the event of nuclear war—every minute, every day, all year long, that airplane was in the air in the event of a nuclear war—it landed. It is over. Its flight is done.

The Soviet Union does not exist on the map anymore. The world has changed.

The only thing that has not changed—the only thing that has not changed—is the way people in this Chamber view spending when it comes to projects like this. The only thing that has not changed is the appetite to spend money on projects we do not need, especially in the area of defense.

Now, I take a back seat to no one in demanding that we have a safe and secure America and a military able to defend our freedom. But, having seen the only antiballistic missile system ever built in the free world built in my State and closed 30 days after it was operational, I can tell you that that is a monument to Government waste we should not repeat.

So the question today will be: Shall we cut Government spending? Yes or no.

The Senator from Arkansas, Senator BUMPERS, had it absolutely correct. This is too timid. This amendment is far too timid. It cuts far too little.

When he does offer his amendment on the appropriations bill, I intend to be the first one to speak for it, if he will let me.

Two billion dollars is plenty. In fact, that is probably too much.

But this amendment is a timid amendment that cuts precious little money from a program that is not needed.

The question confronting this Chamber is: Will we take even this first modest step in living up to those pins we wear on our lapels that say "cut spending first?"

This program, at its roots, did not make sense. If there is a threat, if indeed there is a nuclear threat from a Third World country, it is far more likely to be the threat of a nuclear device planted in the trunk of a Yugo car parked on a vacant street in New York City; or it is far more likely to be the threat of a nuclear bomb planted in the hold of a ship tied up at a dock in some American port. Both of these threats are far more likely than that of a sophisticated intercontinental missile heaved across the skies by some Third World country.

That is a fact. That is not science. That is a fact.

As we talk today about what we want to fund, we need to decide what our priorities are.

I know some have talked about other needs. The Senator from Vermont, I think, talked about other needs in our country.

I just came from a meeting about an hour ago in which a doctor told me

that, on an Indian reservation, a 13-year-old was put in a drunk tank and locked up for 3 months because there was no space to deal with him. He came from an alcoholic, dysfunctional family: a 13-year-old thrown in jail because we did not have the money to deal with him.

On that same Indian reservation, I told my colleagues on the floor, a 3-year-old girl was placed in a foster home and had her hair torn out, was bruised, her nose broken, her arm broken, abused by foster parents because one person on that reservation handled 150 cases because we did not have the money for more social workers. Relative to this program, we are talking about pennies.

And today we are talking about hundreds of millions of dollars for a weapons system we do not need. Yet many in this Chamber will vote for it.

I think it is disgraceful that we cannot sort out our priorities in a more thoughtful way, in a way that responds to the real needs here at home.

I am not saying we should not have a defense. I am not saying that at all. But I am saying that if we take a look at weapons systems when the world is changing and cannot say, this system does not make sense and this system ought to be scrapped, then, Lord, we are never going to make it. We are simply not going to make it.

I want to say one other thing. I heard until I was sick, in the last 6 or 8 months, about special interests. Special interests. I want to talk about special interests and this program.

They have talked a lot about building the first site for this program in my State. I am telling you, there are a lot of people in my State who very much want this program to move forward. They say it will be good for our State. "Great. New jobs in our State." We sure need new jobs. But I am saying this is not a good program.

But you know what the special interests do—the Defense Department, the contractors, the corporations that are going to get some of this business? They are out there in North Dakota holding seminars with small businesses saying, "Here is how you can be advantaged by this program if only your elected representatives will support it." That is how the special interests work. It is not, "What are the merits of this? Is it needed for our country's defense? Is this good for our future? How does this fit with our fiscal policy?" No, it is not that at all. It is classic special-interest politics: corporations in my State holding seminars telling small businesses, "Here is the money you will get from this project. So be sure and talk to your Senator or your Representative about supporting it." It is not about the merits; it is about money. It is about special interests.

This project should not be built. This project ought to be scrapped. The world has changed. If we do not recognize that, we do not recognize anything. We have plenty of other needs and plenty of other problems in this country.

I agree with those who wear the pin "Let's Cut Spending First." But I tell you, if you have a desire to wear that pin, let us see the desire to cast the vote that indeed cuts spending first. When the Senator from Tennessee calls for the vote, I ask everybody in this Chamber who has worn that pin to put the pin on. Cast the vote. Then let us see who voted to cut spending first.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Sasser amendment No. 785 at 5:50 p.m. today; that the time until the vote be equally divided in the usual form; and that no other intervening amendments be in order until disposition of the Sasser amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KEMPTHORNE. Mr. President, on behalf of Senator THURMOND, the ranking member, we agree with that. We appreciate it.

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

Mr. MITCHELL. Mr. President, Senators then should now be aware that at 5:50—that is just a little less than a half-hour from now—a vote will occur on or in relation to theSasser amendment. Senators' offices should alert Senators to be present during that vote.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues and I yield the floor. The time will be under the control of Senator NUNN and Senator SASSER.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I ask the distinguished chairman if he will yield me about 5 minutes, please?

Mr. NUNN. Yes. I would like to save 5 minutes for the Senator from Connecticut, and I would also like to make remarks for just a couple of minutes. As I understand it, we have now, equally divided, approximately 30 minutes. I yield 5 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I would like at this time to engage our distinguished colleague from Tennessee, the principal proponent of this amendment, in a colloquy on two programs which this body has supported consistently for many years, the ERINT and the Arrow programs; the Arrow, of course, being key to one of our principal allies, Israel.

I would like to ask of our distinguished colleague, what is his interpretation of the impact of this amendment on those two programs? The Senator from Virginia, in his analysis, is deeply concerned that this amendment would adversely impact both of those programs, which this Chamber in years past has deemed essential to the security of our country as well as that of our allies.

I wonder if the distinguished chairman might have the time for his reply allocated to his side of the debate?

Mr. SASSER. Mr. President, I would object to that. I will be pleased to reply on the time of the distinguished Senator from Virginia.

Mr. WARNER. Then I will allocate 1 minute of my time to the Senator.

Mr. SASSER. I say to my friend, it will have little or no impact. What the Sasser amendment does is to provide $3 billion for the ballistic missile defense. It preserves all of the administration's priorities in the ballistic missile defense, including the Arrow project and the other project that the Senator referred to. It will have the effect of reducing the 12 theater missile defense programs that are now ongoing down to eight programs. But it does protect all of the ballistic missile defense procurement funding.

What this amendment does, it actually allocates 48 percentof the total amount under my amendment to theater missile defense, which is what I understand the Arrow is associated with. It also gives the Secretary of Defense the discretion to allocate up to an additional 10 percent of the total funding to theater missile defense programs.

Mr. WARNER. Mr. President, I have to respectfully disagree with my colleague. The information I received from the Department of Defense is that this amendment would have a very serious and adverse impact on both of these programs.

Second, Mr. President, I say the advanced R&D program is going to be severely hurt, if not decimated, by this amendment.

Last, the Secretary of Defense—and I have publicly said this several times—has done a very crucial job on the bottom-up review. This amendment would, in my judgment and the judgment of others, have a serious negative impact on four out of the five objectives most recently stated in the Secretary of Defense's bottom-up review.

I reserve the remainder of my time.

Mr. NUNN. Will the Senator yield me back 1 minute of his time and then I will be glad to cooperate with him?

Mr. WARNER. Yes.

Mr. NUNN. On the point we have been debating a good bit off and on all afternoon and the point the Senator from Virginia just made with the Senator from Tennessee, I would say there is no doubt about the fact—and I said this earlier, but I now have a letter

from Tony Lake, Assistant, National Security Affairs, on this very point, where he says:

Your committee has recommended a level of $3.45 billion for BMD in fiscal year 1994, a level consistent with the 5-year defense plan funding profile envisioned by the Bottom-Up Review. A cut of $400 million in fiscal year 1994, as proposed in the amendment, would require the administration to request over $4 billion in 1995 if we were to keep track over the course of the 5-year defense plan with our new $18 billion BMD program.

I call the attention of my colleague from Virginia to this paragraph.

In addition, the amendment would specify that no more than 48 percent of the funds approved in this bill for BMD could be spent on theater defenses. This restriction is inconsistent with the restructured BMD program that resulted from the Bottom-Up Review. Under the Bottom-Up Review, 67 percent of the funds allocated to BMD during the 5-year defense plan would go to theater systems.

Continuing to quote, bottom line, Tony Lake, Assistant to the President, National Security Affairs, he says:

In short, the amendment would not allow the Defense Department to give theater missile defenses the priority the President directed in approving the Bottom-Up Review.

That is the end of the quote. And he says on the first paragraph, quoting again: "The administration is opposed to the Sasser-Bumpers-Johnston amendment."

Mr. WARNER. Does that not, Mr. Chairman, corroborate the statements I made briefly on the floor?

Mr. NUNN. Absolutely. And it also corroborates the entire dialog we had this morning where I made the statement that the chart of the Senator from Tennessee is out of date and does not take into account the new administration's program under theatermissile defense.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes 10 seconds.

Mr. NUNN. Mr. President, I yield 4 minutes to the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and thank the chairman of the committee, my colleague and friend from Georgia.

Mr. President, I rise to speak in support of the ballistic missile defense program authorized by the Armed Services Committee and, therefore, against this amendment. I think it is important to stress here that we are not debating the strategic defense initiative. This is not a debate over a space-based missile defense system. This is a debate over a ground-based system. It is also not a debate over whether the Congress was deceived at earlier stages of testing of SDI. That is an interesting and, indeed, important question. But in my opinion it is irrelevant to this proposal before us today.

The question I think we have to ask ourselves is, does America, and do our troops in theaters of combat, face a threat from ballistic missiles?

I think the answer today and, increasingly so tomorrow, is yes. Today Russia, China, Ukraine, Kazakhstan, and Byelarus all have ballistic missiles on their territory with sufficient range to reach the United States. I am not saying this is an imminent threat, but let us recognize that reality and acknowledge, as we have seen in recent history, that governments can change quickly and unpredictably.

Let us also understand that after the turn of the century, several nations hostile to the United States may well be able to develop ballistic missiles indigenously and thus threaten the United States. It is hard to give a precise date for that, obviously. But over the next 10 years, according to experts that I have consulted, we are likely to see several Third World nations establish the infrastructure and develop the technical knowledge required to undertake intercontinental ballistic missile development.

The administration has wisely changed the Ballistic Missile Defense Program to give first priority to theater missile defenses, defenses that will protect our troops in combat from missile threats like those they faced in the Persian Gulf war and presumably will face in the years ahead in other theaters of combat.

However, although this program has been refocused, the administration has not abandoned the goal of missile defense for the United States. The BMO program, as authorized by the committee, will continue to develop the means necessary for defending our nation from long-range missile attack which, though unlikely today, is plausible tomorrow in the hands of those who are our enemies. While this threat is less immediate than that posed by shorter-range missiles to our forces in the field, the progress we make in countering these shorter-range missiles will give us both the knowledge and the technology that can be applied toward a national missile defense system.

Mr. President, ballistic missiles are, in fact, a threat today. If we reduce the funding authorized by the committee without knowing what the impact will be, I fear that we will be delaying deployment of missile defenses and thereby leaving our troops in some future theater of combat vulnerable to missile attack.

I would remind my colleagues, as others before me have, that during the Persian Gulf war, the largest single incident of American casualties was the result of such an attack.

Moreover, a number of nations currently possess or are developing ballistic missiles, including North Korea, Iran, Iraq and Libya, and these missiles have a sufficient range to reach American forces in possible fields of combat. We need to develop and field more effective missile defenses so that we can assure our ability not only to project forces abroad to areas of regional conflict, but also to protect those forces once they have been deployed.

The amendment under consideration would diminish our ability to do so and, therefore, I urge my colleagues to oppose it.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I ask the distinguished floor manager for 2 minutes.

Mr. SASSER. Mr. President, I am pleased to yield my friend from Arkansas 2 minutes.

Mr. BUMPERS. Mr. President, I do not want our colleagues to lose sight of what this debate is about. Every statement in opposition to this amendment has been that there is a threat. That is not the debate. Everybody agrees there is a threat. What we are debating about is how much is a logical amount of money, a sensible amount of money to spend to meet the threat?

The House is already at this level, $3 billion. So if you defeat the amendment and you go to conference with the House, you are sure—Senator NUNN would admit this—you are going to wind up with $3.2 billion. You are not talking about terminating a program. Goodness, get back on the debate. We are talking about a $4 trillion debt we are trying to bring under control and at the same time provide a defense for this Nation.

So, Mr. President, I have heard a lot of strange things this afternoon. I heard my distinguished friend from Idaho quoting Mr. Cooper and General Abrams, two of the former directors of SDIO—not terribly distinguished directors, I might add—come out with a report and say look what we got for our $30 billion.

I showed you on a chart a while ago what you got for the $30 billion. Nothing. Nothing. And those two men had the audacity to write a report and say the Soviet Union fell because of our SDI efforts. That reminds me of a guy who was born on third base and thinks he hit a triple.

The Soviet Union fell because Marxist economic theories and policies were fatally flawed. It fell because it was a lousy system. The last reason in the world it fell was because of SDI. Paul Nitze said we ought not go forward with this unless we can do this for less money than they can overwhelm it, and everybody knew the Soviet Union could overwhelm the SDI system for a lot less money than it was going to cost us to build it. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Does the Senator from Arkansas need additional time?

Mr. BUMPERS. No.

Mr. SASSER. Mr. President, in listening to this debate today, it is really

rather amusing. You would think we are here trying to delete all funding for the follow-on program to the strategic defense initiative—now we call it the ballistic missile defense, more or less the same program but we have changed the name.

Nothing could be further from the truth. What we are saying with the Sasser-Bumpers-Jeffords amendment is rather than providing $3.46 billion for the ballistic missile defense, or the SDI, we are going to provide $3 billion. We are simply going to save $400 million and spend $3 billion rather than $3.46 billion.

Our amendment will preserve all of the administration's ballistic missile defense priorities. They will not be changed at all. Our funding will be allocated among the various programs, just as the administration suggested when they sent their budget up here.

There is no allocation among the various programs in the defense bill before us today. The Armed Services Committee simply sends them a lump sum. There is no allocation among the various programs. We allow full funding of the administration's core theater missile defense programs. Bear in mind they now have 12 theater defense missile programs. What we are saying is we cannot fund all of those. DOD knows we cannot fund all of them.

Next year they are going to cut back on some of them. What we are saying here, this year, is let us save the money this year rather than next year when it will be gone. Let us go ahead and fund 8 of these theater missile defense programs rather than 12. Under the setup now, the Army has four separate theater missile defense programs—four. The Navy has two. The Air Force has two. The Marine Corps has one. We say, let us cut those 12 programs back to 8.

Where is this enormous threat we are hearing? Using Department of Defense information, we show you the current Third World country ballistic missile capability and the range of those missiles.

Look where they range into? They range into southern China, the south China seas; they range down into Africa, the Middle East, and into portions of southeastern Europe. No threats at all to the continental United States. No threats even to Western Europe. And you would think the barbarians were at the gates, to hear some of my colleagues talk here today.

Now, we are talking about saving $400 million. One of my colleagues said a moment ago there were 400 million words expended here just a few weeks ago along the lines of we have to cut spending and cut spending first. So we are going to give our colleagues who want to cut spending first an opportunity to make a modest cut in this whole SDI-TMD. It leaves the administration's priorities intact. It leaves the theater missile defense programs capable of funding 8 programs rather than the present 12. And what in the world does the Army need four separate theater missile defense programs for? They do not. They are going to be cut out next year. And we simply say let us save the money this year.

Mr. President, I ask unanimous consent that Senators LAUTENBERG, MATHEWS, WELLSTONE, and PRYOR be added as cosponsors of this amendment.

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

Mr. SASSER. Mr. President, may I inquire how much time remains on our side?

The PRESIDING OFFICER. Six minutes and forty seconds.

Mr. SASSER. Mr. President, the distinguished junior Senator from Arkansas is in this Chamber and I will be pleased to yield him 5 minutes.

Mr. PRYOR. Mr. President, I thank my distinguished friend from Tennessee for yielding to me. I am going to try not to use all of the time allocated through his generosity.

Mr. President, there has been an allegation that in 1984 certain tests relative to the SDI program were rigged and that deception was practiced. This afternoon, Secretary Aspin issued a statement—and let me say not a report, but a statement—which dealt with an article which appeared in the New York Times, August 27, 1993.

Mr. President, I have just concluded a meeting, a briefing with the Under Secretary for Acquisition, John Deutch, from the Pentagon. We had an hour and 15 minute meeting. There were seven or so Members of the Senate at this particular meeting. And let me say that what we are dealing with here I think, Mr. President, may be, according to some, an issue of semantics.But I want to move beyond semantics for just a moment and say what was the general impression that was left not only with the Congress but also with the general public in 1984.

Well, here is the general impression that caused us to believe that there had been a very successful missile test practiced, actually engaged in in 1984, and I read from Reuters June 11, 1984, on Monday. I quote:

> The United States has successfully destroyed a test missile outside the Earth's atmosphere with another missile for the first time, Defense Department officials said today.

That was the story, Mr. President, that led us to the belief that this program was working.

The principal Deputy Secretary of the Army a short time later said, "We tried to hit a bullet with a bullet and it worked."

However, Mr. President, we see an intervening situation that is brought to light by the New York Times in an interview with Maj. Gen. Eugene Fox, the Army Ballistic Missile Defense System Commander, who stated clearly:

> We heated it, the missile, because we wanted to see it. People can argue about that, and that's fair. That didn't mean we were trying to cheat. In the entire concept of this test, people would fault us. My point is we did what was a normal test event.

What General Fox was saying also, Mr. President, was that they had artificially heated this missile so it could be tracked easier and shot down with greater ease.

We look further in a 1993 September GAO report. When we come to the credibility of testing by the Pentagon in the SDI program, we find, Mr. President, that of seven tests that were made in the SDI program the General Accounting Office in the September 1993 report indicates that four of the seven tests were inaccurate—not deceptive, Mr. President, inaccurate. What we are finding here is the Pentagon is like the student grading his or her own exam papers in these operational testing situations and we are going to have to certainly end that.

Mr. President, we are about to vote now on a huge authorization of some $3.5 billion for a program that is flawed, where the test results are tainted, and where the results of whatever this great experiment is are certainly held in question, and in fact some scientific quarters in absolute ridicule.

Mr. President, it is time to cut from this program, to step back from this program and to see how these dollars can be better used and certainly with a higher degree of priority. I salute my friend from Tennessee, Senator SASSER, and others who have been engaged for some number of years in trying to talk sense about this program.

I ask unanimous consent, Mr. President, that certain news articles relative to the flawed testing, and in some minds deceptive testing, which has been practiced with regard to these tests be printed in the RECORD.

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

[From Reuters North European Service, June 11, 1984]

U.S. CONDUCTS FIRST SUCCESSFUL BALLISTIC MISSILE INTERCEPT

The United States has successfully destroyed a test missile outside the earth's atmosphere with another missile for the first time, Defence Department officials said today.

They said yesterday's successful interception of one missile by another followed three earlier failures.

Army Chief of Information Major General Lyle Barker told reporters: "This was the first known missile intercept not only for the United States but for the world."

The aim of the test, called "Homing overlay experiment" (HOE), is to develop a nonnuclear weapon able to knock down Soviet missiles outside the atmosphere—at least 95 KM (60 miles) above the earth, defence officials said.

Hoe research is part of President Reagan's strategic defence initiative or "Star Wars" effort to develop non-nuclear technology able to destroy incoming Soviet ballistic missiles.

Officials said this would save valuable time in case of an enemy attack because it would not require the Presidential approval necessary to launch a nuclear device.

Brigadier-General Eugene Fox, head of the Army ballistic missile defence systems command, told a news conference a dummy warhead was launched aboard a minuteman missile from Vandenberg Air Force Base, near Los Angeles.

The Hoe was lifted by a minuteman from Kwajalein Atoll, in the Pacific Ocean about 4,200 miles southwest of Los Angeles.

Using its infrared sensors and on-board computer, the Hoe manoeuvered itself to within seven or eight feet (just over two metres) of the dummy warhead and caught it in a metal net, Fox said.

Officials said 15 years ago there was another missile interception in space, but it was accidental. On that occasion the missile was controlled from the ground and not by computers within the projectile itself.

The U.S. announcement coincided with publication of an interview given by Soviet President Konstantin Chernenko, in which he called on the United States to start talks immediately on a ban on space weapons.

[From the New York Times, Aug. 27, 1993]

(By Tim Weiner)

WASHINGTON, August 26.—A retired general who helped oversee a disputed 1984 "Star Wars" test says the target missile in the test was artificially heated to make it a bigger target for a heat-seeking sensor on an interceptor missile, and thus easier to hit, but he denies that the action meant the test was rigged.

The retired Army major general, Eugene Fox, then the deputy program manager for the test, also denies that Congress had been misled about the experiment, in which the interceptor missile hit the target missile over the Pacific. the experiment was a crucial technological milestone for the fledging missile-defense program, which has been under attack by scientists and skeptics since its inception in 1983.

At the time of the test, Pentagon officials said it was proof that a missile should hit another missile in mid-flight. One former Secretary of Defense, Caspar W. Weinberger, said on Wednesday in a written response to questions on the subject that the test was intended to be "as realistic as possible."

But General Fox said in an interview on Wednesday that the artificial heating made the target 10 times more visible to the interceptor than an actual Soviet warhead would have been, citing an openly published report to Congress in 1988 on the test by the Office of Technology Assessment, an analytical branch of Congress.

"PEOPLE CAN ARGUE"

"Clearly, we heated it because we wanted to see it," he said. "People can argue about that and that's fair. That didn't mean that we were trying to cheat. In the entire concept of this test, people could fault us. My point is what we did was a normal test event." He said he was unsure whether the artificial heating was disclosed to Congress in 1984.

General Fox conceded it was possible, but unlikely, that something more was done to rig the test behind his back. Should something have happened around me?" he said. "Yes, that's obvious. But I don't think so. I think that test was done fairly."

General Fox said an explosive charge had also been placed on the target missile. "We put a charge on it so that if we just happened to nip it we could see it, and so that visual devices on the ground could see it, and so that usual devices on the ground could pick it up," he said. "It looked like a nuclear explosion."

John Pike, director of space policy at the Federation of American Scientists and a critic of the missile-defense program, said the general's description made it appear that "the test was rigged at least two different ways." He added, "The debate is now not whether the test was rigged, but how it was rigged."

WHO MADE ACCUSATIONS

The veterans of the missile-defense program who brought their test-rigging assertions to Congressional investigators this summer said the 1984 test was manipulated when the target missile was equipped with electronic devices that helped the interceptor locate and destroy it. General Fox said he knew of no such device.

These officials also said the manipulation of "Star Wars" tests was part of a deception campaign, intended to fool the Soviet Union, that overstepped its bounds and wound up misleading Congress about the progress of the missile-defense program.

The charges, first reported in The New York Times last week, outraged senior members of the Reagan Administration, who saw the accusations as a partisan political attack by Democrats in Congress.

Mr. Weinberger called the charges fairy tales. He said nothing was done to deceive the Congress or the Soviets about the program or the disputed test. Mr. Weinberger also said that comments he made last week about the frequent use of deception programs by the Pentagon were not meant to confirm the existence of any deception program connected with the Strategic Defense Initiative, or the suggest that the disputed test had been deceptive.

WEINBERGER'S STATEMENT

"The test was not enhanced in any way," Mr. Weinberger said in his written response. "Various aspects of the test were designed to make it as realistic as possible given the fact that obviously an actual Soviet re-entry vehicle could not be used to test our interceptor."

The charges, brought to Senator David Pryor, an Arkansas Democrat and a critic of "Star Wars" contracting practices, led Secretary of Defense Les Aspin to order an investigation last week. On Wednesday, William J. Perry, the Deputy Defense Secretary, asked John M. Deutch, the Under Secretary of Defense for Acquisition and Technology, to write a report in time for Mr. Perry to "resolve the issue in the next two weeks," a Pentagon official said.

Senator Pryor asked the General Accounting Office, the investigative arm of Congress, to examine the charges three weeks ago. Both teams of investigators lack a crucial piece of evidence: the missiles used in the experiment, which destroyed one another in what appeared to be a scientific triumph.

NO EVIDENCE TO EXAMINE

"They are in pieces at the bottom of the ocean," General Fox said.

The goal of the $30 billion "Star Wars" program, which began in 1983, was to build systems that could shoot down an enemy's intercontinental ballistic missiles. After 10 years, it produced little in the way of a working system, although its defenders say it contributed significantly to the downfall of the Soviet Union by accelerating Soviet defense spending and thus damaging the Soviet economy.

In May, Mr. Aspin announced "the end of the 'Star Wars' era" and a scaling-back of the missile-defense program.

The accusation that the 1984 test's target and interceptor were "interactive," as one of the accusers put it, was a serious, though not unprecedented, challenge to the scientific integrity of the program. General Accounting Office investigations have confirmed past charges that military officials misled Congress about aspects of the missile defense program.

Last year, the General Accounting Office audited seven "Star Wars" tests conducted between 1990 and 1992. The auditors found that three of the tests were accurately described to Congress. Those three tests were complete or partial failures. The missile-defense program's officials told Congress the other four tests were successes. That was untrue, the auditors said.

WHAT AN INQUIRY FOUND

The inaccurate claims included the success rates of experiments, the progress of the programs, the sophistication of the tests, the ability of interceptor missiles to distinguish between a target and a decoy and the missiles' achievement of accuracy and altitude goals, the G.A.O. reported.

"They have lied about certain functions that their missiles are supposed to perform," said a Federal investigator who agreed to speak only if he was not identified. "They've used things to enhance the target. The fact is that you've got something up there solving your guidance problem. And you've got an incentive to deceive. That's how you keep you program going."

A former Reagan Administration official, a nuclear physicist who closely studied the missile-defense program in the 1980's said it was characterized by "secrecy, greed, self-deception, deception of the Congress and actually even of the President." The former official, who remains a Pentagon consultant and who spoke on condition of anonymity, is not among the accusers in the debate.

Other Reagan Administration officials and Pentagon documents confirm the existence of deception plans attached to the missile-defense program.

TOP-LEVEL MEMORANDUM

An April 1987 Joint Chiefs of Staff memorandum entitled "Special Plans Guidance—Strategic Defense," says the Pentagon should improve and update deception plans covering the missile-defense program's cost and abilities. The memorandum was distributed to the joint chiefs, their top commanders and the director of the National Security Agency, the nation's largest intelligence organization.

Mr. Weinberger said that to the best of his knowledge and memory there was no such program. He would not comment on the memorandum.

The question of whether Congress also was misled has been raised before. In March 1986, the trade journal Aviation Week and Space Technology, reported that the Pentagon had long standing disinformation programs covering the most expensive weapons programs, including "Star Wars." Quoting Defense Department officials, the journal said that the deception programs were intended to trick the Soviets but that disinformation might be transmitted to Congress.

It remains unclear whether anyone in Congress, including Mr. Aspin, chairman of the

House Armed Service Committee from 1985 to 1992, was informed of the overall deception program, or whether anyone in Congress was deceived by progress reports on the missile-defense initiative. Also unanswered is a question put to Mr. Aspin by Senator Pryor: whether "this disinformation campaign may have laid a faulty foundation for what ultimately became a $30 billion program.

[From the New York Times, Aug. 19, 1993]

THE STAR WARS HOAX

The revelation on yesterday's front page was enough to rouse even the most cynical student of official mendacity: at great cost, The Times' Tim Weiner reports, the Reagan Administration back in 1984 designed an elaborate deception to mislead the Soviet Union about the "Star Wars" space-based missile defense. The scheme deceived not only the Kremlin but Congress, defrauding the American people of billions of dollars that could have been spent on real defense and domestic programs.

By willfully misleading Congress about the system's capabilities, Pentagon officials did more than damage their own credibility; they may have committed a crime. Congress must call those responsible to account.

Acting on the authority of Defense Secretary Caspar Weinberger, Mr. Weiner reported, the Pentagon rigged a test and falsified other data to make the $30 billion program appear more successful than it was. The rigged test was a thing of devilish deviousness. After three failed attempts to hit a target missile with an interceptor, both the target and interceptor were fitted with electronic devices that made a direct hit all but inevitable.

This charade had two main objectives. One was to bamboozle the Soviet Union into spending billions of rubles it could ill afford on a space-based shield of its own. Mr. Weinberger told The Times that artful fraud is essential to warfare, even cold warfare. "You are always," he said, "trying to mislead your opponents." But in a letter to The Times yesterday, he denied that Star Wars had been used for that purpose.

He also denies that Congress was the other intended victim of this deception. But as one project scientist told The Times: "We would lose hundreds of millions of dollars in Congress if we didn't perform it [the test] successfully. It would be a catastrophe."

The rigging was done by transmitting a signal from the target missile to a receiver on the interceptor, in effect helping the interceptor to home in on the missile by broadcasting the equivalent of: "Here I am. Come get me."

Congress was not told the test had been rigged. It was also fed other phony data attesting to Star Wars' magical protective powers. These actions clearly crossed the line of normal Pentagon misrepresentation. They denied Congress the information it needed to exercise its constitutional authority over spending.

Congress would be foolish to allow that to happen again. To that end, it needs to summon Mr. Weinberger and anyone else it can lay its hands on to get to the bottom of the deceit.

But more than Congress' pride and authority is at stake. The whole history of Star Wars is now thrown into question. Millions of Americans are still walking around with the impression that Star Wars was designed to protect them. But to some of its original proponents, like President Reagan's national security adviser Robert McFarlane, Star Wars was always, from first to last, an elaborate ruse to induce the Soviets to divert money and manpower into space-based defenses.

Trouble was, the United States wasted billions as well. And it's not clear which side wasted more. Further, it deepened Soviet paranoia at a perilous moment in East-West relations.

But Star Wars critics were not fooled. Nor were the wisest of Soviet scientists. If the Americans wanted to waste billions on a will-of-the-wisp, Andrei Sakharov told President Gorbachev in 1987, Moscow should not follow suit; indeed, Mr. Sakharov said, Moscow could comfortably proceed with a Start arms reduction treaty making deep cuts in missiles.

Whether or not disinformation to deceive the Soviets was fair play in the game of nations, defrauding Congress was not.

[From the New York Times, Aug. 19, 1993]

ASPIN SAYS INQUIRY IS SET ON 1984 "STAR WARS" TEST

(By Tim Weiner)

WASHINGTON, August 18.—Secretary of Defense Les Aspin said today that the Pentagon would investigate reports that a Star Wars test was rigged and test results manipulated in 1984. But the Secretary of Defense at the time, Caspar W. Weinberger, and the officer who ran the experiment for the missile defense program each denied the accusations today.

Mr. Aspin said the accusations, made by four former Reagan Administration officials familiar with the strategic defense program, raised serious questions.

The accusations, reported in The New York Times today, involved charges that a Reagan Administration program to feed disinformation about the Star Wars program to the Soviet Union had overstepped its bounds and led to the manipulation of a key experiment in 1984.

According to the officials, who asked not to be identified, electronic beacons were placed on a target missile and an interceptor missile to insure that the interceptor could find its target.

In interviews today, the officer in charge of the 1984 experiment, Eugene Fox, a retired major general who commanded the Army's Ballistic Missile Defense Systems Command, said the beacons had been put on the interceptor and the target missile only for reasons of safety and prudence, not to rig the test.

General Fox said Star Wars researchers would have been questioned by critics of the experimental program had the beacons not been on board. Without the beacons, there would be a risk that the interceptor would go astray and miss the opportunity to obtain crucial test results, he said.

The beacons were also needed to insure that the interceptor's on-board sensors could detect the general location of the target, but did not provide a fool-proof method of guaranteed interception, he said.

He said there was no attempt to manipulate or misrepresent the test. He denied that Star Wars officials misled Congress and said he had no knowledge of a separate disinformation campaign connected with the Star Wars project.

Challenging the former officials' assertion that he had approved the overall deception program, Mr. Weinberger said today that he had not authorized such an effort aimed at fooling the Soviet Union about the missile defense program.

SOVIETS HAD DATA

Mr. Weinberger said: "The Soviets were perfectly well aware of most of what we were doing, and could read most of our data as well as we could read theirs. For that reason, the whole idea of a deception program seems to me is quite absurd."

The former Reagan Administration officials say deception teams were attached to all the Administration's important military programs to try to confuse and mislead the Soviet Union.

Mr. Weinberger also said that the Pentagon had informed him that "the test was not rigged, but was in fact successful as was reported to the public and the Congress on June 11, 1984."

The investigation announced by Mr. Aspin was prompted in part by a request from Senator David Pryor, Democrat of Arkansas, who has long been critical of the missile defense program.

In a letter sent and made public today, he asked the Pentagon to determine whether Congress had been deceived by Star Wars program managers and whether President Reagan or White House staff had known that inaccurate information was given to Congress by military officials or contractors.

The Senator said the Government Accounting Office, the investigative arm of Congress, was already investigating the accusations.

PROGRAM CRITICIZED

Mr. Pryor said in his letter that a Pentagon program described to him was a "disinformation campaign that may have led laid a faulty foundation for a $30 billion program."

In May, Mr. Aspin significantly scaled back the 10-year-old, $30 billion missile defense program, formally known as the Strategic Defense Initiative, and announced the end of the Star Wars era.

[From The Washington Post, Aug. 19, 1993]

PENTAGON TO PROBE MISSILE TEST ALLEGATIONS

(By Andrew Brownstein and R. Jeffrey Smith)

The Defense Department said yesterday it would investigate new allegations that the Reagan administration deliberately falsified the results of an early test of technology for a ballistic missile defense system.

The allegations center on a space experiment in 1984 that military officials said at the time had demonstrated a Soviet nuclear warhead potentially could be destroyed in flight by a non-nuclear weapon before the warhead reached the United States.

The notion that the United States could shield itself against a Soviet nuclear attack was the animating goal of the Strategic Defense Initiative, or "Star Wars" program, set up in 1983. The Reagan administration's claims of a successful warhead interception in the 1984 test figured prominently in its effort to persuade Congress that billions of dollars should be spent to develop more advanced weapons to destroy Soviet warheads.

The program, which so far has cost $30 billion, never produced a viable weapon for defending against a missile attack against the United States.

Early this year, the Defense Department scaled back the program, emphasizing instead the development of a defense against limited attack by tactical, or short-range, missiles.

The allegations about the 1984 test have come from several former defense officials, who recently told congressional staff members that the test results were misrepresented by the Army Ballistic Missile Defense Command.

The Army conducted the test, launching a large interceptor from Kwajalein Island in the Pacific Ocean to attempt destruction of a mock Soviet warhead aboard a Minuteman I missile fired from Vandenberg Air Force Base in California.

The former defense officials have charged that what the Army billed as a successful intercept actually was rigged to ensure it would not fail, the staff members said.

A former Army official involved in the test has denied the allegations, but Secretary of Defense Les Aspin said in a statement yesterday that "any allegation that the Congress has been misled raises serious questions."

Aspin said Deputy Secretary of Defense William J. Perry will conduct an inquiry into how the 1984 test was conducted and "how it was reported to Congress."

Sen. David Pryor (D-Ark.), whose staff members have interviewed some of the former defense officials who are making the allegations, requested that the General Accounting Office probe the allegations in a letter he sent Aug. 5. Pryor told Aspin in a letter yesterday that if the allegations are true, "congressional and public confidence in DOD [Department of Defense] test results would be nonexistent."

One of the former defense officials has claimed that the scientists who conducted the 1984 test secretly placed equipment aboard the mock warhead so that the interceptor could home in on it without difficulty.

When the interceptor subsequently collided with the target, it produced the spectacular explosion that the Pentagon had sought, a congressional aide said he was told.

Another former defense official gave a slightly different account to the congressional staff. He told them, and repeated in a recent interview with The Washington Post, that he understood the scientists involved had purposely detonated explosives placed aboard the interceptor to simulate a direct collision with the warhead, which he said may have never occurred.

Neither of these two officials was directly involved in the test preparations, and both have declined to be named.

An article in yesterday's editions of the New York Times said at least four Reagan administration officials had alleged the 1984 test was rigged.

Eugene-Fox, who was a brigadier general with the Ballistic Missile Defense Command in Huntsville, Ala., in 1984, said in an interview that "as far as I was concerned . . . nothing was done that could be interpreted as fuzzing up or falsifying the results."

[From the Associated Press]

ARMY GENERAL DISPUTES REPORT OF RIGGED ANTI-MISSILE TEST

(By Robert Burns)

WASHINGTON.—The officer who ran an Army anti-missile defense experiment in 1984 denied a published report Wednesday that the test was faked and that the deception was meant to mislead Congress about the project's viability.

Eugene Fox, a retired major general who was commander of the Army's Ballistic Missile Defense Systems Command at the time of the test, said in an interview that the experiment was done June 10, 1984, with complete scientific integrity.

Nonetheless, a critic of the Pentagon's missile defense programs, Sen. David Pryor, D-Ark., asked Defense Secretary Les Aspin to investigate the charges to determine whether Congress was deceived about the program's scientific progress.

Aspin was a House member at the time of the allegedly rigged test.

Pryor asked Aspin to determine what role was played by former President Reagan, defense contractors and Pentagon officials in providing inaccurate information to Congress on the tests and whether any federal laws were violated.

"If these latest allegations are true, congressional and public confidence in (Pentagon) test results would be nonexistent," Pryor wrote in a letter to Aspin.

Aspin issued a brief statement saying the allegations raise "serious questions" and that he had instructed his chief deputy to investigate the facts surrounding the test flight and how it was reported to Congress.

In its report, The New York Times said four former Reagan administration officials told it that the test was rigged as part of a disinformation campaign to persuade the Soviets to spend billions of dollars to counter the U.S. progress in developing an anti-missile defense system, which came to be called Star Wars.

The four officials were not identified by name.

The Times said Pentagon officials also wanted to ensure continued congressional support for the program, which was begun before Reagan made his March 1983 "Star Wars" speech that gave birth later to the Strategic Defense Initiative.

The test in question was called the Army's Homing Overlay Experiment. It was a test of whether an interceptor rocket fired from the ground could use an on-board infrared sensor to guide itself into the path of a ballistic missile warhead in space.

A two-stage rocket carrying the interceptor was fired from the Army's Kwajalein missile test range in the south Pacific, and the target missile carrying a dummy warhead was launched from Vandenberg Air Force Base, Calif. The interceptor hit the warhead, marking the first such intercept in history.

The Times report said U.S. scientists rigged the target missile with a beacon and put a receiver on board the interceptor. "The target was talking to the missile, saying: 'Here I am. Come get me,'" the Times quoted an unidentified scientist as saying.

Asked about this, Fox said there was no receiver on board to interceptor, so there was no way the interceptor could communicate directly with the target.

Fox said the main point of the experiment was to see if the on-board infrared sensor could correctly guide the interceptor in the final stages of its flight not to prove that the interceptor itself could find its target from the moment of launch.

"We would have been beaten over the head and shoulders" by critics for wasting taxpayers money if no beacons had been used and the interceptor had flown along a path that did not enable it to test the on-board infrared sensors, Fox said.

Fox said the beacon system was used in three prior tests of the interceptor. In each of those cases, the interceptor missed the target because of what the Pentagon described in 1984 as sensor, electronics and computer malfunctions.

"We didn't do anything to keep any information from the Congress," Fox said, adding that he had no knowledge of a disinformation campaign related to the missile defense project.

STAR WARS TEST-RIGGING RILES ARKANSAS SENATOR

"It's one thing to deceive the Soviets." Sen. David Pryor, D. Ark, said in an interview Thursday. "But it's another thing to deceive Congress to get funds for a system that is not working."

Pryor on Wednesday asked Defense Secretary Les Aspin to investigate allegations that Star Wars tests were rigged in 1984 and false reports were given to Congress about the program.

Four former Reagan administration officials said in The New York Times on Wednesday that the same deceptive information used to persuade the Soviets to spend tens of billions of dollars on military development was also given to members of Congress.

The false data helped persuade Congress to spend more money on strategic defense, the former Reagan officials said.

"It was so easy to deceive the Soviets, they said Let's deceive Congress and get more money. It sounds crazy but that's the way it was working." Pryor said.

Costs for the Strategic Defense Initiative, as the program is formally known, have totaled $30 billion in 10 years, Pryor said.

This year, Star Wars officials are seeking $4 billion in funding, he said.

"The president has indicated he supports continuing the program, but I hope it will not continue. I never thought that it should have begun at all," Pryor said.

Pryor, a member of the Senate Governmental Affairs Committee, said he had been suspicious of Star Wars because the same contractors kept getting the contracts for the program, many without competition.

Several months ago, Pryor said, he asked investigators to study contractors who repeatedly were awarded government work.

Through those efforts, several people started talking to the investigators about the alleged deception, he said.

In a letter sent to Aspin on Wednesday, Pryor asked if any statutes or Department of Defense regulations regarding notification to Congress were violated, whether President Reagan or White House staff members knew the Defense Department was providing inaccurate information to Congress, and whether contractors who worked on the ballistic missile program were aware of the disinformation campaign.

Aspin said Wednesday that the Pentagon will investigate reports that a Star Wars test was rigged and test results manipulated.

Pryor said Thursday that he had not received any reaction from Aspin on his specific requests.

[August 20, 1993]

STAR WARS: SCANDAL AND COUP?

(By Stephen S. Rosenfeld)

Concerned legislators are gravely pursuing allegations that the Pentagon faked a missile test in 1984 in order to persuade Congress to spend billions on President Reagan's favored "Star Wars" defense against Soviet missile attack.

Well, yes, deceiving Congress is serious business, and it has to be pursued. But there is another allegation also to pursue: that the first purpose of this "disinformation" operation was to panic the Soviets into spending tens of billions, in an effort doomed by their technological and economic weaknesses, to counter the American drive for a space-based anti-nuclear shield.

If the first allegation about deceiving Congress is true, we are in the presence of a large scandal. If the second allegation about deceiving the Kremlin is true, we are in the presence of a great Cold War scan and, conceivably, an immense success of American policy. Both these possibilities may have

some truth. If further disclosure bears them out, we would face an intriguing dilemma characteristic of the Cold War time: whether figuratively to spurn a great international benefit because it was obtained by means regarded as disreputable at home.

Behind the hint of misconduct—vigorously denied by Reagan Defense Secretary Caspar Weinberger—lies the hint that Weinberger and his Pentagon team took a huge risk and won a huge prize.

An immediate risk was that a phoney intercept would sweep the United States into false confidence and an imprudent investment in Star Wars. A larger risk was that in pretending that an American nonnuclear missile could hit a Soviet nuclear missile in space, the United States would be playing to Soviet paranoia, cranking up the arms race and providing Soviet hard-liners with fresh evidence of American hostility and aggressiveness.

Nobody who paid attention during that period will forget Moscow's resentment and rage over Star Wars, extreme even by Cold War standards. But it also happened that as the Soviets moved to counter the American program with their own, they put an unbearable extra load on their technology and their budget. Their economy and then their whole society began to collapse. Out went Leonid Brezhnev. In came Mikhail Gorbachev. The rest is the chapter of history called The End of the Cold War.

The Reaganites are not—not yet, anyway—making the grandiose claim that they set a trap for the Kremlin, and it worked; Weinberger, for one, denies all. The truth aside, they seem to be locked in by considerations of secrecy and discretion, although these are hardly unbreakable. Moreover, the claim may not be justified, or fully justified, since many other weights were pressing; not just a single missile test and the Star Wars program but Reagan's whole hard-line foreign policy, including ideological, political and military challenge around the world.

Nor is the hard-line view the only one that must be considered. There is another, moderate school; President Clinton's Soviet adviser, Strobe Talbott, was a leader of it in his previous incarnation as a Time magazine editor. This school believes that more important in hastening the demise of Soviet communism were (1) the ways the reform impulse was playing out in the public and private realms of Soviet society and (2) the opportunities for conciliation and accommodation that the West was opening up at the same time.

Reagan himself was a hard-liner in the sense that he thought the Soviet regime was economically, politically and morally close to buckling. (Moderates, rejecting the premise of imminent Soviet/communist vulnerability, thought it could muddle through.) Still, Reagan does not seem one to launch Star Wars, or to fake a missile test, simply as a gambit to suck the Kremlin into futile, draining expenditures on its own missile defense. He was a true believer—in space-based nonnuclear defense and then in the abolition of all nuclear arms.

In 1962—permit a digression—I was in a group that interviewed then-Kremlin leader Nikita Khrushchev. He took the occasion to boast that the Soviet Union was building a missile to "hit a fly in space." He was wrong; never did the Kremlin accomplish that feat. But it was a revealing illustration, or so I later thought, of Soviet aspirations and apprehensions alike. In 1984 it might not have been farfetched for Americans to imagine they could impress a new crop of soviet leaders by "hitting a fly in space."

[From Time, Aug. 30, 1993]

THE PLOY THAT FELL TO EARTH

STAR WARS SUFFERS ANOTHER BLOW WITH CHARGES THAT AN ANTIMISSILE TEST WAS FAKED

(By Bruce Van Voorst)

One night in June 1984, a test ICBM soared up from Vandenberg Air Force Base in California. Thousands of miles away in the middle of the Pacific, another rocket was launched on Kwajalein Island. It contained an infrared sensor powerful enough to detect heat from a human body 1,000 miles away. Closing at 15,000 m.p.h., the rocket locked onto the ICBM, intercepting it in midflight and destroying it by sheer physical impact. So devastating was the hit that the remaining shards of the ICBM's warhead measured less than an inch across.

Pentagon officials were ecstatic about the results of the $300 million test. It was, declared one official, like "hitting a bullet with a bullet." Moreover, it was proof of the potential of Ronald Reagan's Strategic Defense Initiative. It seemed to signal an important first step in building a high-tech astro-shield against nuclear-tipped ballistic missiles from the Soviet Union. A Wall Street Journal editorial proclaimed, "Star Wars Works."

But did it? Last week a report in the New York Times alleged that the test was a fraud and that the results had been rigged. While that may have served as part of a cold war strategy to deceive the Soviets into spending their way into oblivion to counter SDI, similar misinformation was provided to Congress to persuade it to fund the program with huge sums—$31 billion to date. Clearly stung, Defense Secretary Les Aspin, a former Congressman, ordered an internal investigation at the Pentagon. Said he: "Any allegation that the Congress has been misled raises serious questions." Said Senator David Pryor, whose long-standing probe of SDI seems to have triggered the revelations: "It could totally discredit the testing process and the credibility of the Pentagon."

Sources apparently within the SDI program told the Times hat the 1984 launchings did not prove the efficacy of the heatseeking infrared sensor. Rather, the target ICBM carried a beacon that guided the interceptor rocket toward a set-up collision. Officials involved with the test have vigorously defended the test results. Said General Eugene Fox, the retired Army missile-defense chief: "We didn't gimmick anything." William Inglis, the experiment's civilian test director, dismissed the accusations of an SDI hoax as "technical nonsense." There was indeed a beacon, but, said Inglis, it served only for "range safety" purposes, allowing ground crews to destroy the ICBM if it went off course.

Inglis admitted to Time, however, that some aspects of the test might have enhanced the results and made it easier for the interceptor to find its target. The warhead, for example, was preheated before launch to 100°F to provide a clearer infrared signature. The target warhead also carried explosives to increase the detonation and thus assist ground observations. Said a congressional staff member: "Either could have served to skew the tests."

While SDI's supporters, including the Reagan Administration officials, strenuously deny that the 1984 results were falsified, they all concede that deceptive practices are normal in statecraft. During the '80s a "perception management" program run by the CIA handled a disinformation operation aimed at deceiving the Soviets about U.S. technological research. Among the programs it had a hand in was SDI. A draft of a classified Defense guidance document from that period clearly toes the spend-Moscow-into-the-ground line and reads, "We should seek to open up new areas of military competition and obsolesce previous Soviet investment or employ sophisticated strategic deception options to achieve this end." A former official told Time, "A lot of time and money has been spent on this." It may have worked. Last year the Russian ambassador to the U.S., Vladimir Lukin, told Robert McFarlane, Reagan's National Security Adviser, that fear of competing with the U.S. in strategic defense "accelerated the Gorbachev revolution by five years."

Gimmicking military-weapons tests is nothing new at the Pentagon. In the mid-1980s congressional investigators determined that aircraft were exploded by remote ground control within seconds of each firing from the Sergeant York antiaircraft gun and that it never actually hit the drone planes. In operational tests of the Bradley Fighting Vehicle, ammunition in the turret was replaced with cans of water to douse fires and lower the level of explosions when the vehicle was hit.

The current controversy has cast further doubts on the SDI program, which even in this time of declining defense budgets is still slated for $3 billion in 1995. "This is a body blow to the integrity of everyone who worked on SDI," said Frank Gaffney, director of the Washington-based Center for Security Policy and a diehard Star Warrior. Caspar Weinberger, Reagan's Secretary of Defense, insists that "the test was scientifically based, did succeed and was accurately reported to the Congress and the American public." But he said there may be no overcoming the new allegations: "Once these fairy tales are out, they are picked up as gospel truth by editorial writers and never corrected."

Yet SDI has always been something of a fairy tale. In 1983 scientist Edward Teller, father of the hydrogen bomb, promised Reagan that nuclear-generated X rays would destroy warheads. It was a claim accepted by few in the scientific community and has long since proved false. Other SDI-related technologies—directed energy, chemical lasers, neutron beams—have turned out to be useless. Last May, Aspin conceded that the decade-long SDI program produced no credible defense against ICBMs. He renamed SDI—focused now on threats from mid-range rockets like the Scud—the Ballistic Missile Defense program. It was, said Aspin, "the end of the Star Wars era." True enough, but not the end of Ballistic Missile Defense, which will cost taxpayers a projected $40 billion more over the next six years.

FUN AND GAMES WITH THE KGB

As the Pentagon supposedly tried to deceive the Soviets with rigged Star Wars tests in the sky, the FBI attempted to fool the KGB on the ground—sometimes with comic contortions. In his new book, "The FBI" (Pocket Books), Ronald Kessler, a former investigative reporter for the Washington Post, tells of an operation against a Washington-based KGB officer who was trying to recruit a Pentagon employee. As the Soviet official slept, FBI agents stole his car to plant a bug in it. To avoid suspicion, they put an identical car in the official's parking space overnight. They also made sure that the replacement odometer's mileage read exactly the same as that of the real car. Meanwhile, the KGB car's odometer was temporarily removed to keep it from registering

miles the Soviet would not be able to account for. Within three hours, the FBI was done and the cars were switched again. In the bugged car were a microphone and a tape recorder, which would be activated when the Soviet agent got into the driver's seat. What would the FBI do if the machine ran out of tape? An agent would walk up to the car, undo the taillight reflector, and replace the tape every few days. However, no arrests were made because the KGB's Pentagon target never responded to the Soviet's overtures.

Kessler also details another elaborate plan, in which high-tech devices were planted in the headrests of KGB cars. These would trigger sensors at specific intersections in Washington, allowing the bureau to keep track of KGB movements without recourse to machines that required replacement tapes or batteries. One car did not have a headrest, so agents planted the device in the glove compartment. When the car was brought in for a regular inspection, KGB mechanics found the bug and quickly inspected other vehicles for similar spy paraphernalia. By then the FBI had infiltrated 20 cars. The KGB removed every single bit of buggery. According to Kessler, the cost to the U.S. was in the hundreds of thousands of dollars.

The most explosive contention of Kessler's book is that in the U.S. hundreds of Americans, perhaps more than a thousand, worked for the KGB during the last years of the cold war. The FBI's source was a highly credible former KGB employee. Writes Kessler: "The break came just when FBI counterintelligence officials had concluded rather smugly that the end of the cold war had brought no great surprises about the degree to which the KGB had penetrated American secrets." He adds, "So specific was the information that the FBI was quickly able to establish the source's credibility." Among the spies, says Kessler, were "military men who had had top-secret information and officials of other agencies." The cases, he writes, are "enough to keep [the FBI's intelligence division] busy into the next century."

Sources familiar with the case have told Time that the former Soviet informant, who used to work for the first directorate of the KGB, defected about a year ago. But they say Kessler's figures are "highly exaggerated." The defector did have access to hundreds of names, but they included both Americans and non-Americans and were drawn from both KGB and Warsaw Pact files. More important, the great majority were innocent contacts. Only about a dozen cases of suspected espionage originating with this particular defector are being investigated by the FBI.

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

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. One minute twenty-five seconds.

Mr. SASSER. How much time is remaining on the other side?

The PRESIDING OFFICER. Three minutes twenty-eight seconds.

Mr. SASSER. Mr. President, I yield 1 minute to the distinguished Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I spoke earlier about what I regarded as waste in the history of this program, to the effect that the program is basically flawed. I would like to conclude, Mr. President, by speaking to those who are true believers in the Star Wars program but who also want to cut and want to do the responsible thing.

To them, Mr. President, I would say that a $400 million cut—$400 million and change—as proposed in the Sasser amendment is a responsible cut because it still allows the program to go forward in a very robust way.

Mr. President, this is not a mature program, ready for funding. This is an R&D program where there is still 12 competing technologies, none of which have yet been chosen.

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

Mr. JOHNSTON. The $400 million is a responsible cut.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Three minutes and thirty-eight seconds.

Mr. NUNN. Mr. President, I yield a minute to the Senator from New Hampshire and a minute to the Senator from Utah.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. I thank the Chair. I thank the Senator for yielding.

Mr. President, people often remark that if anything is for certain in this world it is death and taxes. Well, as today has proven yet again, there is another item to add to this list. Whenever the defense bill comes to the floor, our colleagues from Tennessee, Arkansas, and Louisiana are sure to offer an amendment to gut the missile defense program. It seems as if its almost an involuntary reflex. It happens every year regardless of the threat environment and regardless of how much has already been cut from the program.

As my colleagues know, I have consistently supported the missile defense program. At the height of the cold war, I believed in and actively supported the robust missile defense program advocated by President Reagan. As events in the world changed, the Warsaw Pact fell, and the Soviet threat began to recede, I supported President Bush's initiative to provide a scaled down global protection against limited strikes. Two years ago, I joined with Senator NUNN and my colleagues on the Armed Services Committee in formulating the Missile Defense Act of 1991, which represented an historic consensus on both the need for, and architecture of a ballistic missile defense program.

My support for the program was based on a careful assessment of the threats to our security, and what type of force would be required to defend against this threat.

What is so ironic about this year's chapter in the continuing war against the missile defense program is that the proponents of this amendment are relying upon the same outdated cold war rhetoric that they have been using for 10 years, while the supporters of missile defenses are basing their votes on today's threat and national security needs. The fact is the missile defense program and its operational requirements have evolved over time because of the changed threat. But my friend from Tennessee and his colleagues seem lost in the cold war, bent on opposing a program that no longer exists in the form they remember. My friends continue to recycle the same flawed and outdated arguments they have been using for years, even though those arguments have no relevance to the program we are pursuing today.

Mr. President, I urge the Senate to reject the amendment before us to cut $400 million from the missile defense program. The threat confronting U.S. forces abroad and our citizens at home is real, and it is growing. Our servicemen and women need this missile defense. We must not allow the missile defense program to be randomly slashed without any regard to the national security implications of such action. The Constitution requires that we provide for the common defense. The American people demand no less.

I thank the Senator for yielding the time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I was listening to the Senator from North Dakota, Mr. DORGAN, talk about cutting spending first, attacking this program. And he made a lot of sense in saying this is a weapons system that we do not need. If it, indeed, were a weapons system, I might be somewhat in sympathy with him. But I rise to make the point of my perspective in this circumstance, and I put it in a historical context.

There was a time in our history when people were fooling around with airplanes and they were told airplanes are fine for reconnaissance, airplanes are fine for communications but obviously they will never be a weapon.

Well, today we are told as we discuss SDI, SDI is fine for communications.

SDI is fine for surveillance. But we must not consider ever taking the step to make space a form of a weapon.

I believe this is a logical thing to do because of the long-term historical implications, and we must stay with it.

Mr. NUNN. Mr. President, I reserve the remainder of my time.

Mr. SASSER. Mr. President, what we are offering today is a responsible amendment. We are offering to reduce funding for the SDI by a reasonable amount that leaves the administration's programs intact. For those of our colleagues who want to vote for cuts, this is their first opportunity to vote for cuts since the recess. Let us see who wants to cut and let us see who does not.

Mr. NUNN. Mr. President, I yield 20 seconds to the Senator from Idaho and 20 seconds to the Senator from Virginia.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that a letter from Dave Montague, president, missile systems division, Lockheed Missiles & Space Co. be printed in the RECORD.

Also, in reference to the report that was written by General Abramson and Ambassador Cooper, I simply quoted the Soviet chief of staff, the foreign minister and the Russian Ambassador to the United States. These are not my conclusions but the statements of the Soviets and Russians.

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

LOCKHEED MISSILES & SPACE COMPANY, INC.,
Sunnyvale, CA, September 3, 1993.

HOWELL RAINES,
Editorial Page Editor, New York Times, New York, NY.

To the EDITOR: On August 18, the New York Times published an article by Tim Weiner, in which he reported allegations made by four unnamed Reagan administration officials that a strategic defense related test conducted in June of 1984 was faked to mislead the Soviets and the U.S. Congress. The following day, a Times editorial appeared in which the allegations of these unnamed sources were accepted without question as fact. The program itself was not named in the initial article or the editorial, but it is clear from the description of the program and the picture accompanying the article that the allegations are aimed at the Army's Homing Overlay Experiment (HOE) initiated in 1978.

I was responsible for the HOE program at Lockheed, the prime contractor to the Army for the experiments. The allegations about the 1984 test at Kwajalein reported in the 18 August New York Times article, and presented as fact on the next day's editorial page, are false.

There was no misrepresentation of test results to Congress or anyone else on any of the four HOE flights. The flight tests, while experimental, were planned and conducted with high fidelity to an operational intercept of a hostile warhead. The fourth and final flight, which was the subject of the allegations printed in the Times, resulted in a direct hit after the interceptor had acquired, tracked and homed in on the target using its infrared optical sensor. There was diagnostic instrumentation, including RF range tracking beacons, on the test target and the interceptor, as there had been on the three previous tests. However, there was no equipment on the HOE interceptor which could have detected or taken advantage of such a beacon.

In a subsequent article (August 27), the Times finds a sinister motive in the fact that the target was artificially heated before launch. The Times reported that the purpose of this heating was to make the target more visible to the heat-seeking sensor, and thus easier to hit. The facts: all four HOE flight test targets were preheated to 100 degrees Fahrenheit on the launch pad. The purpose of the pre-launch heating was to assure a known initial temperature for the target, which was subject to long delays at the launch pad in the cold night air at Vandenberg AFB. At the time of target acquisition by the interceptor, all four HOE target vehicles were within three degrees of a nearly identical, but not preheated, target flown and observed on a previous U.S. Army program. This has been confirmed by telemetry data from the HOE tests, which shows that the added temperature dissipated rapidly during flight. The difference in visibility to the HOE sensor caused by the pre-heating was negligible.

One might ask why it is so difficult for self-styled critics to accept that this test program actually achieved the success reported by the Army. I am proud to be one of more than 700 dedicated professional men and women in the U.S. Army Strategic Defense Command and industry who know the truth of their success, a fact which cannot be altered even by the Times. While those of us who know the facts of the HOE flight tests have tried to avoid public comment on the allegations during the Defense Department investigation that they have spawned, the Times and the scientific experts it quotes have made that impossible. The DoD investigation will examine the Homing Overlay Experiment results; I trust that the Times and their unnamed sources are willing to place their allegations under the same scrutiny.

If there has been an attempt to deceive Congress about the HOE program results, it occurred not high above the atmosphere in June of 1984, but in August of 1993 under the venerable masthead of the New York Times.

DAVE MONTAGUE,
President, Missile Systems Division.

Mr. WARNER. Mr. President, the Senator from Arkansas also stated that, after $30 billion has been spent, we have nothing to show for it. The Senator is not correct.

For one thing, we now know how to do missile defense. Through 9 years of research we have found the strength and weaknesses of different candidates for missile defense. We know what will work, what it will cost, and how long it will take. Furthermore, we have started down the road to deploy the upgraded Patriot capability in 1998 and the first really effective theater missile defense in 2002. These are good, hard dates—but only if Congress funds the budget request.

For another thing, SDI research has given us a treasure trove of technical achievements. The Senator from Arkansas said nothing about all the contributions to technology that would not be here without SDI. Let me give some examples from the excellent report by General Abrahamson and Ambassador Cooper to which reference was made by the Senator from Idaho.

With a $40 million investment in diamond film technology since 1986, SDIO is singularly responsible for fostering a new US industry with the potential of a multi-billion-dollar global market after the end of this century.

SDIO investments in sensors and detectors have produced major improvements. In particular, large (256256) pixel arrays carrying over 65,000 individual photodetectors are now manufacturable * * * Over the past eight years the cost per pixel has been reduced by a factor of 20 (and in some cases 100)—and there are prospects for another order-of-magnitude cost reduction.

Inertial measurement units (IMU's) that weighed over 5 pounds and cost about $100,000 a copy will shortly be replaced with more accurate SDI-developed IMU's that cost about $5,000 a copy and weigh ¼ pound—in a hardened configuration.

Representative of these advantages is the late-1980s state of the art Advanced Liquid Axial Stage (ALAS) axial engine (being used in, for example, the Lightweight Exo-atmospheric Projectile (LEAP) program, which is less than 1/10 the weight of the 1970's vintage technologies—with a corresponding reduction in cost. In addition, recent miniature divert propulsion motors fabricated by SDI-funded rocket scientists are 35 percent smaller than their late 1980's predecessors and also permit a 30 percent reduction in total weight since smaller amounts of higher performance fuels can be used.

Solar cells from SDI research are increasing the efficiency of photovoltaic systems from around 10 percent, where it had hovered for years, to over thirty percent * * *.

SDIO has documented 97 commercial products which have emerged directly from its technology programs, 26 patents granted for commercial applications of SDI technology, 19 new spin-off companies founded to commercialize new products based on SDI technology * * *.

Mr. President, I submit that this is a record of solid accomplishment. We got our money's worth.

Mr. LAUTENBERG. Mr. President, I am pleased to be a cosponsor of this amendment to reduce funding for the SDI Program. I urge my colleagues to support this amendment.

The amendment will reduce funding for the SDI Program by $400 million. That is a $400 million victory of the American taxpayers.

This is a prudent amendment. It saves $400 million for the American people without undermining national security. It still provides a significant level of funding for the program to enable the administration to move forward with the modified SDI Program. Importantly, the level of funding provided in this amendment will allow for growth in theater missile defense programs, the new focus of the administration's SDI Program. The amendment protects funding for other aspects of the program as well.

The end of the cold war has provided us with a historic opportunity to review our defense spending priorities and realize significant savings. The threat to our national security from a missile attack has been reduced significantly. And scientists shot down the viability of the original, vastly more expensive space-based interceptor program years ago.

Over the years, we have spent tens of billions of dollars on the SDI Program. And now we find out that critical tests for the program were reportedly rigged so the flawed system would pass. Some say that these rigged tests were designed to fool our Soviet opponents. This may be an expensive and cruel hoax on the American taxpayer.

Mr. President, reducing funding for the SDI Program by a modest $400 million is the least we should do. Frankly,

we should cut even more. I have consistently supported amendments to cut funding from this program in the past. But this amendment to cut $400 million from the program is, nevertheless, an important step.

Mr. President, the American people have sent a message that by now should have come through loud and clear: cut the spending, set priorities and do not waste our tax dollars. The Senate should heed the call of the American people and support this amendment.

Mr. DODD. Mr. President, for over 40 years our Nation has lived with the threat of a full-scale thermonuclear war. Thankfully, with the demise of the former Soviet Union, much of that immediate threat no longer exists. But while global changes have certainly diminished the possibility of a single agressor attack, we must not forget that other, albeit less capable, threats remain.

The conflict in the gulf is ample evidence that any agressor with even moderate ballistic capability can inflict enormous damage to our troops during times of conflict. Clearly, a method of defense from this type of threat is necessary, if not required.

And as the Secretary Defense has briefed this Congress, the spread of ballistic missile technology remains one of the greatest challenges to the future defense of our Nation. Despite our efforts to limit the proliferation of both weapons and delivery systems, nation States seeking these types of offensive weapons are rapidly increasing. We have a responsibility to protect ourselves from these developing threats. And that is what is really at stake here.

So the issue is how do we provide for that defense in light of the changes in the global threat scenario? The answer to that question has been provided by the administration and the Secretary of Defense, despite claims to the contrary.

The administration has proposed spending $18 billion over the next 5 years on the development of ballistic missile defense systems. Of that, $12 billion will be spent on theater missile defense [TMD]. The remaining $3 billion will be spent on research-oriented long-range missile defense. This proposal represents a $21 billion savings from the Bush administration's proposals.

In addition to these savings, the Senate Armed Services Committee has recommended a further reduction from $3.8 billion for fiscal 1994 to $3.46 billion. This expenditure represents a responsible authorization level with which we can actively seek the development of a capable theater missile defense system, while continuing to engage in cost-effective research on future systems. I believe that any further reduction would endanger the effectiveness of this program and jeopardize our ability to develop systems that we need to adequately defend our troops against missile attacks.

I agree with my colleagues who say the elaborate and costly strategic defense initiative that the Reagan and Bush administrations envisioned is no longer needed. In fact theentire concept of a strategic defense initiative or SDI is gone and those who continue to use that terminology have missed the boat on what is really at issue here. We are not talking about SDI, or Brilliant Pebbles, or any of the other theoretical programs of previous administrations.

Instead, this administration has reviewed this technology and the entire ballistic missile technology base. And for the first time in our history, we are ready to move on proven technology here today—not testing theories of tomorrow.

I can not stress this point strongly enough. While the threat of an intercontinental attack has clearly subsided, U.S. allies, friends, and our troops abroad continue to live with the danger of short-range missile strikes. Theater missile defense systems need to be a top priority as we address our military needs for this changing global atmosphere.

Throughout my career, I have consistently supported programs that prudently and responsibly provide a strong return on the money invested. In the past I have opposed space-based missile defense systems because I believed that the military value and technologies such programs anticipated were not worth their expected costs. The current administration's proposal however, represents a fundamental change in our previous policies. Our Nation's military leaders have prepared a comprehensive review that fully addresses our military requirements for the future. A crucial part of this plan is an effective theater missile defense system and I support its development.

I therefore urge my colleagues to reject the amendment to reduce funding for the Ballistic Missile Defense Program.

Mr. SHELBY. Mr. President, I rise in strong opposition to the amendment offered by Senator SASSER which would reduce funding for ballistic missile defense funding by $400 million. This amendment would seriously inhibit any opportunity for the United States to proceed with the development of a system to protect American citizens from an intercontinental ballistic missile attack and undermine the Missile Defense Act of 1991.

The Armed Services Committee has been in the forefront in providing leadership on this issue since the inception of the strategic defense initiative. We have been working for the past 4 years, starting with an amendment that Senator BINGAMAN and I sponsored and reaching fruition in the Missile Defense Act, to move ballistic missile defense away from a space-based system and to a ground-based system.

In the bill, the Armed Services Committee has removed the last vestige of space-based system, Brilliant Eyes, out of ballistic missile defense and fashioned a program which now has two major elements—theater missile defense and limited defense. We have also reduced ballistic missile defense funding by an undistributed reduction of $300 million. The Armed Services Committee also reduced theater missile defense funding by $112 million and limited defense funding by $140 million to accommodate the transfer of the Brilliant Eyes Program. We chose to provide the undistributed reduction to the Ballistic Missile Defense Program to give the Secretary of Defense and the Director of the Ballistic Missile Defense Organization leeway in making these cuts. This resulted in a funding level of $3.2 billion for ballistic missile defense. It is a level that is supported by the Secretary of Defense and is consistent with funding levels that have been reported in the bottom-up review.

Mr. President, the threat from ballistic missiles is even more dangerous than ever before because of an ever expanding number of counties are developing or buying missiles. Just a few weeks ago, the CIA announced that North Korea has tested a new theater missile, capable of threatening the entire Far Eastern region with both nuclear and chemical warhead attacks. The CIA Director, Jim Woolsey, had previously warned that several additional nations may have the capability to launch missile attacks against the United States by the end of the decade. This is not a time when we should further cut our Ballistic Missile Defense Program.

Mr. President, I urge my colleagues to defeat the Pryor amendment and all other amendments to cut ballistic missile defense funding.

Mr. FEINGOLD. Mr. President, I am proud to be a cosponsor of the Sasser amendment to S. 1298 to limit the amount available for ballistic missile defense programs, to eliminate Brilliant Eyes, and to allocate the total amount among the ballistic missile defense programs in fiscal year 1994. I want to thank Senator SASSER for this initiative, as well as Senator BUMPERS for his bill introduced earlier this year to limit the SDI Program to $2 billion.

I am troubled by the $3.8 billion authorization in the bill for the Ballistic Missile Defense Program, formerly known as the strategic defense initiative. I am troubled that in a year when we are cutting many programs and raising taxes we have not reduced funding from last year of this controversial program. Quite frankly, I am troubled by the billions of dollars that have been wasted on this boondoggle. Finally, I am troubled by the impact that

the deployment of BMD will have on international relations.

Today there is no threat to our national security which merits $3.8 billion in BMD funding. The Soviet Union has collapsed. The successor states are focusing on repairing and rebuilding their own economies. They cannot afford the ballistic missile systems discussed here today, nor have they demonstrated any inclination to do so. What do we gain by threatening them? Genuine, lasting security is achieved through mutual limits on our nuclear arsenals, not threats and demands.

It is indeed ironic—if not downright hypocritical—that as we sign major strategic arms control agreements with Russia, Kazakhstan, Ukraine, and Belarus; as we give lip service to nuclear nonproliferation throughout the world; as we focus on deficit reduction for the sake of our national security, we are shoveling out $3.8 billion more, after shelling out $3.8 billion last year, $4.1 billion the year before, and billions of dollars in the past decade for SDI. This budget continues at the same levels, but the intercontinental ballistic missile threat to our national security is diminishing. This strategic defense system whose time has come and gone is a robbery of the precious U.S. Treasury.

This year in this body we have debated extensively cuts in several Federal programs. Defenders of the status quo seem to win consistently. But with the number we are authorizing here today, Mr. President, I hope that we will have more success with this debate.

Mr. President, after $32 billion and 10 years of research, an electronic dome protecting the Nation is still an elusive idea. Brilliant Eyes is even more obscure. We have no guarantee that these systems would add anything to our strategic stability. In fact, we do know that they could even tinge the golden opportunities for peace which are before us today, and sap our national coffers.

For these reasons—for the sake of deficit reduction and the interests of the post-cold-war era I urge my colleagues to support the Sasser amendment to reduce spending on SDI, and eliminate Brilliant Eyes.

Mr. NUNN. Mr. President, in a very few seconds that I have remaining, let me again repeat the letter is on everyone's desk from Mr. Tony Lake, the assistant to the President, speaking for the President.

In addition, the amendment specifies no more than 48 percent of the funds in this bill for BMD could be spent on theater defenses. This restriction is inconsistent with the restructured BMD program resulting from the bottom-up review. Under the bottom-up review, 67 percent of the funds allocated to BMD will go to theater defense.

Mr. President, this amendment is opposed by the Secretary of Defense. It is opposed by the National Security Adviser. I want no one to make any mistake about it. If you vote for this amendment, you are voting to cut the Patriot system, you are voting to cut the ERINT system, you are voting to cut the Arrow system, the THAAD system, and the standard missile system. All of them are important theater defense systems. That is the vote that we will be making.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP], would vote "nay."

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—50

Akaka	Ford	Metzenbaum
Baucus	Glenn	Mikulski
Biden	Grassley	Mitchell
Boxer	Harkin	Moseley-Braun
Bradley	Hatfield	Moynihan
Breaux	Hollings	Murray
Bumpers	Jeffords	Pell
Byrd	Johnston	Pryor
Campbell	Kassebaum	Reid
Chafee	Kennedy	Riegle
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
DeConcini	Kohl	Sasser
Dorgan	Lautenberg	Simon
Durenberger	Leahy	Wellstone
Feingold	Levin	Wofford
Feinstein	Mathews	

NAYS—48

Bennett	Domenici	Mack
Bingaman	Exon	McCain
Bond	Faircloth	McConnell
Boren	Gorton	Nickles
Brown	Graham	Nunn
Bryan	Gramm	Packwood
Burns	Gregg	Pressler
Coats	Hatch	Robb
Cochran	Heflin	Roth
Cohen	Helms	Shelby
Coverdell	Hutchison	Simpson
Craig	Inouye	Smith
D'Amato	Kempthorne	Specter
Danforth	Lieberman	Stevens
Dodd	Lott	Thurmond
Dole	Lugar	Warner

NOT VOTING—2

Murkowski	Wallop

So, the amendment (No. 785) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BYRD be permitted to offer, for himself, and for Senators MITCHELL, DOLE, NUNN, WARNER, MCCAIN, LEVIN, SIMON, and others, a second-degree amendment to his amendment No. 782; that there be a time limitation of 100 minutes for debate on the amendment controlled as follows: 30 minutes under the control of Senator MITCHELL, 30 minutes under the control of Senator DOLE, 30 minutes under the control of Senator BYRD, and 10 minutes under the control of Senator SPECTER; that immediately upon the disposition of that amendment, the Senate vote, without any intervening action or debate, on amendment No. 782, as amended, if amended.

Mr. DECONCINI. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask the manager of the bill. I am trying to get on the list of amendments. I wonder if there is objection that my amendment follow that with a time limit of 1 hour.

Mr. NUNN. I say to my friend from Arizona, I do not control the amendments. We do not have any unanimous-consent agreement as to where we will go after the Byrd amendment is dealt with. So it is whoever gets the floor. I would prefer to continue to deal with the SDI or ballistic missile defense program until we complete all amendments on that. I think that is the logical way to proceed.

Senator PRYOR had hoped to get an amendment up, which I hope he will get up next because I think it is just logical for us to continue the debate until we complete this subject. But I do not control the floor and it is whoever gets the floor. My preference as floor manager would be to complete the BMD type of amendments before we turn to other amendments. But that is beyond my power.

Mr. DECONCINI. Mr. President, if the leader will yield, there is no intent to hold up the manager's effort to do SDI. I have been ready since yesterday to come forward with an amendment with a time limit of 1 hour and was assured then I would get in the mix here.

In place thereof, the Senator from West Virginia offered his amendment, the Senator from California, Senator BOXER, offered her amendment, and, of course, the SDI amendment was offered. And I want to be in the course here. It does not have to be the next amendment. I would like some consideration of the manager.

I appreciate that the majority leader does not control the floor. The reality is, if the manager wants the amendment to be next, he can ask for unanimous consent. Apparently some are granted. I am still interested in getting

on that list. It does not have to be the next one, but I am interested in getting it heard.

Mr. NUNN. Could I ask my friend from Arizona if it would be satisfactory to him if we agreed to do everything we could, as soon as we finish the ballistic missile amendments, to have his amendment next in order.

Mr. DECONCINI. That would be fine.

Mr. NUNN. I am not sure how many of those amendments we have.

Mr. DECONCINI. It does not have to be immediately, but I would like some assurance on it.

Mr. NUNN. I would be glad to work with the Senator from Arizona.

Mr. MITCHELL. Mr. President, I renew my request.

Mr. DECONCINI. Mr. President, I ask whether or not the minority could respond to what the manager of the bill said.

Mr. DOLE. I do not think we have any problem, depending on whether we have a time agreement and where you take the money from.

Mr. DECONCINI. Let me assure the leader, I am not asking for unanimous consent to approve it. You may want to debate it or take the money from someplace else. But I would like to have some assurance from the Senator from Arizona or somebody, at least that they would work with the chairman of the bill to get the amendment up.

Mr. DOLE. We have no problem with that.

Mr. DECONCINI. After we do the SDI amendments.

Mr. DOLE. We are happy to agree with that.

Mr. NUNN. I thank the Senator.

Mr. DECONCINI. I thank the Senator.

The PRESIDING OFFICER. Without objection, the request of the majority leader is agreed to.

Mr. MITCHELL. Mr. President, awaiting the arrival of the Senator from West Virginia, who I understood was prepared to proceed, I will, for the moment, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, if we may have order in the Senate.

Mr. President, I call to the attention of my colleagues the following AP Wire story which as just appeared on the ticker:

MOGADISHU, SOMALIA.—American Cobra helicopters fired into a crowd of Somali women and children Thursday in what the United Nations claimed was a "last-resort" effort to save its embattled peacekeepers from a mob.

Nearby residents said the street was littered with the bodies of as many as 100 Somalis.

The shooting, according to a U.N. spokesman, was a response to an assault by Somalia militiamen that killed a Pakistani soldier and wounded three Americans and two Pakistanis.

The peacekeepers came under fire from heavy weapons as they cleared roadblocks from the notorious 21 October Road and were trying to withdraw when they were surrounded by a mob that contained Somali gunmen, Maj. David Stockwell said.

"We saw all the people swarming on the vehicles as combatants," said Stockwell, the chief U.N. military spokesman. "This was not done lightly. This was a last-ditch, last-resort effort to save the troops.

"We've seen this before," he said. "If they reach our soldiers they tear them limb from limb."

Stockwell blamed the attack on the forces of fugitive warlord Mohamed Farrah Aidid, wanted by the United Nations for a series of assaults that have killed 48 peacekeepers and wounded more than 175 since May.

Stockwell said he had no information on the number of Somalis killed or wounded, but told reporters, "What I am acknowledging is that if you go out there tomorrow, you may find some women and children casualties."

The report of scores of Somalis killed could not be independently confirmed. But Stockwell acknowledged that U.N. troops and tanks, armored personnel carriers and helicopters used "heavy casualty-producing weapons" in defending themselves.

So these are not popguns and they are not shooting paper bullets. That is editorial comment.

The clash came as the U.S. Senate debates whether to push for an end to America's Somalia involvement, which was initiated to ensure delivery of humanitarian aid and restore stability to the east African nation stricken by drought, famine and anarchy. More than 350,000 Somalis died in 1992.

Gen. Colin Powell, chairman of the Joint Chiefs of Staff, said today that U.S. troops should stay in Somalia "for the foreseeable future" to ensure the success of the U.N. operation there and to preserve America's credibility.

That is the entire AP wire.

Mr. President, while I am reading wire stories I will read a September 5, 1993—this past Sunday—article from the London Times:

The United Nations has been paying Mohamed Farah Aideed, the fugitive Somali warlord, more than $100,000 a month even while he has been hunted by UN troops and engaged in a terrorist war against them.

The money was paid by UN agencies in Mogadishu, supposedly for the hire of gunmen loyal to Aideed who would provide security for aid convoys. In fact, since the Americans landed in Somalia last December, the gunmen have escorted no convoys and are kept on the payroll only out of fear of retribution.

Peter Schumann, the UN development programme's chief in Somalia, admitted yesterday that much of the money would have gone straight to Aideed, but that the agencies had little choice but to pay the protection money: if they had stopped, they would have been attacked. "It was extortion, pure and simple," he said.

Even when Aideed was declared a wanted person by UN forces in June, after his gunmen massacred Pakistani troops, the payments continued. This was despite the fact that UN officials knew the money was almost certainly going straight to the warlord, helping to sustain his survival and attacks on UN and American military targets. More than 30 UN soldiers have been killed by Aideed's men.

The payments were only stopped last week after pressure grew within the UN. Accountants were also asking why such huge sums of money were being paid for no return.

Sources in Mogadishu said Unicef, the UN children's agency, had been paying at least $40,000 a month for non-existent security to an Aideed lieutenant, known as "Mad Abd". The development programme was paying $10,000 a month; other agencies were meeting similar demands. Schumann said the agencies had repeatedly asked for military help in cutting off the payments. They had asked Admiral Jonathan Howe, head of the UN operation in Somalia, to give them a letter authorising the ending of the payments, and warning of UN military reprisals should there be any revenge attacks. Schumann said, however, that the request was refused.

"We have been battling for months to end this nonsense," he said. "We needed to act collectively, but Unisom (the UN force in Somalia) seemed scared of the repercussions. In the end, we decided last week to go it alone and not make any more payments. We are still waiting to see what will happen."

A UN military official conceded yesterday that they had been aware of the continuing payments to Aideed gunmen, but had decided that to end them would have sparked trouble. "It would have been like opening a second front," he said.

The scandal over the financing of Aideed is likely to inflame tension between the American military and UN in Somalia. Relations were already strained following last week's bungled raid by American Ranger troops to capture Aideed, during which several UN officials were tied up and detained.

Yesterday, American military sources in Mogadishu were furious that Aideed had been sustained financially by the UN while its troops were under attack and trying to capture him on the UN's behalf. "It's almost beyond belief," one said.

An American intelligence source claimed that UN agencies were still helping Aideed by securing lucrative UN contracts for known Aideed supporters and by renting houses owned by his senior lieutenant. The Americans had now forced the UN to set up a committee to review all of its contracts. "The UN has given Aideed too much," said the source, "we have to cut him off."

Schumann yesterday rejected the allegations, saying that the development programme had refused to sign a contract with a man it knew to be close to the warlord. "We are not into paying Aideed. This should all have been sorted out a long time ago. That's what we wanted, but the military did not seem interested."

Mr. President, what I have read in these two wires strains the imagination. What we are talking about here are two catastrophes. One, in which women and children have been killed by U.N. helicopter gunships. Is that why our U.S. forces are over there? Is that why they are in Somalia?

There are going to be a lot of questions asked now. One of the questions is going to be: Why is Congress not speaking up? Why is it not doing something? Why is it not taking a position? What has to happen before we shake

the consciences of our representatives in Congress?

And the other catastrophe is this preposterous action on the part of the U.N. in paying this clan leader who has blood on his hands, the blood of Americans and Pakistanis and others. Thirty percent of that U.N. money is ours, 30 percent of it. How do the American people feel about that? Paying this clan leader? I understand that there are 14 of such tribes and clan leaders there.

And we have been trying to capture one warlord, and all the while, he has been on the payroll of the United Nations and the American people have been footing 30 percent of the bill. We are trying to track him down. He kills our people and 30 percent of the money that is going to him, to hire him, comes out of the American taxpayers' pockets. This is just the beginning—just the beginning.

Now where are those who say that, if we do thus and so, we will keep the President from keeping our commitments; we will be creating a paper tiger; we will be going back on our commitments.

This Congress, to my knowledge, has never entered into any commitment and, under the Constitution, the Congress is not bound to fund any such commitment by any President. It is a disgrace. There is a question of separation of powers involved here. That is what I have been saying all along.

I hope that Senators, when they renew their oaths if and when theyare reelected, as I hope to be reelected and intend to take that oath again, but I think we shall all review our high school lessons about the separation of powers and understand that we are being elected to a body that is a part of the legislative branch and that there is, indeed, a constitutional system of separation of powers, and checks and balances, and the Constitution is not to be treated lightly when we take an oath before God and man to support and defend it.

Montesquieu said that when it came to an oath, the Romans were the most religious people in the world, and that it formed the nerve of their military discipline. We ought to stop taking our oaths lightly. Let's not pretend that this is not a separation of powers matter. That is exactly what it is.

I say that these shocking news reports ought to shake the consciences of those who would advocate that we stay in Somalia and that the Senate stay out of this matter, as though it is not the Senate's business. "This is our President's business; he has made a commitment; what will we do to the image of the United States if we go back on our commitment?"

No Senator has gone on record by voting any commitment for the course we are now pursuing in Somalia, and under the Constitution, Congress is not bound to uphold any such commitment by any President—not until it votes to do so. And we have run from the issue up to this point. We have preferred to be left out of tough decisions. All we have to do is to look at a bit of Roman history and see exactly where we are going.

In the late summer of 29 B.C., Octavian came back to Rome after the Battle of Actium in 31 B.C. The Roman senate gratefully—gratefully, gratefully—ceded its powers to Octavian. It was glad to cede its powers to someone who would plan and take responsibility and lead, because the Roman senate had lost its will to make hard decisions. It had lost its will to lead. It had lost its nerve. It had lost its way.

What did Octavian do? One of the first things he did was to revise the membership of the senate and eliminate about 200 of the more disreputable senators, and when he had eliminated them, he replaced them with someone who would bend to his will. The senate lost its independence, and that marked the end of the Roman Empire.

On the 13th day of January 27 B.C., Octavian appeared before the purged senate. He proclaimed the restoration of the republic, and he dramatically offered to surrender his powers to the senate and to the Roman people. He expressed the desire at 35 years of age to retire to private life.

What was the response of the Roman senate? It was overwhelmed by this noble gesture, and so it countered his offer of abdication with its own abdication—its own abdication—and implored Octavian to continue his guidance of the Roman state. "Please, continue your guidance. Here are all your powers, Octavian." The Senate gladly gave up its responsibility to plan and to take responsibility and to lead.

What else did it do? Three days later, on the 16th of January 27 B.C., it conferred upon Octavian the title of Augustus, which did not convey any additional powers, in itself, but it was an epithet that was applicable to the gods and to all things holy. It was well adapted to his exalted position, and this exalted connotation and religious association made Augustus larger than life and worthy of veneration as a sacred being.

What else did the Senate do? It gave him the title of Imperator.

What else happened? In 23 B.C., Augustus appeared before the Senate, and he reached a new arrangement or understanding with the Senate. His powers at home and abroad were vastly increased. He was given complete control over the purse, and he acquired appellate jurisdiction, so that the habit of "appealing under Caesar" gradually established the Imperial Court of Appeal as a regular part of the constitution. He was master of the legions, and as the master of the legions, he was their paymaster. And whose work are you going to do? You are going to do the work of him who pays you.

And the Senate—note this—the Senate gave to Augustus the authority to conclude treaties with foreign nations without submitting them to the Senate or to the people for ratification. Lock, stock and barrel, gave it all to him. "Whoopee, we don't have any responsibilities anymore; free as a little bird. Let someone else lead." That is what happened twenty centuries ago in Rome.

I could say more. There is no need to at this point, I think. I have no doubt that there are some Members of the Senate who would just as willingly give to a President of the United States the complete authority to conclude treaties with foreign nations without submitting them to this Senate or to the people for ratification, just as the Roman Senate did under Augustus.

There are some Senators here who appear to think that the President should have the power of the purse; and that our constitutional framers did not know what they were doing when they lodged the power in the legislative branch. Share it with the President of the United States, they would say. We do not want to step up to the plate and vote on the tough issues. Let him do it. Give him the treaty-making power. Give him the power of the purse.

Now, that is what we are talking about here. Thank God that our framers had the vision and also had the guidance of Montesquieu and had the guidance of the history of the Roman and the English struggles so that they, indeed, included in the U.S. Constitution the separation of powers and checks and balances by which not one of the three separate branches of Government can enhance its own position at the expense of the others.

Fie on Senators, fie! Stand up there at the desk and take the oath. I have given the oath of office many times at that Presiding Officer's desk to some Senators who appear at times to completely disregard the Constitution of the United States. When it comes to the line-item veto, when it comes to shifting the power of the purse to the President, they are ready, for partisan reasons or some other reasons, to disregard the Constitution. They apparently do not even bother to read it. And in spite of what it says and in spite of what the framers themselves said at the various State Constitutional Conventions, some of my colleagues, at times, apparently chose to look the other way.

Well, that is what this is all about, Mr. President——the Senate's role in the resort to military force. It is a separation of powers matter, and the legislative branch is not to be ignored.

I am gratified by the spirited debate we have conducted thus far on United States policy in Somalia. Many important issues have been raised and the Congress is fulfilling one of its most critical roles in exercising its responsibilities regarding issues of war and peace.

I note that the President yesterday acknowledged clearly the important role of Congress in authorizing the potential deployment of United States military personnel as peacekeepers in Bosnia. United States involvement in Bosnia is a far more serious matter and far more risk-filled than our involvement in Somalia. And congressional support for any action there is absolutely critical for the President and the Nation. So I am glad the President has thought about this on yesterday. It is time to think about it, and it is time to seek the support of the Congress.

This is a branch that is not going to be ignored by any administration as long as this Senator can breathe and stand on his feet. Whether he stands on his feet or not, it does not make any difference—as long as he can speak and has a clear mind.

As I said yesterday, I anticipated there would be other amendments on this issue and some that might be better than mine. The compromise amendment that has emerged contains many commendable elements. I do not say it is better than my amendment. But I have thought about it a lot, and for several reasons I am pleased to sponsor it as a substitute to my original amendment.

Basically, it asks the President to outline for the Congress his goals and objectives for the mission in Somalia and the anticipated duration of that mission. Then it provides that the President seek congressional authorization for his plan and that the Congress act on his request by November 15, 1993.

These elements capture the essence of my concerns and ensure, or ought to ensure and had better ensure an active role for the Congress. This does not set a time certain for the withdrawal of United States troops from Somalia. That can come later. U.S. participation ends if the Congress fails to specifically authorize our continued involvement there.

Of course, we know U.S. participation can end anytime the Congress in its wisdom wishes to cut off the funds. That should be clear to anybody who can read and understand the Constitution—Congress can just cut off the funds.

If the Congress fails to specifically authorize our continued involvement there, U.S. participation ends. This is not a deadline unless one believes that the President cannot win the approval of Congress for continuing our involvement.

To those who have been critical of the amendment in the first degree because they maintain that it creates a deadline, it only creates a deadline if one thinks that the President cannot win. If he cannot win the approval of Congress, then it is a deadline. So it is a tacit admission that there is a real doubt as to whether or not the President can win that approval. If such an authorization cannot be gained, then I would suggest we should be packing up and bringing home our troops on the next flight.

It does not sound to me like they are creating an environment that is very stable there when our own people go out and have to kill over 100 women and children, if the AP story is accurate.

We should not continue to leave our troops under nightly shelling by mobs, in danger of being attacked by mobs, whichwill make it necessary for them, in attempting to defend themselves, to kill women and children.

We should not continue to leave our troops under nightly shelling in Mogadishu simply because no on here in the legislative branch is willing to address the issue.

The Congress has already been voting on U.N. peacekeeping missions with its pocketbook. I think our views have already been expressed by the reluctance to find the funding for our overdue peacekeeping bills.

In June, I attempted, at the behest of this administration, to secure funding for $293 million on the supplemental bill in order to pay our overdue peacekeeping bill to the United Nations. Was I successful? I failed in my attempt. And some of those who have been critical of my pending amendment here were in that conference. They were there as members of the Appropriations Committee. They know that there was no support for that, very little support to pay our bills. Yet, those bills are continuing to accumulate every day. That bill has now increased to $372 million.

In October, the U.N. Security Council will vote to extend the U.N. operation in Somalia. There will be a bill for that, as well. And the United States will be committed to pay one-third of that bill—one-third. I do not know how large that bill will be, but it will be added to our already overdue amount, our debt to the United Nations.

We must be prepared to harness our desire to participate or support peacekeeping operations around the world to the commitment to pay for those operations. I have not yet seen that team of horses hitched together in this debate.

In Somalia, we are dealing with two situations: United States troops under the U.N. command, and United States troops that are not under U.N. command. In Somalia, the United States troops that are under United States command—that is the Quick Reaction Force and the Rangers; they are not under the U.N. command—are paid for by the Defense Department, not the United Nations.

I hope that members of the Armed Services Committee realize this and that members of the Appropriations Subcommittee for Defense on the Appropriations Committee realize it. It is coming out of the Defense Department funds.

Although the cost of our troops operating under U.N. command are included in offsets to our U.N. bill, the Department of Defense indirectly absorbs some of these costs as well. Many here claim that the defense budget is too tight. Let them focus on the fact that that same reduced defense budget is partially paying for U.N. costs in Somalia.

This amendment asks that the administration define our mission and that the Congress approve that mission if we are going to continue with the deployment of American troops there. So it gives Members a chance to put their money where their mouth is. If they think this is a commitment, if they think Congress ought to honor such commitment, if they think that to do otherwise would make the United States appear to be a "paper tiger," then let them vote for the money. Let them focus, I say, on the fact that that same reduced defense budget is partially paying for U.N. costs.

The amendment asks that the administration define the mission, tell us what it is, and that the Congress approve that mission. We have already overstayed our original mission. We completed it. It is done. Nobody objected to that mission. That resolution passed the Senate by unanimous consent, not a single objection. Nobody objected. We saw the pictures of the starving children and mothers, old men and women on television on the news every evening. Nobody objected to that. That is the American way, to be charitable, to be the Good Samaritan. That is what we did. No objection. We fed starving people. That is what we were told we were going to do. That is done. That is over.

We overtayed our original mission, which was to "provide a secure environment for humanitarian relief," whatever that is. We were told it was to feed the starving. We did that. That was accomplished when we handed off our mission to the United Nations in May. If it was not finished, why did we hand it over to them? We handed it over to the United Nations in May. What was left of the emergency feeding operation finally ended in August. The harvest has been good. So much food is available in Somalia now that some farmers have contemplated not even harvesting their crops because the prices are so low, according to an administration official. Somalia is even exporting some food. So I think that the humanitarian mission is over.

The Quick Reaction Force remained behind in May to support the transition to a U.N. force, but it was not intended to take over the function of an international FBI in Somalia, hunting down fugitive warlords.

While Congress was in recess, the Washington Post, on Saturday, August

28, carried this story with the headline: "Aspin Lists U.S. Goals in Somalia. Troop Pullout Hinges on Three Conditions; No Timetable Is Set", by John Lancaster, Washington Post staff writer.

I now read:

Defense Secretary Les Aspin said yesterday that the U.S. combat troops will stay in Somalia until calm has returned to its capital, "real progress" has been made in disarming rival clans, and "credible police forces" are up and running in major cities.

Not just in Mogadishu, in major cities.

In a speech here, Aspin offered the most specific explanation yet of the Clinton administration's decision to step up military operations against fugitive warlord Mohamed Farah Aideed, whose forces have been waging war on U.S. and other foreign troops in the capital of Mogadishu.

He avoided any discussion of a withdrawal timetable, emphasizing that the decision to bring home the troops would depend on their effectiveness in achieving the goals he described.

"When these three conditions are met * * * then I believe the U.S. quick-reaction force can come back," Aspin said in what he termed the "endgame" of U.S. involvement in Somalia.

What right does any administration official have to lay down three criteria and say that when these are achieved, when these three conditions are met—in other words calm is returned to the capital, real progress has been made in disarming rival gangs, and credible police forces are up and running in major cities—when these three conditions are met, then "I believe the U.S. quick-reaction force can come home?"

Who said so? Whose commitment is that? To those who are saying we ought to "keep our commitment," whose commitment is that? Who up here on this Hill agreed to that, if those are the three criteria, and that when they have been achieved, and only then can we bring our boys home? When did Congress agree to these criteria as the prerequisites for our withdrawal from Somalia?

Is Congress going to be considered in this equation? Is it a player? Are we just going to roll over and play dead? No administration official—and I have great respect for Les Aspin. I respect his intent. He is a former Member of the other body, and I am sure he knows that there are three branches of this Government and that this branch controls the purse strings, and that it ought to be in on the takeoff as well as on the landing. Nobody cleared that, to my knowledge, with Congress. Congress has not bought onto these three criteria.

Clearly, this is an expanded mission in a hostile environment. If we have ears to hear the wire that was read, we ought to know that this is a hostile environment. An expanded mission in a hostile environment should be voted on by this Chamber. And the administration had better learn that. This Chamber is not going to be shunted aside and ignored. We are an equal partner because we represent the people. The President is not elected directly by the people. He is elected by electors, for those who have not read the Constitution lately. The distinguished Senator from Wisconsin, who is sitting in that chair presiding right now, is elected by the people of the State of Wisconsin.

The Senator from Maine, sitting to my right, is elected by the people of Maine. And the people had better be on board, else we will see the same thing that we saw happen in Vietnam and in Lebanon.

Have we forgotten that we are not above the people, and that the people's representatives are sent here to reflect the feelings of the people who are going to have to pay out in their hard-earned silver and gold, their treasure, and in the blood of their sons, grandsons and granddaughters?

Some have argued that if we leave Somalia, U.S. leadership is at stake. What leadership? Have we forgotten that there is a legislative branch?

(Mr. KERRY assumed the Chair.)

Mr. BYRD. They say this is a precedent that we do not want to set, but congressional support for policies of war and peace are critical to sound leadership. The Nation has to row this boat with two oars. Neither can go it alone. We all know what happens when one tries to row a boat with one oar. The Senator from Maine, I will bet, knows that. It goes in circles; it goes nowhere. It may even go backward. It can also sink.

Without a policy of gaining congressional approval and support for any such peacekeeping operation, U.S. leadership and U.S. Presidents are more, not less, vulnerable to abrupt swings in public support. Lebanon is just one example where public support for our troop deployment there collapsed—collapsed—after the October 23, 1983, bombing that resulted in the deaths of 241 American Marines.

I am not a Johnny-come-lately on this matter. I offered an amendment on that issue, also, seeking to limit the authorization for that deployment to 6 months. My amendment was tabled, so I have been defeated before. What passed was an authorization of an 18-month extension of our deployment there, and all but two Democrats voted against it. What passed was an authorization that was an 18-month extension of our deployment there, which passed some 24 days prior to the bombing. Even if my amendment had been adopted, it would not have saved our marines, because I was saying reduce the 18 months to 6. That was not enough.

Peacekeeping operations under chapter 7 of the U.N. Charter in hostile environments constitute a dark road, unlit by experience. No President should want to travel that dark road alone.

We have heard here on this floor in this debate that we have to support this or that deployment, because we have to support our troops, and their morale will plunge if we criticize the action. Why, there is no end to this. There is no logical outcome for that argument except to just continue. If the administration puts in more troops, we cannot take them out because we would destroy the morale of those who are there. So put in more. Well, we cannot take them out. We would make our Nation look like a "paper tiger."

Mr. President, that argument is a set-up to excuse any chief executive, without reference to the need to build consensus, to gain the support of the Congress, and to promote a policy of the country at large. It is a sham argument, because it puts the real vulnerability of our troops and the need to support them in a cart without a horse. Let us put the horse of consensus in front of the cart of policy.

This is fundamental in American operations abroad. When we put the credibility and reputation and good name of the United States on the line, we had better be sure that all of the parties have signed up; and we better be sure that the Appropriations Committees in both houses are willing to pay the bill.

It is great to stand up here and make these bold speeches on how we ought to keep our commitments, and then renege on paying our bills.

Originally, the mission and duration of U.S. involvement in Somalia was linked to ensuring a secure environment for humanitarian relief, although "secure environment" was never defined. We took for granted that the words meant that we have to get through there and feed those starving people. So we did it.

As of last December, we thought it meant protecting the ships, trucks and planes delivering food and humanitarian supplies, preventing those supplies from being looted, and making sure the people could be fed. Now it seems to mean "calm" in Mogadishu, "disarming warlords," and "establishing a countrywide police force."

We cannot even disarm the warlords in this city of Washington, D.C. It is a joke. We cannot even establish calm in our own Capital. Those who believe we can, I suggest that they take a walk down any of the streets two blocks away from this Capitol, alone, tonight. It is a joke to talk about establishing calm and disarming the warlords in Somalia. How do we disarm the drug dealers in the District of Columbia and the young men who carry guns, even the kids who are carrying guns—10, 11, 12 years old—to school in this city. We don't seem to be able to disarm them here in our own backyard.

It is an expansive, rubberized, one-size-fits-all term now covering everything from food to helicopter raids. I

think we should avoid this phrase—"secure environment"—unless we define it very carefully. By continuing to use this phrase, we leave a hole that the administration can drive an 18-wheeler through.

I think it is clear that the compromise amendment asks the President for a clearly defined mission and an anticipated duration of the mission. Let the administration do that. Then the Congress needs to vote on whether to authorize such a mission. Congress has that role, and Congress has that duty under the Constitution. We have the responsibility on behalf of our own people, and we are going to face up to it one way or another.

This substitute amendment reflects the need for a limited mission and benchmarks for withdrawal, for an endgame. I wish it were more than a sense-of-the-Senate resolution; a sense-of-the-Senate resolution is not legally binding. We all know that. But I, for one, am taking at face value the statements that are in this amendment, and statements, as I understand them around here, I am taking them at face value—namely, that Congress is going to vote after that report comes up.

And the administration had better take it at face value and send up that report if it intends to continue on its current course in Somalia.

So we are not just doing something today to get us out of this current pickle. I am not buying onto that. We are not just coming up with this compromise, so-called compromise, amendment just so this bill can pass tonight or tomorrow, and we can then go home for the weekend. I am not on that train. That train is not going to leave my station.

I am on the amendment and expressing good faith, and I expect everybody else also to deal in good faith. If they do not, if the good Lord lets me live, we will hear some echoes and repercussions.

I am not going to put my name on this, as I am doing, and just then forget about it, and laugh, and say, "Well, we got rid of that. That is enough. I saw my name in the headlines this morning, so it is good enough for me."

That is not good enough.

We should think and believe that this is more than a sense-of-the-Senate amendment and that it represents a significant step forward for this Congress, and that it has garnered broad support.

Some of my colleagues want to vote on my original amendment. But I am willing to accept in good faith what other people say in what will pass here today. I am willing to let the administration have a little more time, let it have a chance to send up a report, let it justify what it requests, and then let the Congress stop running away from this. Let the Congress stop being ignored as an equal partner.

Meanwhile, we in the Congress should think long and hard about fulfilling our responsibilities. These risky, new peacekeeping operations that some think should be a centerpiece of the "new world order" must not be handed over to any President—this is no reflection on my President; I just happen to believe the Constitution. The Congress has a solemn duty and a sacred obligation to weigh in when American lives and American treasure are at stake.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator should be advised that, because the Senator has not yet submitted his amendment, the time, in fact, has not been counted at this point.

Does the Senator intend for his time used to be part of the agreement?

Mr. BYRD. No.

I thank the Chair for correctly stating the situation. I do not intend to take advantage of that fact, but I will have a little time left in case I need some.

AMENDMENT NO. 790 TO AMENDMENT NO. 782, AS MODIFIED

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of myself, Mr. MITCHELL, Mr. DOLE, Mr. NUNN, Mr. MCCAIN, Mr. LEVIN, Mr. COHEN, Mr. WARNER, Mr. COCHRAN, and Mr. KERRY; and I ask unanimous consent that any other Senators who wish to add their names after they hear the reading of the amendment or listen to any further debate may be allowed to do so to join as cosponsors.

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. MITCHELL, Mr. DOLE, Mr. NUNN, Mr. MCCAIN, Mr. LEVIN, Mr. COHEN, Mr. WARNER, Mr. COCHRAN, and Mr. KERRY, proposes an amendment numbered 790 to amendment No. 782, as modified.

In the amendment, strike all after line 4, page 1, and insert:

Sense of Congress regarding United States Policy towards Somalia.

Since United States Armed Forces made significant contributions under Operation Restore Hope towards the establishment of a secure environment for humanitarian relief operations and restoration of peace in the region to end the humanitarian disaster that had claimed more than 300,000 lives.

Since the mission of United States forces in support of the United Nations appears to be evolving from the establishment of "a secure environment for humanitarian relief operations," as set out in United Nations Security Council Resolution 794 of December 3, 1992, to one of internal security and nation building.

Statement of Congressional Policy:

(a) CONSULTATION WITH THE CONGRESS.—The President should consult closely with the Congress regarding U.S. policy with respect to Somalia, including in particular the deployment of U.S. armed forces in that country, whether under United Nations or United States command.

(b) PLANNING.—The United States shall facilitate the assumption of the functions of U.S. forces by the United Nations.

(c) REPORTING REQUIREMENT.—

(i) The President shall ensure that the goals and objectives supporting deployment of U.S. forces to Somalia and a description of the mission, command arrangements, size, functions, location, and anticipated duration in Somalia of those forces are clearly articulated and provided in a detailed report to the Congress by October 15, 1993.

(ii) Such report shall include the status of planning to transfer the functions contained in paragraph (b).

(d) CONGRESSIONAL APPROVAL.—Upon reporting under the requirements of paragraph (c) Congress believes the President should by November 15, 1993, seek and receive Congressional authorization in order for the deployment of U.S. forces to Somalia to continue.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

The Senator from Arizona is assuming the time of the minority leader.

Mr. MCCAIN. Yes.

Mr. President I yield myself 5 minutes.

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

Mr. MCCAIN. Mr. President, this is a very important amendment, perhaps one of the most important actions that this body had debated in some years.

I realize that it is a sense-of-the-Senate resolution. At the same time, I believe that we all understand that this resolution establishes, in effect, a date certain for a vote on the commitment of United States forces to Somalia.

Let me repeat, Mr. President, in voting on this amendment, we should all understand that the Congress of the United States expects the President to present a plan for shaping U.S. withdrawal. We should understand that it sets a date for a vote on that plan and it establishes, in effect, a date certain for a vote on the commitment of United States forces in Somalia.

Mr. President, a date certain is necessary for many reasons. First, we should not commit U.S. forces to any military mission in the post-cold-war era without a national consensus, and this can only come from congressional review of such a commitment.

Second, we must be extraordinarily careful in submitting U.S. forces to U.N. command, or any foreign command, especially when the objective of the United Nations may not be our objective and the U.N. command may have uncertain organizational effectiveness.

Third, I think we all realize that we have drifted from the use of force to secure humanitarian relief to an open-ended effort at peace enforcement and nation building.

Mr. President, the consequences of this drift into has never been made more clear than by the tragic news we have heard tonight. Peacekeepers came under fire from heavy weapons, and were trying to withdraw, when women

and children joined on the attack where someone was using grenades and small arms. According to the U.N. spokesman:

The women and children were combatants. "When the helicopters cam in they shot at the gunmen behind the walls, and the women and children who were actively engaged as combatants as well. Whoever was behind the walls was shot at.

The spokesman went on to say that he had no information on the number of Somalis killed or wounded, but told reporters, "What I am acknowledging is that if you go out there tomorrow, you may find some women and children casualties."

Mr. President, we went to Somalia to keep people from starving to death. Now we are killing women and children because they are combatants.

This has to stop. It has to stop, and it has to stop soon. And the orderly way to stop it is for the President to present a plan for shaping U.S. withdrawal, set a date for that plan, and have the Congress of the United States either endorse or reject such proposal.

Our mission in Somalia has changed because the President decided, without seeking the approval of Congress, to expand it. He expanded it to include, as Ambassador Albright outlined, disarming, retraining, and reemployment of combatants, establishing democratic institutions, and stopping those who disrupt the peace.

When were there democratic institutions in Somalia? When was there peace? When was the population unarmed? When were clan politics peaceful? Our servicemen are increasingly involved in a region of the world where there is no compelling U.S. interest, where they serve under foreign command, and where they have been given no clear mission or objective.

We have also taken sides in a dispute among the two leaders of one major clan in Somalia, the clan located around the capital. We have become engaged in a warlord hunt. We are hunting down General Aideed.

I fear that in the process, we are making a very serious mistake in Somalia, and one that is eerily reminiscent of Lebanon. It is the mistake of failing to recognize the limits of American power. It is easy to talk about quelling violence, disarming warlords, and establishing effective police forces. It is far from clear, however, that anyone in the administration knows how to go about achieving any of these lofty objectives.

To date, the administration has done little more than indicate that it hopes to achieve these objectives by catching or killing General Aideed. It has talked about clan elders, but these have never been a unifying force and they have not had any real power for two decades.

We have heard no word about Somalialand, and the fact it has declared its independence and may be willing to fight for it. We have heard nothing about the threat from the Darod clan, and from General Morgan in the south.

We hear about Aideed, but he is only one armed subclan leader in a nation where there are at least 11 major political factions headed by similar warlords and clan leaders. Catching Aideed will resolve nothing when the entire country is armed and divided.

Somalia is filled with heavily armed warlords. It has no other politics, and U.N. and U.S. efforts to broker the rival interests of these clans with military forces are extremely dangerous. We simply cannot make military commitments in this way.

We also need to recognize that the United Nations is not a magic solution to anything. It is not a way of abrogating our responsibilities or achieving our goals. Our prestige is at stake. Our influence is at stake. Most important, the lives of our service men and women are at stake.

I believe it is time for the administration to seek congressional approval for a set of militarily achievable goals and a strategy for achieving them. I believe the leadership amendment will encourage it to do so.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, I yield myself 5 minutes.

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

Mr. SIMON. Mr. President, we are, with the adoption of the Byrd amendment, taking I think responsible action in seeing to it that Congress does have its voice heard. I think, as Senator BYRD has pointed out, the precedent is important, not just for Somalia, but for the future; that we cannot be involved in these things endlessly without congressional involvement.

The timing on this was unfortunate. What happened was a decision was made after the election in November, when Congress was not in session, to send our troops over there.

Then you had, on January 20, a new administration and a very different situation. And while the two Houses passed separate resolutions, there was no single resolution or act of Congress on this matter.

I also agree with Senator MCCAIN when he said one of the dangers in this kind of situation is that we should recognize the limits of American power.

I, frankly, think we have become obsessed with the Aideed thing.

Outside of Mogadishu in Somalia, things are going well. We get a distorted picture from the headlines. And I hope the story is not true, or is not completely accurate, in terms of the kinds of tragedies that have just occurred there.

But we have to balance that, I tell my colleagues, at the same time with what was taking place.

I see my friend, the Senator from Washington here, Senator GORTON. He last night indicated Somalia was no worse than what was happening in other countries.

Somalia was appreciably worse than anything that has happened in recent times. I was in Ethiopia, I have been to a number of these areas. And I visited those camps in Asia. I have seen some grim things.

I have never seen anything like what I saw in Somalia. I remember at one feeding station talking to a woman with a little boy, like these pictures you see, with his ribs sticking out. And I asked through the interpreter how old is he? And I was told 4 years old. My granddaughter then was 2. He was not as big as my 2-year-old granddaughter.

Then I said, "How did you happen to come here?"

And she said, "We lived about 20 kilometers away. We heard there was food here. My three children came here. Two of them died along the way."

My guess is that little 4-year-old is not alive today.

I saw children, and it is grim to talk about, and I have never seen this anywhere—the flies were everywhere. I saw children so weak they could not brush the flies from their eyes. And you see it and you know somehow we have to do something.

When I returned—Senator METZENBAUM was on this trip also—I called the Secretary General of the United Nations and talked to Secretary Eagleburger and talked to people in the administration. And, not because of my conversations with them but because of the cumulative thing, we faced the prospect of more than 2 million people starving to death.

In George Bush's finest moment he made a decision, along with the Secretary of State and Secretary of Defense and others, that we would go over in this humanitarian mission. And how many lives were saved, no one will ever know.

But I tell my colleagues, as an American citizen, I am proud of what we did.

Now the situation is different. And we have to define it carefully. I do believe we have to be careful that we do nothave a precipitous pullout. Gen. Colin Powell was quoted by Senator BYRD as saying the credibility of the United States is at stake.

President Bush asked other nations to come over.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMON. I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. SIMON. President Bush asked other nations to come in, and they did. And while President Bush, I think, made a mistake in either a press conference or his announcement—I cannot

remember—saying he hoped the American troops could be out by January 1, I remember General Powell saying at the time there would have to be a residual force of Americans to help on technical things, like seeing that we had clean water and other things there, as we aided other countries in this transition.

And it is a transition. This is unlike any other country. We have dealt with countries with despots before. Here we had a country with no government. There is no parallel to what the situation was in Somalia. But what we are now confronted with is the question: Should there be congressional action if we are to continue our presence?

I favor our continued presence. But I also believe there has to be congressional action. Otherwise, we do violate that Constitution that Senator BYRD was talking about.

I had a conversation, I guess, 2 or 3 months ago with Congressman LEE HAMILTON, of Indiana, the chair of the House Foreign Affairs Committee. And we talked at that point about the desirability of having some type of formal congressional action. That is what this amendment now calls for.

The precedent is important. So I guess my message to my colleagues is two: No. 1, it is important that, as a Congress, we act, both for the situation right now and as a precedent to the future. But the second message is let us not send the wrong message to a world that is threatened by instability that the United States cannot be an effective leader.

I think we have to use that power carefully. Senator MCCAIN is absolutely right. When you have a lot of power, sometimes the temptation is to use it unwisely. We have to make sure we are using it wisely, but let us not send the wrong message to the rest of the nations of the world that we cannot lead effectively.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. MCCAIN. I thank the Senator from Illinois for a very thoughtful and important statement.

I yield 5 minutes to the Senator from Washington, Senator GORTON.

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

Mr. GORTON. Mr. President, I read a paragraph of an essay by Charles Krauthammer that has turned out to be eerily predictive. I want to repeat it. He writes:

> There is no such thing as feeding the hungry, if what's keeping them from eating is not crop failure but vandalism and thuggery. One has first to destroy the vandals and the thugs. In a country wracked by civil war, what starts with feeding ends with killing. There is no immaculate intervention.

Today, Mr. President, the United States troops, through their gunships, have perhaps killed as many as 100 civilians—women and children—on the streets of Mogadishu. That killing was justified. That killing was necessary. It was justified and it was necessary because our troops are in Mogadishu and must be protected and otherwise might themselves have been killed.

What that killing illustrates, however, is that they do not belong in Mogadishu or in Somalia. This Senator faces the paradox of agreeing almost totally with the speech of the distinguished Senator from West Virginia and with the distinguished Senator from Arizona but disagreeing entirely with the resolution which they have presented because it is not consistent with their speeches.

This resolution says, perhaps on November 15—perhaps on November 15—the Congress of the United States will exercise its duty to make its views known in the form of law, but it will not do so now.

Mr. BYRD. Mr. President, will the Senator yield on my time?

Mr. GORTON. I will be happy to yield on your time.

Mr. BYRD. Let me assure the Senator that is not what this resolution says, in my thinking. That says those people will come out of there if Congress does not act by then. And I can assure you this Senator will be on his feet again if there is any reneging on the part of those who have helped put together this resolution.

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

Mr. BYRD. I yield on my time.

Mr. MCCAIN. I would like to say I am in total agreement with the interpretation of the Senator from West Virginia and I would not support the resolution under any other circumstances, as well.

Mr. BYRD. I thank the Senator. I thank the Senator for yielding. Let me thank him also for his support of my amendment in the first degree and for the help that he has given to me in the development of this resolution because I did bounce it off him and at least one of his suggestions came back through my staff, and that suggestion was adopted. It was a good suggestion. I thank him.

But never let it be said that this Senator thinks that this is a fake. Do not let it be implied that I am doing this to get us off the hook, or the leadership or the President or anybody else. The administration has not talked with me on it. It would not make any difference if it did because I am morally, ethically, physically, and mentally bound at all times to uphold this institution, the legislative branch, under the Constitution, and I do not intend to leave any wiggle room.

We are going to face a showdown on this one way or another. We still have appropriations bills, and we are going to face a showdown on this matter one way or another because this Senator is not going to stand still for what is going on without Congress having a role. And when that time comes, I may vote against any authorizing method. My hands are free, my feet are free, and my jaws are free, and this Senator will stand to the last.

I thank the Senator. He is expressing a sincere opinion. He wants to say we mean business, and that is what I think we mean—business. I know I mean business. I can assure the Senator, we are saying here we will get a vote on this if we keep our troops in there; we are going to get a vote, and I mean that. If the President does not send up a plan to continue those troops in there, we will get a vote on an appropriations bill. That is where, to use Mr. Gore's words the other morning on television, the rubber hits the road.

Mr. GORTON. Mr. President, this Senator is grateful for both the expression of appreciation and the strong position which the Senators from West Virginia and Arizona have stated is their interpretation of the meaning of the amendment which is before us right now.

Nevertheless, the words of that resolution are words of a sense-of-the-Senate resolution. They do not have the force of law. They do not require the President to do anything. They do almost certainly state that we will be engaged in a debate on this subject on November 15, whether the President has done something or not.

It is, however, the position of this Senator that that debate on a substantive basis should take place now, and that what we should be passing is the modified original amendment which states that our troops will leave Somalia unless thePresident has come to us and gotten approval within, I hope, a shorter period of time than is the case.

Between now and November 15, Mr. President, there will be more American men and women killed in Somalia while we wait and engage in this debate, and there will be more gunships shooting at more Somalis during the course of that period of time. And that is why, from the point of view of this Senator, while we have moved a long way forward, due almost solely to the efforts of the Senator from West Virginia, I am not satisfied that we are taking decisive enough action tonight to deal with the very real problem that we have.

It may be the view of the Senator from Illinois that outside of Mogadishu, the Somali Republic is now Plato's Republic. It may be his view that this is the single worst situation in the world, though it is rather inconsistent with that other statement on his part. Let him tell that to the people of Angola. Let him tell that to the people of Sudan. Let him tell that to the people of Mostar. Let him tell that

to the people of Nagorno-Karabagh. They will not necessarily agree, but the principle for which he stands would have us involved in every one of those places.

The problem that we have in this country, in the Somali Republic, is a very simple one: We are following the views and the policies of the United Nations and not the interests of the United States of America. We are letting ourselves be led around by policies set in New York, by the United Nations, in which the people of the United States and the Congress of the United States have not been consulted at all. And we are now asking, very late in the game, for some such consultation.

That is not the way in which we should engage the prestige and the lives of American men and women. We do not belong in this place. We also learned this afternoon that the same United Nations which apparently is setting our policies for us has been paying $100,000 a month in protection money to the very warlord we are seeking to capture. The very United Nations whose policies we are following is paying off the person we are seeking, and half of the troops in the United Nations are attempting to frustrate what we are doing.

We should get out now. We should vote against the secondary amendment and for the original Byrd amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. SIMON. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, I am supporting this amendment because it is a compromise position arrived at with concessions from both sides, but I must underline that the United States has agreed to U.N. Security Council resolutions regarding the deployment of troops in Somalia and that we have pledged to be part of this multilateral effort.

For example, on March 23 the Security Council went on record saying it decides to "expand the size of the forces at its mandate."

As such, it is my belief we should stay the course with the policy we have already agreed to and which I believe is right. If we want to change that policy, we should do it within the forum of the group with whom we have allied ourselves and agreed with, the Security Council.

It is critical we accomplish the goals set out in the Security Council Resolution 814. Last night, I spoke on this issue and said it is important to recognize that the U.N. goals in Somalia have been defined in that resolution.

I have agreed to this compromise amendment because I believe that, for the most part, it allows us to fulfill our obligations under United Nations Security Council Resolution 814 and that it lessens any harmful effects of the underlying resolution.

In my view, we have accepted responsibilities under the U.N. resolution which we must not abandon. The United States responded to an unequaled humanitarian crisis by leading the effort to gather multilateral humanitarian and military support for Somalia. We were not just one participant. We were a leader. Our endeavors brought 23 other nations on board to help answer the crisis in Somalia, and therefore it would seem to me imperative we should not disengage before the mission is complete or it has been agreed to by our allies. Somalia sets an important precedent for the United Nations peacekeeping and peacemaking efforts around the world, which I believe makes United States leadership in this effort critical.

We need to deal effectively with the events of Mogadishu which now threaten to cause a reappearance of the humanitarian disaster which brought the United States and our allies to Somalia originally. The way to do that is to support our continued involvement in ensuring a secure environment for the provision of humanitarian relief for the people of Somalia and paving the way for a genuine resolution of the crisis.

I support the compromise substitute. I yield the floor.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. Mr. President, I yield 3 minutes to the Senator from Maine [Mr. COHEN].

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Mr. COHEN. Mr. President, the Senator from West Virginia has often quoted poetry on the Senate floor, and he perhaps knows more poetry than any other Member of this body or the other body. And he will correct me, I am sure, if I am wrong, but I believe it was the poet W.H. Auden who said, "History held a moment too long burns the hand."

I wanted to thank him for forcing us to hold history in our hands much longer than we are wont to do. We use words in this Chamber and in this city not to reveal what our inner thoughts are. I think it was Justice Holmes who said that word is but "the skin of a naked thought." We do not use words to describe our naked thoughts but, rather, to conceal them. We know that, for example, going back historically, when we talked about the Korean "conflict." We did not have to have a declaration of war—it was a conflict. In Vietnam, a conflict. In Cambodia, an incursion. And we had the Grenada "rescue" mission. We had the Panama "invasion." And, of course, we finally came to the Persian Gulf "war." We used "war" for the first time in many, many decades, stating forthrightly what our intentions were—to wage "war." And even then, President Bush was reluctant and almost insistent upon not coming to Congress to declare warmaking authority, to allow this Nation to commit its treasure to that war.

And here we see that we have gone beyond that. We are talking about our troops being engaged in Somalia in "peacekeeping." That was the original purpose. But now it has evolved to peacemaking. Frankly, I am not sure exactly what that word means. Peacemaking is really warmaking. It seems to me that is what Senator MCCAIN was describing in what happened over there today. We are making war to keep a peace, but we are nonetheless engaging in war fighting.

I think that we have to come back to some basics, and that means coming back to Congress to declare war, to declare our objectives, to get authority to commit our sons and daughters to an area in which their lives are placed in jeopardy.

We have used words to abdicate our responsibilities in so many ways. Whenever we come up to a tough issue, we abdicate that responsibility by forming a commission, finding some way to avoid the responsibility. And here we cannot and we should not avoid or evade our responsibility.

May I have 1 additional minute?

Mr. BYRD. Mr. President, I yield the Senator 2 minutes off my time.

The PRESIDING OFFICER. The Senator from Maine has 2 minutes.

Mr. COHEN. It is important that we support the Senator from West Virginia. I was happy to support his prior amendment. I agree with much of what my colleague from the State of Washington has said about the need to take action now and not defer it even to November 15. But nonetheless, this is the motion before us, and I think we should proceed on that basis.

But I was intrigued with his suggestion of the irony involved, that here we are seeking to make peace amongst fighting warlords when we cannot keep the peace in our own country; when the morning television news tells us of another German citizen murdered on his way to a vacation in Miami; when, as the Senator from West Virginia points out, step two blocks outside of the protected environs of the Capitol and not one of us is safe; when we cannot drive down the streets without making sure our doors are locked for fear of carjackers.

Charles Krauthammer, a brilliant columnist, has been quoted. Another

columnist, George Will, pointed out that putting National Guard troops or Rangers from Somalia here will not solve our problems. Bayonets in the streets will not solve the problems of teenage pregnancies, illiteracy, poverty, homelessness, and hopelessness. It will not solve those. But it seems to me we would be far better off trying to put some discipline and some crime prevention into stopping the warlords in our own cities than we are in trying to stop the fighting that is taking place right now in Somalia.

So I support the Senator from West Virginia. I think it is important that we not abdicate our responsibility. We are talking about peacemaking, which is quite different from peacekeeping. It is much akin to warmaking in order to maintain that peace.

Let us stop using words to avoid and evade our responsibility. Our responsibility is for us to decide whether or not we are going to send our sons and daughters into harm's way, and whether or not we are prepared to face the mothers and fathers of those sons and daughters and say we are prepared to sacrifice, potentially sacrifice, your children for this cause. That is our responsibility, not the President's.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. Mr. President, I yield 5 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

Mr. PRESSLER. Mr. President, the distinguished President pro tempore, Senator BYRD, has shown great courage and leadership. I am very much in league with his efforts. I wish that his first amendment would be the order of the day. As I stated on the Senate floor just last evening, I believe we should get our troops out of Somalia now, lock, stock, and barrel. From day one, I opposed sending the troops to Somalia. I was concerned with the extent of our involvement and the dangerous precedent our involvement would set. The cost of our involvement has been enormous, and the precedent set is unsettling.

I believe there are times when we should use our troops abroad. I voted for the Persian Gulf resolution. In that case, our mission was clear. But this mission in Somalia is very strange. Our troops are involved in civil war, playing hide and go seek with a Somali warlord. This operation does not have congressional authorization. It is no longer a food distribution effort. We are now caught in the middle of a civil war. Young Americans are dying over issues that do not seem to have any defined purpose. We seem to be following the United Nations leadership here, not the United States. Bear in mind, I am a proponent of the United Nations. I once belonged to the Minnehaha County U.N. organization. I twice served as a congressional delegate to the United Nations. I believe the United Nations has a great role to play.

But in fact corruption within the United Nations has reached such a height that we learn today we are paying $100,000 per month of bribes to a warlord there, silence money or something. But young Americans are dying to protect and promote this type of corruption; this type of tribal warfare.

Earlier this year I was on a congressional delegation that visited eight countries in Central Africa. All of the leaders in the countries except one are kleptocrats. There is very corrupt leadership in those countries. They are stealing from the people, to put it bluntly. That is the truth.

There appears to be very little public service regard on the part of the so-called public servants in that part of the world. It is very much a tribal, local thing. And now to have American troops in the midst of this on a mission to capture one tribal leader is nonsense. We should get our troops out now.

Under the compromise resolution that is before us, as I understand it, the President would have essentially until November 15 before this body has to act. I wish action could occur much sooner. I wish that troops could not be deployed in this manner unless there was a resolution passed by Congress pursuant to the War Powers Act.

So, Mr. President, in conclusion, we should get our troops out now. I opposed sending them. I called on us to withdraw them earlier. Every day that they remain we will have more obligation, and more unnecessary bloodshed. Middle-class American taxpayers are paying for this unauthorized warlord hunt while in this city where I live, just a few blocks from here, we virtually need military protection.

We have plenty of problems here at home. We have plenty of problems within our own strategic sphere of interest. And yet, year after year, we find we do not have the resources to satisfy our broad interests and to solve our many problems here at home. I do not believe we could build a case that we have a strategic interest in the tribal battles of Somalia. Our troops are no longer distributing food. They are now mired in a civil war that has gone on for many years between tribes in Somalia.

Mr. President, we should withdraw our troops now completely.

Mr. MCCAIN. Mr. President, I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I would like to commend the distinguished Senator from West Virginia for bringing our deployment in Somalia to the floor for debate. Events in Somalia remind me of a recent statement by Secretary of Defense Les Aspin that the new world order is long on new but short on order.

While I share my friend's concern not only about the safety of our personnel and the underlying policy for their continued presence in Somalia beyond completion of Operation Restore Hope, I believe the Congress should send to the President a clear signal that the original humanitarian mission has been fulfilled.

Furthermore, hearings should be held by the Senate Armed Services Committee and the Foreign Relations Committee immediately upon completion of this bill.

Today's tragic news that women and children were killed as a result of their participation in an attack on the U.N. forces is another indication we are no longer stopping starvation but are targets in a civil conflict.

I appreciate what the Senator from West Virginia is doing. I think we must speak out. It is time for the President to consult Congress, and I think it is time for us to get out of Somalia in the most ordered possible way.

Thank you, Mr. President.

I yield my remaining time.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. Mr. President, there are two additional speakers that I have on this side. I hope they will be able to get here in a short period of time. Senator SPECTER I believe has 10 minutes, and I have 10 minutes remaining, of which wewould use 5. Other than that, I have no other speakers on this side that I know of except for Senator WARNER for 2 or 3 minutes.

Mr. SIMON. Mr. President, Senator LEVIN has asked to speak. We are trying to locate him right now. I have no other requests for anyone to speak.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be equally divided, and charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, I yield 3 minutes to the Senator from Virginia, Senator WARNER.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 minutes.

Mr. WARNER. I thank the distinguished Senator from Arizona [Mr. MCCAIN]. I wish to associate myself with the objectives of the Senator from West Virginia [Mr. BYRD] and, specifically, I ask to be an original cosponsor of this Byrd-Mitchell-Dole amendment, recognizing its importance.

Mr. President, many times I have had the privilege of joining the Senator from West Virginia in debates on the War Powers Act and time and time again he has urged this body to assert itself and its constitutional responsibilities as those responsibilities relate to the engagement of our men and women in the Armed Forces in armed conflict beyond our shores.

I interpret this amendment as doing just that, requiring the President and the Congress to work together in partnership. In no sense do I see this amendment as indicating a cut-and-run policy. To the contrary, it is urging both coequal branches of the Government, the executive and legislative branches, to work together in a partnership. That is very important because Somalia is but one action and, regrettably, tomorrow and the next day there will be other parts of the world where we will be called to come in as partners and members of coalition forces.

The credibility of the United States is on the line in Somalia, the credibility as a future reliable partner in fighting aggression somewhere else in the world. That is the future which we all, regrettably, are faced with, one of continuous problems. Through the coalitions of forces we can help to preserve freedom. Therefore, I interpret this amendment as putting the two branches of the Government in partnership for the purpose of establishing a procedure by which this country will make its determinations as to the future involvement in Somalia and preserving United States credibility.

I commend the distinguished Senator from West Virginia. I commend the leadership of the Senate for sponsoring this amendment. I yield the floor.

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

The PRESIDING OFFICER (Mr. ROBB). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. 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. McCAIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided between both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. 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. SIMON. Mr. President, I yield 5 minutes to the Senator from Michigan, Senator LEVIN.

Mr. LEVIN. Mr. President, the Senator from West Virginia has made a very useful contribution in raising this issue, and I believe that this new bipartisan amendment takes the right approach in resolving the issue.

We ought to support the continued presence of the United States in the Somalia operation. We should stand tall, strong and proud behind the men and women of our Armed Forces serving in connection with the United Nations mission now in Somalia. With the cold war over, we finally have an opportunity to develop a united worldwide effort to bring stability to areas where there is chaos.

This operation in Somalia is the first in peace enforcement under Chapter 7 of the United Nations Charter. It is historic. It is multinational. We must not allow it to fail because of one local warlord that is trying to foment chaos. If it was important for us to go to Somalia—and I believe it was and that most of us believed it was—then surely it is important enough to make a reasonable effort to see that when we leave Somalia it does not immediately relapse into the chaos and anarchy that caused the mass starvation to begin with. But, Mr. President, our presence in Somalia is currently too open-ended. The mission is not clear enough. We need a more carefully defined mission, and the U.S. forces should only remain until we accomplish that goal.

The chairman of the Armed Services Committee has rightly observed that setting a specific date for termination of the military operation is counterproductive. It will undercut our objectives. It will put our troops in limbo. And the last thing that we want to do is to put our own forces in a questionable status, where they see that a fixed date is coming for their departure, conditional or otherwise, because that raises the very uncertainty which saps the morale of our Armed Forces. We owe them more than that.

But the commitment to Somalia cannot be an endless commitment. There is another problem that we must try to resolve, and the effort of Senator BYRD will help us resolve, which is that the current command and control being exercised by the U.N. command in Somalia is unclear.

The United States must take the lead in improving the U.N. command, so that we do not have a repetition of the tragic incident earlier this week where Italian troops failed to come to the aid of Nigerian troops that were under attack. And we have to accelerate the effort to help the United Nations build the institutions in Somalia that must take over from the United Nations, the basic building blocks of society like police forces, which are essential if that society is going to rebuild.

But we cannot stay there until that society is rebuilt. We only can take reasonable action to see to it that when we leave there is not an immediate relapse into the chaos which brought us there to begin with. What brought us there was a thousand people dying every day, a half-million babies and elderly already dead, and 2 million more at risk.

We can be proud that we succeeded in our humanitarian mission. Surely we would not want the first Chapter 7 effort under the United Nations Charter to fail, the first multinational effort of this type to fail, and for mass starvation to return to the very site which took so many lives.

The first amendment of the Senator from West Virginia, in my opinion, was too broad, because it left in limbo our troops, because it prejudged the report of the President that we should rightly receive, and I believe prejudiced the outcome of that debate.

But this version, this new version, this bipartisan amendment before us, takes the right approach. It seeks a report from the President. It requires a better definition of our mission and plans to eventually bring the mission to a conclusion. It does not prejudge the report that we require by setting a near-term deadline for cutting off funds or withdrawing our troops.

So, Mr. President, in conclusion, with the report that we require under this amendment, Congress then can evaluate what the President lays before us without prejudgment, without prejudice. The substitute amendment accomplishes the very positive purposes that the Senator from West Virginia originally intended. It avoids the negative consequences that could have flowed from the original amendment that was before the Senate.

I yield the floor, and I thank the Chair.

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

Who yields time?

Mr. McCAIN. Mr. President, I ask unanimous consent that Senator PRESSLER be added as a cosponsor.

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

Who yields time?

Mr. SIMON. Mr. President, I suggest the absence of a quorum and ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, the time will be equally divided.

The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. 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. DOLE. Mr. President, I believe I have 5 minutes. I will try not to take the 5 minutes. I know the hour is late.

Mr. President, let us make it clear that this is a compromise. There have

been a number of Senators on each side of the aisle concerned about this and we have tried to incorporate their views in the compromise. As we have learned over the past day or so, there are many views in the Senate about our involvement in Somalia.

I share many of the same concerns expressed by the distinguished President pro tempore about the nature of the present United States involvement in Somalia—should United States forces be pursuing warlords like General Aideed?

I also read the latest wire story, which was certainly disturbing and will certainly raise concerns as it appears in the news tonight and tomorrow morning—about what our role is, what our mission is, how long we should stay.

I think the distinguished Senator from West Virginia deserves a great deal of credit for bringing this to our attention many weeks ago.

I hope by this compromise we have indicated the strong feeling in the U.S. Senate. We have had consultations. We are going to continue to have consultations with the President and members of the administration. I do think the administration will have to enlist the support of Congress, and I hope that is done as quickly as possible.

So it seems to me that we have forged a compromise that I believe will have strong bipartisan support. I indicated yesterday to President Clinton that I wanted to be helpful. I have had some concerns for some time, triggered by, I might say, comments of my friend from West Virginia, Senator BYRD. We began our involvement in Somalia as a humanitarian effort and I think everybody agreed—maybe not everybody, but most everybody agreed—we were doing the right thing. The American people felt we were doing the right thing and we were, in my view, doing the right thing, because there were hundreds of thousands of people at risk of starvation.

With the humanitarian mission in Somalia nearly completed, U.S. forces are now trying to establish security in Somalia.

The Congress did not play a role in establishing this expanded mission—a mission, for which I must add, no dateline, no end-point has been set. We do not know when U.S. troops will be withdrawn or why they have not yet been withdrawn since the humanitarian effort is winding down.

Addressing the humanitarian crisis in Somalia, while it carried with it clear risks to U.S. military personnel, was a worthwhile mission—a mission I supported. However, now we find ourselves engaged in new operations aimed at pacification and nation-building—operations which place our forces in a dangerous situation without any clear American interest at stake.

As this policy has evolved the administration has consulted with the Congress, but the Congress has not had the opportunity to review in detail the mission, command arrangements, the size, function, locations and anticipated duration of U.S. forces.

Mr. President, this amendment would require the President to submit a detailed report to the Congress that would provide us with this critical information.

The amendment also states that the President should seek and receive congressional approval by November 15, in order for the deployment of United States forces in Somalia to continue.

Mr. President, I have shared my views and concerns about United States operations in Somalia with President Clinton—concerns that are reeinforced by today's news from Mogadishu. Like many of my colleagues I thought that by this time, we would be in the process of withdrawing our troops. I fear that if we do not review our involvement in Somalia and we assume new missions beyond that of providing humanitarian relief, we run the very real risk of getting bogged down in a quagmire. As such, I believe that we should begin transferring our operations to the United Nations.

A thorough review of United States involvement in Somalia is overdue. That is why this amendment is important. This amendment ensures that the Congress will be fully informed on the nature of U.S. operations in Somalia and on progress toward transferring responsibility to the United Nations.

Now some of my colleagues say, well, they like the original amendment much better because it was definite; no questions asked. If there was not a law passed at a certain time, that is it.

But I hope that most of my colleagues would understand that we have tried to work this out on both sides of the aisle, I believe we have reached a good accommodation satisfactory to the distinguished Senator from West Virginia and I think also the administration.

So I am pleased to support the compromise.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. Mr. President, under the previous unanimous consent agreement, I yield to Senator SPECTER for 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania [Senator SPECTER] is recognized for up to 10 minutes.

Mr. SPECTER. Mr. President, I thank the Chair.

I shall be relatively brief. I hope to yield back some of my time. I would like to add a few supplemental thoughts to those which have been expressed already this evening.

I supported the original amendment by the distinguished Senator from West Virginia and spoke on it briefly last night.

I think there are substantial reasons to consider this amendment an improvement in that it is not mandatory and cannot be considered an encroachment on executive authority in any way since it is a sense-of-the-Senate resolution, but it is a very clear statement of how the Senate feels.

I believe that it is very sound public policy, under the circumstances at hand, to require congressional approval before U.S. troops are committed long-term in Somalia. We do not have a situation where we are at war without a declaration by Congress, as we had in Korea and as we had in Vietnam, what I believe to be unfortunate precedents.

We had very substantial debate on the resolution for the use of force in Iraq. This instance demonstrated that in a representative democracy, it is very important to have the backing of the Congress, which means the backing of the people. The bitter experience from Vietnam further demonstrates that we cannot support prolonged military action without public support.

We have started the issue of the War Powers Act here and not gotten involved in the technicalities of that complex subject.

As a matter of public policy, however, our role in Somalia is sound. When the emergency presented itself, the President of the United States, then President Bush, acted. The humanitarian objectives have been fulfilled, at least largely fulfilled.

I believe that there is substantial wisdom to be added by the Congress in debating and focusing public attention on such a matter, especially in the context where we would require a statement of policy by the executive branch. And so far, we have not had that clear-cut statement of policy. We have had news conferences and statements have been made on the Sunday talk shows, but we have not had a statement of clear-cut policy. Such a statement is required and will force the executive branch to focus on our role in Somalia.

I do hope that before U.S. involvement is concluded, that we are able to bring Aideed to justice, because he is a war criminal. The action that he has taken in contravention of action by the U.S. brands him as a war criminal. We are now in the process of setting up a war crimes tribunal which is aimed at the situation in Bosnia on the Serbian atrocities. There may be a need for a tribunal in Somalia as well, if we gain jurisdiction and custody over Aideed.

I recall the wisdom of the Congress in a fascinating session held in S-407 after the bombing of Libya back in 1986. It was the distinguished Senator from West Virginia who at that time had a fascinating dialog with the then Secretary of State, George Shultz on a critical issue as to whether congressional leaders who had been consulted had the authority to recall the planes as they were in transit.

There was just a little bit of a disagreement as to whether Congress was

notified or whether the leaders who had been notified could have recalled those planes.

Without talking too much about what happened or who was right and who was wrong, there was some institutional wisdom that Senator BYRD brought to bear on that situation, and others, which I think commends action by Congress.

We want to be supportive of the executive branch and our new President. But with the current situation in Somalia, there is ample reason to recommend a debate and expression of public policy by the Congress of the United States.

For these reasons, I support this amendment, and I yield the remainder of my time.

The PRESIDING OFFICER. The Senator's time is yielded back. Who yields time?

Mr. GRASSLEY. Mr. President, I wish to associate myself with the remarks of Senator GORTON relative to Somalia.

Mr. D'AMATO. Mr. President, I, too, wish to associate myself with the remarks of Senator GORTON relative to Somalia.

FURTHER MILITARY OPTIONS IN SOMALIA

Ms. MOSELEY-BRAUN. Mr. President, I was not here when President Bush ordered United States forces into Somalia for humanitarian purposes. However, I supported his decision because I knew only too well what was going on in Somalia.

As all of my colleagues know, the famine going on in Somalia last year was absolutely heart-wrenching. The country was losing an entire generation of its children to starvation. Ten-year-old children became the size of 5-year-olds. At the same time, starvation changed their heads and faces to make them seem not just older—children like to look older—but old, like they had missed their childhood and their adulthood and gone directly to very old age.

And their parents were not faring much better. If hunger did not kill them, it crippled them, or prevented them from keeping their own children alive. Can anything be worse for a parent than watching your children literally starve to death and be unable to do anything about it?

What made the situation last year so tragic is that the famine was avoidable. Somalia could have avoided the epidemic of starvation if food had not become a weapon in its ongoing civilwar, and if that war had not prevented the country's agriculture industry from feeding its people.

Ordinarily, when there is a famine, the world's relief apparatus, both private and governmental, goes into action. In Somalia, private charities, and U.N. aid workers attempted to feed people. The civil war, however, made it impossible for aid workers to perform their mission. The only way to get food to the starving innocent children and other victims of the civil war was to provide military protection to the aid workers so that they could feed people.

That is what President Bush proposed to do, and that is what the United States, and later the United Nations, did. And the policy worked; the famine was broken. Children were fed; their parents were fed. The terrible agony of the Somali people was broken.

While the famine has receded, however, the war has not. Because of that fact, the mission of our military forces, and the military forces of many nations serving in Somalia under the flag of the United Nations began to change. Almost imperceptibly at first, the policy began to expand beyond the original humanitarian message; the military forces that came to Somalia to feed the Somali people found themselves being drawn into the civil war, and into nation-building and the restoration of some sort of viable government in a country where all government had totally broken down.

The amendment now before the Senate is therefore very timely, Mr. President. It is time for us to step back a bit and to consider what we are doing and where we want to go.

This amendment ensures that the needed reassessment will happen. It does not require the United States to take precipitate action. Instead, it simply tells the President that the Congress and the American people want to understand where we are in Somalia, what our mission is, what its limits are, and when it will end. I therefore support this compromise amendment, and I urge its prompt adoption by the Senate.

The PRESIDING OFFICER. The Senator from Arizona, Senator MCCAIN.

Mr. MCCAIN. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. MCCAIN. Mr. President, I thank the distinguished majority leader, the Republican leader, and especially our colleague and dear friend from West Virginia for shaping this compromise. I think Members of this body should know the original intent, as I understood it, of the Senator from West Virginia was a much sterner amendment. But for purposes of seeking a compromise I believe will be nearly unanimous, the Senator from West Virginia shaped this compromise.

I would like to thank all of the staffs, as well, who spent the entire day running back and forth between various Members.

We are about to vote on this as soon as the distinguished majority leader has completed his statement. I want to make it clear what we are voting on tonight, even though it is a sense-of-the-Senate resolution. We should all understand that this resolution establishes, in effect, a date certain for a vote on the commitment of United States forces in Somalia.

As the distinguished Senator from West Virginia pointed out, there are many ways that this body can enforce its will on various pieces of legislation that can be far more binding than a sense-of-the-Senate resolution. So the message tonight is we expect a date certain for a vote on the commitment of United States forces in Somalia. We need to do that for the sake of the Constitution, for the sake of the United States prestige, and most important, for the sake of the lives of the young Americans who are serving in Somalia today.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator's time is yielded back. Who yields time?

The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, I yield myself such time as I may use, for up to the time remaining.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. MITCHELL. Mr. President, I join in commending Senator DOLE, Senator BYRD, Senator MCCAIN, Senator SIMON, Senator NUNN, and Senator WARNER, and all of those—Senator LEVIN and others—who participated in the working out of this compromise amendment. I urge all Senators to support the compromise amendment. It has the support of the administration.

The amendment is short, simple, and straightforward. It calls upon the President to report to the Congress by October 15 of 1993 a description of the mission, command arrangement, sites, function, location, and anticipated duration in Somalia of American forces there. And it expresses the belief of the Congress that the President thereafter should, by November 15, 1993, seek and receive congressional authorization in order for the deployment of United States forces in Somalia to continue.

There have been many statements made during this debatetoday on the previous actions or inaction by the Congress with respect to Somalia. I merely want to establish a few facts for the record because I think it is important that every Senator have in mind the context in which we are voting on this amendment.

On December 3, 1992, the United Nations Security Council enacted Resolution 794 which, in its principal operative provision, authorized the use of all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia.

In response to that United Nations resolution, on December 8, 1992, President Bush began deploying United States Armed Forces to Somalia. On December 10, 1992, President Bush reported to Congress on the deployment of those forces to Somalia.

On February 4, 1993, the Senate considered Senate Joint Resolution 45, authorizing the use of United States Armed Forces in Somalia. In its operative provision, that resolution authorized the President to use United States Armed Forces pursuant to the United Nations Security Council Resolution 794 in order to implement that resolution.

The joint resolution considered in the Senate referred to the fact that Congress had, prior to then, expressed its support for a greater U.N. role in addressing the political and humanitarian situation in Somalia through two resolutions previously adopted in the Senate and one previously adopted in the House.

Senate Joint Resolution 45 was approved by the Senate without dissent. Not a single Senator objected to the approval of this, the resolution to which I have just referred. And, as I noted, in that resolution reference was made to the fact that previously the Senate had twice gone on record through resolutions urging support for a greater U.N. role in addressing the political and humanitarian situation in Somalia.

The matter then went to the House where sometime later it was taken up, and on May 25, 1993, the House considered Senate Joint Resolution 45. It amended that resolution substantially and greatly broadened the definition of the mission of American forces.

In its operative provision the resolution, as approved by the House of Representatives on May 25, stated that the Congress supports United Nations efforts in Somalia:

First, to help provide a secure environment for famine relief efforts;

Second, to prevent a resumption of violence;

Third, to help restore peace, stability, and order through reconciliation, rehabilitation, and reconstruction of Somali society;

And, fourth, to help the people of Somalia create and maintain democratic institutions for their own governance.

The resolution was approved by the House of Representatives by a vote of 243 to 179. And on the following day, May 26, 1993, it was returned from the House to the Senate. Shortly thereafter, I requested consent to proceed to conference with the House on the two resolutions. That was met with a Republican objection. Objection was made by a Republican Senator, not disclosed then or known to me now, to proceeding to conference on that matter. And that objection has persisted until now.

So it is true, as has been repeatedly stated, that the Congress as a whole has not acted with respect to this matter.

The differing versions—and as I noted they are substantially different—the differing versions approved by the Senate unanimously and by the House by a vote of 243 to 179 were never reconciled and approved as a whole by the Congress. But I think it is important that anyone listening to this debate understand that each body has previously separately acted with respect to this matter, in the Senate, as I noted, without dissent from a single Senator and in the House by the vote to which I referred.

I believe that the amendment on which we are about to vote is a sensible, prudent, responsible amendment, and I hope all Senators will join in voting for it. I hope, also, and I am certain that the President will take seriously the reporting requirement in this amendment and that he and the members of his administration will present a meaningful, detailed report to the Congress as called for by this amendment and that within the context of that report and the other provisions of this amendment that the Congress will have the opportunity to evaluate and express its view on what the mission and role of American forces should be, whether they should continue or be withdrawn. I think that is entirely appropriate and consistent with the requirements of the Constitution and with the responsibilities that this Senate and this Congress have.

Accordingly, Mr. President, I now ask unanimous consent, to complete the record in this matter, that the resolutions to which I previously referred, Senate Joint Resolution 45, as approved by the Senate, and in the amended form approved by the House of Representatives, be printed in the RECORD.

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

S.J. RES. 45

Whereas an estimated 300,000 Somalis reportedly have died of hunger or as casualties of widespread violence since the fall of Siad Barre in January 1991;

Whereas international relief agencies had been unable to deliver adequate assistance to those most in need due to increasingly difficult and dangerous security conditions, including pervasive banditry and looting;

Whereas Congress has expressed its support for a greater United Nations role in addressing the political and humanitarian situation in Somalia through Senate Resolutions 258 and 132 and House of Representatives Resolution 370;

Whereas the United Nations Secretary General and United States officials had concluded that massive intervention in Somalia would be necessary to avert further starvation on this scale;

Whereas the United Nations Security Council on December 3, 1992, enacted Resolution 794, authorizing the use of "all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia";

Whereas President Bush began deploying United States armed forces on December 8, 1992, in response to United Nations Resolution 794;

Whereas more than 20,000 American servicemen and women are now in Somalia under Operation Restore Hope and have been joined by troops from many other nations;

Whereas President Bush has emphasized that United States Armed Forces will be withdrawn and that the security mission will be assumed by the United Nations' UNOSOM operation as soon as a "secure environment" for the delivery of food has been created; and

Whereas, on December 10, 1992, President Bush formally reported to Congress on the deployment of United States Armed Forces in Somalia: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Authorization for Use of United States Armed Forces in Somalia".

SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION.—The President is authorized to use United States Armed Forces pursuant to United Nations Security Council Resolution 794 in order to implement the Resolution, which authorizes the use of "all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia".

(b) WAR POWERS RESOLUTION REQUIREMENTS.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

SEC. 3. SENSE OF CONGRESS.

(a) UNITED NATIONS PEACEKEEPING FORCES.—It is the sense of Congress that the President should consult with the Secretary General of the United Nations and with the other member countries of the United Nations Security Council to ensure that peacekeeping forces from other countries of the United Nations continue to be deployed in Somalia to maintain a secure environment and to allow United States Armed Forces to transfer the mission to a United Nations-led force at the earliest possible date.

(b) MEASURES OF SELF-PROTECTION.—It is the sense of Congress that the President should make every effort to ensure that United States Armed Forces serving in Somalia as part of a Untied Nations-led force are permitted to take all reasonable measures to protect themselves.

(c) ASSESSMENT OF COSTS.—It is the sense of Congress that the President should submit a report to Congress providing an assessment of the costs of Operation Restore Hope, indicating the costs assessed to the UnitedStates, the United Nations, and other countries and related organizations involved in the operation.

SEC. 4. REPORTING REQUIREMENT.

Not later than September 1, 1993, the Secretary of State and the Secretary of Defense shall jointly submit to Congress a report on the introduction and commitment of United States Armed Forces into combat situations. This report shall include—

(1) a specific review of the goals of United States policy in Somalia and an outline of objective criteria which will enable the United States to evaluate when those goals are achieved;

(2) a review of all actions taken to ensure that United States material contributions to United Nations forces in Somalia are counted against United States assessments in Somalia;

(3) a review of United States international interests and their correlation to the commitment of United States Armed Forces;

(4) a description of the factors to be used in evaluating future commitments of United States combat forces;

(5) specifically, a review of the many situations in the world where there are intense humanitarian needs and a means of evaluating what elements, when present, would permit these situations to rise to a level of importance necessary for the commitment of United States combat forces; and

(6) considerations which will affect whether United States Armed Forces will be permitted to be engaged as a portion of an international peacekeeping force, including—

(A) United States command of United States troops;

(B) equitable financial contributions of nations so engaged; and

(C) the right of United States combat forces to defend themselves throughout all levels of conflict.

Resolved, That the resolution from the Senate (S.J. Res. 45) entitled "Joint Resolution authorizing the use of United States Armed Forces in Somalia", do pass with the following amendments: Strike out all after the resolving clause and insert:

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Resolution Authorizing the Use of United States Armed Forces in Somalia".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) An estimated 300,000 Somalis have died as a result of hunger and widespread violence since the fall of Siad Barre in January 1991.

(2) On December 3, 1992, the United Nations Security Council adopted Resolution 794 in which the Security Council—

(A) determined that "the magnitude of the human tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constitutes a threat to international peace and security", and

(B) acting under Chapter VII of the Charter of the United Nations, authorized the use of "all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia".

(3) United States Armed Forces entered Somalia on December 9, 1992, in response to Security Council Resolution 794.

(4) The United Nations Secretary General concluded in his report of March 3, 1993, that without improved security throughout Somalia "the political process cannot prosper and humanitarian relief operations will remain vulnerable to disruption".

(5) The Secretary General recommended in his report that the United Nations Security Council adopt a resolution effecting the transition from the United States-led force in Somalia to a United Nations-led force, with the formal date of transfer of command to be May 1, 1993.

(6) The Secretary General's report envisioned a United Nations-led force having a multinational military component of 20,000 personnel, plus an additional 8,000 personnel to provide logistic support.

(7) On March 26, 1993, the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, adopted Resolution 814 in response to the Secretary General's report. This resolution provides for the establishment of the United Nations-led force in Somalia by expanding the size and mandate of the original United Nations peacekeeping force in Somalia (commonly referred to as "UNOSOM") in accordance with the recommendations contained in the report of the Secretary General.

(8) United States Armed Forces will participate in the United Nations-led force in Somalia as part of the multinational logistic support contingent, providing logistical, communications, and intelligence support.

(9) In addition to logistic forces, the United States will make available a battalion-sized tactical quick reaction force to respond to requests for emergency assistance from the United Nations Force Commander in Somalia. This quick reaction force will be under United States operational control.

(10) The transfer of operations in Somalia from the United States-led force to the United Nations-led force will result in a substantial reduction in the number of members of the United States Armed Forces that are deployed in Somalia and in the costs incurred by the United States as a result of United Nations-authorized operations in Somalia.

(11) The Congress should authorize any use of United States Armed Forces to implement United Nations Security Council Resolutions 794 and 814.

(12)(A) The Congress does not anticipate that United States Armed Forces will need to remain in Somalia for more than 12 months after the date of enactment of this joint resolution to implement United Nations Security Council Resolution 814.

(B) Given the importance of the mission of the United Nations-led force in Somalia, however, the Congress will give strong consideration to extending the authorization for the use of United States Armed Forces to implement Resolution 814 should such continued use be necessary to ensure the success of the United Nations-led force in Somalia.

SEC. 3. SUPPORT FOR UNITED NATIONS EFFORTS IN SOMALIA.

The Congress supports United Nations efforts in Somalia—

(1) to help provide a secure environment for famine relief efforts;

(2) to prevent a resumption of violence;

(3) to help restore peace, stability, and order through reconciliation, rehabilitation, and reconstruction of Somalia society; and

(4) to help the people of Somalia create and maintain democratic institutions for their own governance.

SEC. 4. SUPPORT FOR UNITED STATES ARMED FORCES IN SOMALIA.

(a) FINDINGS.—The Congress finds that—

(1) prior to United Nations-authorized operations in Somalia, over 300,000 Somalia (including one-fourth of the children under the age of five) died due to civil strife, disease, and famine, and at least one-half of Somalia's population of 8,000,000 people, were considered at risk starvation;

(2) the number of deaths from starvation in Somalia has declined significantly since the arrival of the United States-led force in Somalia; and

(3) the United States contributed immeasurably to the United States-led force in Somalia, including the deployment of over 20,000 members of the Armed Forces and the loss of American lives.

(b) COMMENDATION OF UNITED STATES ARMED FORCES.—The Congress commends the United States Armed Forces for successfully establishing a secure environment for the humanitarian relief operations in Somalia.

SEC. 5. AUTHORIZATION FOR USE OF ARMED FORCES.

(a) IMPLEMENTATION OF SECURITY COUNCIL RESOLUTIONS.—The President is authorized to use United States Armed Forces to implement United Nations Security Council Resolutions 794 (1992) and 814 (1993), including the use of such Armed Forces—

(1) to provide logistic and related support for the United Nations-led force in Somalia under the authorization provided by United Nations Security Council Resolution 814 (1993); and

(2) to serve as a tactical quick reaction force, under United States operational control, to respond to requests for emergency assistance from the United Nations Force Commander in Somalia.

(b) STATEMENTS OF INTENT REQUIRED BY WAR POWERS RESOLUTION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that subsection (a) is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution to the extent that any United States Armed Forces being used for the purposes described insection (a) are or become involved in hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances.

(c) EXPIRATION OF AUTHORIZATIONS.—The authorizations provided by subsection (a) shall expire at the earlier of—

(1) the end of the 12-month period beginning on the date of enactment of this joint resolution, unless the Congress finds that continued participation by the United States Armed Forces is necessary to ensure the success of the United Nations-led force in Somalia and extends the period of such authorizations; or

(2) the expiration of the mandate of the United Nations-led force in Somalia.

SEC. 6. REPORTS REGARDING USE OF UNITED STATES ARMED FORCES.

(a) PERIODIC REPORTS.—

(1) INFORMATION TO BE PROVIDED.—The President shall submit periodic reports to the Congress with respect to United States Armed Forces participation in and support for the United Nations-led force in Somalia. Each such report shall—

(A) specify the number of members of the United States Armed Forces participating in the United Nations-led force in Somalia or operating in support of that force;

(B) specify where United States Armed Forces are deployed as part of the United Nations-led force in Somalia and where United States Armed Forces are deployed that are operating in support of that force;

(C) specify the functions being performed by United States Armed Forces participating in the United Nations-led force in Somalia;

(D) specify the functions of United States Armed Forces operating as a tactical quick reaction force in support of the United Nations-led force in Somalia, and describe any use of United States Armed Forces as a quick reaction force;

(E) specify the command arrangements applicable with respect to United States Armed Forces participating in the United Nations-led force in Somalia or operating in support of that force; and

(F) specify the anticipated duration of the deployment of United States Armed Forces as part of the United Nations-led force in Somalia or in support of that force.

(2) REPORTING DATES AND PERIOD COVERED BY EACH REPORT.—A report pursuant to this subsection shall be submitted—

(A) not later than July 1, 1993, covering the period since March 3, 1993; and

(B) not later than July 1, 1994, covering the period since the preceding report pursuant to this subsection.

(3) WAR POWERS RESOLUTION REPORTING REQUIREMENTS.—The requirements of this subsection do not supersede the requirements of section 4 of the War Powers Resolution.

(b) REPORT ON TRANSITION TO U.N.-LED FORCE.—The first report submitted pursuant to subsection (a) shall specify the number of members of the United States Armed Forces, if any, remaining in Somalia as part of the United States-led force in Somalia.

(c) AGREEMENT WITH UNITED NATIONS.—The President shall transmit promptly to the Congress a copy of any memorandum of understanding or other written agreement entered into by the United States with the United Nations Security Council, the Secretary General of the United Nations (or his Special Representative), or the United Nations Force Commander in Somalia—

(1) regarding the participation of United States Armed Forces in the United Nations-led force in Somalia;

(2) regarding United States Armed Forces operating as a tactical quick reaction force in support of that force or otherwise in support of that force; or

(3) otherwise regarding the availability to the United Nations Security Council of United States Armed Forces, assistance, or facilities to implement Security Council Resolution 794 or 814.

SEC. 7. REPORTS ON COSTS ON UNITED NATIONS-AUTHORIZED OPERATIONS IN SOMALIA.

(a) REQUIREMENT FOR PERIODIC REPORTS.—The President shall submit to the Congress periodic reports regarding the costs of the United States-led force in Somalia and the United Nations-led force in Somalia.

(b) INFORMATION ON COSTS AND OTHER CONTRIBUTIONS.—Each report pursuant to this section shall specify (to the extent such information is available to the United States)—

(1) the amount of the incremental costs incurred by the United States as the result of its participation in the United Nations-led force in Somalia or as the result of its participation in or military operations in support of the United Nations-led force in Somalia;

(2) the amount of other in-kind or financial contributions pledged, and the amount of such contributions made, by each participating country toward the costs associated with the United States-led force in Somalia and the United Nations-led force in Somalia, including contributions to the United Nations Trust Fund for Somalia and excluding amounts reported pursuant to paragraph (3);

(3) the amount assessed by the United Nations to the United States and each other country for its contributions to the costs associated with the United Nations-led force in Somalia;

(4) the amount received by the United States and each other country as reimbursement from the United Nations, including reimbursements from the United Nations Trust Fund for Somalia, as the result of its participation in the United States-led force in Somalia; and

(5) the amount received by the United States and each other country as credit against an assessment described in paragraph (3) from the United Nations for costs that it incurred as the result of its participation in or military operations in support of the United Nations-led force in Somalia.

(c) REIMBURSEMENT OF COSTS INCURRED BY THE UNITED STATES IN SOMALIA.—It is the sense of the Congress that the President should seek to ensure that incremental costs incurred by the United States in connection with the United States-led force in Somalia and in connection with the United Nations-led force in Somalia are reimbursed to the maximum extent possible by the United Nations and other members of the international community. Each report pursuant to this section shall review all actions taken by the United States to achieve this objective.

(d) REPORTING DATES AND PERIOD COVERED BY EACH REPORT.—A report pursuant to this section shall be submitted—

(1) not later than 1 month after the date of enactment of this joint resolution, covering the period ending on the last day of the penultimate month preceding the enactment of this joint resolution; and

(2) not later than 12 months and 24 months after that date, covering the 12-month period following the period covered by the preceding report pursuant to this section and also providing cumulative information.

SEC. 8. DEFINITIONS.

As used in this joint resolution—

(1) the term "United Nations Force Commander in Somalia" means the commander appointed by the Secretary General of the United Nations to command the United Nations-led force in Somalia;

(2) the term "United Nations-led force in Somalia" means the expanded force (commonly referred to as "UNOSOM II") authorized by paragraph 5 of United Nations Security Council Resolution 814 (1993);

(3) the term "United Nations Trust Fund for Somalia" means the trust fund established and maintained pursuant to United Nations Security Council Resolutions 794 and 814; and

(4) the term "United States-led force in Somalia" means the force (commonly referred to as the "Unified Task Force" or "UNITAF") authorized by United Nations Security Council Resolution 794 (1992).

Mr. MITCHELL. Mr. President, I yield back the remainder of my time. I ask my colleagues if we could not now have the vote so we can proceed on this matter, the issue having been thoroughly debated in the Senate?

The PRESIDING OFFICER. The Senator from West Virginia controls 27 minutes remaining.

Mr. BYRD. I thank the Chair. Mr. President, I feel that my colleagues and the majority leader and the minority leader have every intention of carrying out this resolution in good faith. I have no reason to question that. But I am supporting this resolution in the belief that the leadership of this Senate will insist that the Senate act when the administration sends up its report. I truly believe that. I have not asked the majority leader that. I take it for granted that will be the case.

And I want to say if it does not, there will be an appropriations matter, and we will get action in that event. I say this for the benefit of the administration. I will be glad to yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to amendment No. 790. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri [Mr. DANFORTH] would vote "yea."

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

The result was announced—yeas 90, nays 7, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—90

Akaka	Feinstein	McConnell
Baucus	Ford	Metzenbaum
Bennett	Glenn	Mikulski
Biden	Graham	Mitchell
Bingaman	Gramm	Moseley-Braun
Bond	Gregg	Moynihan
Boxer	Harkin	Murray
Bradley	Hatch	Nickles
Breaux	Hatfield	Nunn
Bryan	Heflin	Packwood
Bumpers	Helms	Pell
Burns	Hollings	Pressler
Byrd	Hutchison	Pryor
Campbell	Inouye	Reid
Chafee	Jeffords	Riegle
Coats	Johnston	Robb
Cochran	Kassebaum	Rockefeller
Cohen	Kempthorne	Roth
Conrad	Kennedy	Sarbanes
Coverdell	Kerrey	Sasser
Craig	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Simpson
Dodd	Leahy	Smith
Dole	Levin	Specter
Domenici	Lieberman	Stevens
Dorgan	Lott	Thurmond
Durenberger	Lugar	Warner
Exon	Mathews	Wellstone
Faircloth	McCain	Wofford

NAYS—7

Boren	Feingold	Mack
Brown	Gorton	
D'Amato	Grassley	

NOT VOTING—3

Danforth	Murkowski	Wallop

So the amendment (No. 790) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 782, as amended and modified.

Without objection, amendment No. 782 is agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, we made good progress today. We have not had as many rollcalls but we have been working with a number of Senators and worked out a number of amendments which we will be able to handle later tonight that are agreed to on both sides.

In addition, we have an important amendment by the Senator from Arkansas, Senator PRYOR. I have looked at that amendment and I talked about it. It is on testing of SDI. I will recommend to our colleagues on the Republican side that we accept it. But we have not gotten that signoff yet from them.

The Senator from Nebraska may have switched sides. If he is now with the Republicans, we have a deal, I think.

(Laughter.)

I would say that after that the Senator from Arizona, Senator DECONCINI, has an amendment which I will not agree to. I will be opposed to it. But I will have a substitute. The question is whether the substitute might be able to be agreed on. I cannot say that.

So we have two amendments that I think we can dispose of in the not too distant future. I do not believe the Senator from Arizona wants to talk too long.

Mr. DECONCINI. If the Senator will yield, will it be a substitute?

Mr. NUNN. It will be a modification.

In any event, with these two amendments, then what I would like to do is to wrap up as many of the amendments that have been agreed to on both sides. I will stay here and any other Member who would like to stay here late tonight I will stay, and we will make sure if you have an amendment you think can be accepted we will stay in business until people have given us an opportunity to look at those amendments.

It is my view that we can complete this bill by sometime late tomorrow afternoon or tomorrow evening. I will leave it up to the majority leader as to how late we stay tomorrow night. But I do believe that we can finish this bill tomorrow night and it would be my hope that we would do so.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Does the Senator from Georgia yield?

Mr. DORGAN. Mr. President, would the Senator from Georgia yield?

Mr. NUNN. Yes.

Mr. DORGAN. Do I understand from the remarks of the Senator from Georgia that he would be anticipating additional rollcall votes this evening?

Mr. NUNN. It is impossible to say right now because I have not gotten agreement on the PRYOR amendment. We would hope to know in about 10 minutes on that and on the DECONCINI amendment. It depends on the substitute. I think the DECONCINI amendment, unless the modification is agreed to by the Senate, will require a rollcall vote.

Mr. DORGAN. I thank the Senator.

Mr. THURMOND. Mr. President, I have tremendous respect for our chairman. I have worked with him for years, and I admire him greatly. But I do not see any need to rush this bill. A number on both sides of the aisle I understand want to leave here tomorrow around lunchtime and we can come back here Monday and finish this bill up and get through it in a hurry. I do not see any need to discommode these people. Can we finish it Monday?

Mr. NUNN. I say to the Senator from South Carolina that I have been on the floor handling an awful lot of these defense bills in the last few years and I know he has also. My experience is if we do not finish the bill this week we will be in all of next week on the bill. I have never underestimated the ability of staff in this institution to think up new amendments faster than we can dispose of old amendments. I have watched it over and over again. The longer you keep a defense bill on the floor the more amendments there are.

We probably have something like 60 amendments now. My guess is about 30 of those are going to be able to be worked out. Three or 4 of them, maybe 5 or 6 of them, will require rollcall votes. That could easily be done in one day.

If we hold this bill off until Monday we will probably have 120 to 150 amendments by Monday morning. Then it depends on the majority leader.

I enjoy handling defense bills and I enjoy being on the floor. I am willing to be here all next week, but there are other matters of great importance to the Senate. So that is a matter for the majority leader to call. But the only way I would agree to go over to Monday myself would be if we locked out amendments and had an absolute ironclad number that we would be able to deal with. My experience is that there are a lot of amendments on this list that are going to evaporate about 3 or 4 o'clock tomorrow afternoon. But that is conjecture on my part.

Mr. THURMOND. Mr. President, as a matter of fact, could we just cut these amendments off?

Mr. NUNN. Senator, if the Senator will make the motion, I will second it, and we will see what the Senate does. But my experience tells me——

Mr. THURMOND. Just cut them off and come back here Monday and finish the bill. Just cut them off now.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I just want to say to my distinguished friend and colleague the last thing in my mind is inconveniencing the Members of the Senate.

I feel constrained to point out that we just returned from 4 weeks off. We have only been here in session a couple of days. We are only going to be in session a couple of days next week. Now we are already being asked to discontinue for this week. Pretty soon, we are going to have a Senate that meets between 2 and 4 a.m. once every other year. [Laughter.]

So we want, very seriously, to convenience as many Senators as possible, but we have to act on the appropriations bills prior to the end of this fiscal year. We have only a very few days left.

So my hope is that we could proceed and complete action on this bill this week. I hope we can do so. That means we will have to stay here for a while and work on it. I will talk with the chairman and the ranking member and the Republican leader about how best to proceed this evening. But I think it is essential that we be here tomorrow, and that Senators plan on being here for a long day tomorrow.

Mr. THURMOND. Are you not the one that wants to do this, and not the chairman? Are you not bringing pressure on him? That is the general rumor.

Mr. NUNN. I say that the chairman wants to finish this bill as much as the majority leader. I know the majority leader's situation. He has a lot of other bills to bring up. I know the Senator from South Carolina recognizes that if the authorization bill does not pass, we do not get to conference, and that the appropriations bills will basically come along without having the benefit of the guidance of the authorization process. So the longer this bill stays around here, the less relevant it becomes to the whole process.

Mr. THURMOND. Why do we not cut off all amendments and come back here Monday and finish it?

Mr. NUNN. If we could get the unanimous consent request, I would support it.

Mr. LEAHY. Would the Senator yield on this issue of schedule?

Mr. NUNN. Yes.

Mr. LEAHY. The Senator from Georgia and the Senator from Maine are absolutely right in trying to finish this bill up because of the appropriations bill. As chairman of the Foreign Operations Subcommittee, I must point out that we have an extraordinary problem coming up on the foreign aid bill, and which is that it contains both a supplemental and a regular bill. It has to be passed in this body, gone through conference, and the conference report passed by September 30, or half of the aid promised to Russia is gone. The aid to a number of other countries, including ones very much in the news tonight, is jeopardized.

It is a policy issue, and we may want to consider whether we go forward. There are a lot of other appropriations subcommittees I serve on. I think the Senator from Georgia would agree that one of our major security interests right now is our relationship with the former Soviet Union and what we might do in carrying out agreements supported by the Senator from Georgia, by the Senator from Kansas, the distinguished Republican leader, and others, on bipartisan support. But those agreements will not be carried out if we do not complete that legislation and have it signed by the President by September 30, and because of the unique nature of them. I suspect there are a lot of other bills like that.

While I would like to go home and go to bed and take off early for the weekend, I think we have to finish.

Mr. MITCHELL. Mr. President, I think it best that we proceed with the pending amendment and, as that is

being considered, I will discuss with the managers and the distinguished Republican leader how best to proceed in a way that moves our business forward and represents the least amount of inconvenience for Senators.

Mr. NUNN. Mr. President, I suggest we go to the Pryor amendment.

AMENDMENT NO. 791

(Purpose: To provide for the monitoring of tests of projects and activities relating to the ballistic missile defense of the United States)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 791.

Mr. PRYOR. 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 65, between lines 13 and 14, insert the following:

SEC. 228. TESTING OF NATIONAL MISSILE DEFENSE PROGRAM PROJECTS.

(a) ADVANCE REVIEW AND APPROVAL OF PROPOSED DEVELOPMENTAL TESTS.—No developmental test may be conducted under the limited missile defense program element of the Ballistic Missile Defense Program until the Director of the Ballistic Missile Defense Organization has notified the Secretary of Defense of the test and the Secretary has reviewed and approved (or approved with changes) the test plan.

(b) INDEPENDENT MONITORING OF TESTS.—(1) The Secretary shall provide for monitoring of the implementation of each test plan referred to in subsection (a) by a group composed of independent persons who—

(A) by reason of education, training, or experience, are qualified to monitor the testing covered by the plan; and

(B) are not assigned or detailed to, or otherwise performing duties of, the Ballistic Missile Defense Organization and are otherwise independent of such organization.

(2) The monitoring group shall submit to the Secretary its analysis of, and conclusions regarding, the conduct and results of each test monitored by the group.

Mr. PRYOR. Mr. President, my amendment addresses one of the major portions of the SDI Program, the Ballistic Missile Defense Program, and would require that future tests be monitored by independent monitors and testers appointed by the Secretary of Defense.

We think that this amendment is constructive. I talked today to the Under Secretary for Acquisition, John Deutch, and I do not want to say that he has endorsed this, but he certainly sounded interested in it. I think I can report that he said it was something that could be constructively utilized.

Mr. President, due to the allegations that I have received on SDI test results and the disturbing findings of the General Accounting Office, I am offering an amendment to the DOD authorization bill to hopefully improve the reliability of the test results reported by the Star Wars Program, or as it is now called, the National Missile Defense Program.

The GAO and the Secretary of Defense are still reviewing the allegations that the 1984 test was rigged for success. However, in September 1992, the GAO reported that misleading test results were reported by the Strategic Defense Initiative Organization for tests conducted from 1990 to 1992.

For example, the Strategic Defense Command claimed in a press release that a test of the kinetic kill vehicle integrated technology experiment [KITE] "validated the design of the shroud." In fact, GAO says the test reports show just the opposite. The "shroud broke off in pieces and hit the vehicle." In yet another test, SDIO was attempting to prove the ground-based interceptor could discriminate between targets. SDIO and the Strategic Defense Command claimed that the goal was achieved. GAO says this claim is inaccurate.

Mr. President, like many highly technical programs, it is difficult to fully understand scientific advances that are being developed constantly. Testing allows the program managers to understand what they have developed and where they need to go. A successful test is very often the measure that Congress uses when making funding determinations. A successful test is also one of the measures that the public uses to determine whether they support or oppose a Government program. It is essential that we be able to fully trust the test results reported to us by the Department of Defense, in fact, by all Government agencies.

The GAO report, plus the serious allegations I have received, completely undermine the trust we can place in the test results given us by the SDIO, now the BMDO. Therefore, my amendment requires the BMDO to notify the Secretary of Defense whenever a test is needed and the Secretary must appoint an independent body to oversee the test and evaluate the test results. The testing authority would not be removed from BMDO but there would be someone looking over their shoulder to ensure that the actual test results are the test results reported to Congress and the public at large.

Mr. President, I believe this amendment is not unduly burdensome but gives us some assurance that we can trust again when we are told that a program has been successful. I urge my colleagues to support my amendment.

Mr. THURMOND. Mr. President, the amendment of the Senator from Arkansas is largely meaningless in that it would set up a new independent test organization to oversee national missile defense tests conducted by the Ballistic Missile Defense Organization. The Senate's earlier decision to pass the Sasser amendment cutting $400 million from missile defense funding guarantees there will be no national missile defense. That is why I say the measure is meaningless—at least in terms of its practical effect.

But there is still an important principle involved in the consideration of this amendment. While I do not intend to engage in a lengthy battle over the amendment, I nevertheless want to address this fundamental principle before sheathing my sword.

Years ago, Congress established an independent Office of Operational Test and Evaluation to oversee all DOD testing. In other words, what the Senator from Arkansas proposes already exists. Why does he want to duplicate this fine organization?

I can think of only one explanation. This amendment is the result of a well-orchestrated disinformation campaign that began a few weeks ago with an article in the New York Times, then was picked up and run in other news media around the Nation. As Senators have already heard, the article alleged that the June 1984 homing overlay experiment was rigged, and was part of an operation to deceive the Soviets about the potential of our SDI Program. The article also claimed that Congress was deceived at the same time.

These allegations have been denied by former Secretary of Defense Caspar Weinberger, and by Gen. Eugene Fox, who directed the experiment. I am forced to ask whether my friend from Arkansas thinks those gentlemen, who have sterling reputations, deliberately deceived us, and then lied about it.

The Times article was based on a deep ignorance of missile defense technology, and on a clear misunderstanding of the test. The reporter ignored the evidence that did not fit his preconceived bias, and he relied on unnamed, hostile sources who he admits were not directly involved in the test.

Dr. Bill Perry, Deputy Secretary of Defense, briefed several members of the Armed Services Committee earlier on the facts of the homing overlay experiment. Dr. Perry said the allegations in the article are not just wrong, but dead wrong. Moreover, he reminded us that all the technical aspects of the experiment which the article misrepresented so badly were a matter of public record, so there was clearly no deception involved in the June 1984 intercept test. Secretary Aspin said the same thing in a lengthy statement. In light of such a flawed and shoddy piece of journalism, who is really guilty of deception? Is a falsehood no less a falsehood because it appears in the New York Times?

Mr. President, it is a shame that people are so opposed to missile defense for the American people—an effort this body began funding 30 years ago, by the

way, long before the homing overlay experiment—that they will even slander a U.S. Army officer and former Secretary of Defense to bolster their case. The experiment was not a scandal, but it is scandalous to accuse good people of lying without checking the facts with people who know the truth of the matter.

Thanks to the Times article and its aftermath, it now appears to be a crime to believe that the American people can and should be defended from ballistic missiles. Because of this so-called scandal, whipped up artificially just in time for Senate action on this bill, the Senator from Arkansas would have us set up an independent test organization for missile defense tests. He would create another layer of bureaucracy to make sure that BMDO does not deceive Congress.

It would have to be independent of the Defense Department, because the Pentagon has an agenda, and the Senator seems to believe people who have an agenda cannot be trusted to tell the truth. But if Congress can't trust the Pentagon to report test results, why should we trust a new group any more? What if they have an agenda? Does the Senator believe we would have better defense programs if we put people in charge who do not believe in their mission?

Mr. President, I now come back to the fundamental principle I mentioned earlier. I believe it would be a mockery of the legislative process to enact an amendment because of one article in a newspaper long known for its antidefense bias and bitter opposition to SDI. What confidence can the American people have in us, or the laws we pass, if we rush to embrace a punitive, unwise, and unnecessary amendment simply because of a discredited story in the New York Times?

Perhaps the Senator thinks we need this amendment to prove to the American people that the Congress is not easily deceived. But passing the amendment would do more to convince them we are gullible than anything we could do, for it is SDI opponents who have engaged in deception.

Mr. President, I urge the amendment be defeated, and yield the floor.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment. The amendment (No. 791) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 792

(Purpose: To increase funding for comprehensive substance abuse treatment programs for women and children)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. HARKIN, and Mr. KENNEDY, proposes an amendment numbered 792.

Mr. DECONCINI. 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 242, after line 19, add the following new section:

SEC. 1067. DRUG TREATMENT FOR WOMEN AND THEIR CHILDREN.

(a) FINDINGS.—Congress finds the following:

(1) Despite the fact that drugs are having a devastating effect on families in America, drug-exposed babies and their substance-abusing mothers go largely untreated. Women who do seek treatmentoften face tremendous barriers to care, most notably the fear of prosecution for abuse or neglect or of losing children to protective services, and the lack of gender-specific treatment interventions, including inadequate child care services.

(2) The growing phenomenon of infants prenatally exposed to alcohol and other drugs is exacerbated by the inaccessibility of treatment for drug-addicted mothers. It is estimated that between 100,000 and 375,000 drug-exposed infants may be born annually to chemically dependent women, with 500,000 cocaine-exposed infants projected by the year 2000.

(3) Mother-to-baby drug exposure comes at great economic and social cost to the Nation. Human costs can be measured by the problems of premature and low birth-weight infants, fetal alcohol syndrome/fetal alcohol effect, mental and developmental delays, and perinatal transmission of HIV and other sexually transmitted diseases. The United States ranks poorly among Western nations in infant mortality with maternal use of alcohol and other drugs thought to be a contributing factor.

(4) Currently there are 430,000 children in foster care. By 1995, this number is expected to increase to 550,000 children. A large portion of this increase in thought to be due to the introduction of crack cocaine in the mid 1980s and the increasing number of families who are abusing alcohol and other drugs.

(b) TRANSFER OF CERTAIN FUNDS.—Of funds appropriated to or for the Department of Defense and which remain unobligated on October 1, 1993, $85,485,000 shall be rescinded and $50,000,000 shall be transferred to the Department of Health and Human Services and shall remain available until September 30, 1994. Of such amount—

(1) $30,000,000 shall be available under section 510 of the Public Health Service Act (42 U.S.C. 290bb-3), of which—

(A) 50 percent of such amount shall be used for comprehensive residential treatment programs for women and children; and

(B) 50 percent of such amount shall be used for comprehensive outpatient treatment programs for women and children; and

(2) $20,000,000 shall be distributed to States pursuant to the formula under section 1933 of the Public Health Service Act (42 U.S.C. 300x-33) to be used by States towards their responsibility to provide treatment services for women under section 1922(c) of such Act (42 U.S.C. 300x-22(c)).

Mr. FORD. Will the Senator yield?

Mr. DECONCINI. Yes, I yield to the Senator.

Mr. FORD. Do we have a time agreement?

The PRESIDING OFFICER. There is no time agreement.

Mr. FORD. Mr. President, I understand the Senator is willing to accept an hour, equally divided.

Mr. DECONCINI. Well, if the Senator would just hold off a minute, the manager of the bill is in another conference and is going to come out and talk about that, as well. I think we can do that.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, today I am joining with Senators KENNEDY and HARKIN to offer an amendment that would authorize the transfer of $50 million from the unobligated balance of funds available within the Department of Defense budget at the beginning of fiscal year 1994 to the Department of Health and Human Services to fund treatment programs for mothers and children.

In 1990, I stood before this body and offered a similar amendment that would have transferred $100 million from DOD to HHS for substance abuse treatment for families. I did so then—and I do so now—because I believe our national security is threatened today by an enemy within our very borders.

The substance abuse crisis in America cuts across lines of race and class. It infects not just our cities, but our suburbs and rural towns. It is a national tragedy that threatens to overwhelm our health care system, our overburdened foster care system, our system of education, our legal system—and our families.

According to a recent Columbia University report, one-fifth of all the Medicaid money we spend on hospital care is spent as a direct result of abuse of alcohol and drugs. If this same ratio is found to apply to all our health care spending, substance abuse is racking up a $200 billion a year medical bill.

Studies show 13 percent of breast cancers are due to alcohol abuse, 65 percent of strokes among younger Americans are related to either cigarettes or cocaine. Half of all children with pediatric AIDS are infected through their parents' IV drug use. Tuberculosis, once almost wiped out in this country, is staging a dramatic comeback, especially among IV drug users.

Substance abuse is threatening to overwhelm our foster care system, which already is overburdened. Currently, 430,000 children live in foster homes. By 1995, this number is expected to increase 22 percent—to 550,000 children. And the number one cause for the increase is drug abuse, particularly crack cocaine.

Drugs are also laying siege to our criminal justice system. Since 1980, the

U.S. prison population has increased 150 percent chiefly because of alcohol and other drug problems. Up to now our solution has been to spend more money and build more jails. And in spite of all our money and all our jails, our prisons remain overcrowded and our crime rates continue to soar.

Most importantly, drugs are having a devastating impact on our families, particularly on drug-dependent women and motherswho frequently do not have the resources for recovery available to them. The figures are staggering. It is estimated that 30–40 percent of cocaine addicts are women. The number of American women who came down with AIDS last year grew four times as fast as the number of men. Between 100,000 and 375,000 drug-exposed infants may be born annually to chemically dependent women, with 500,000 cocaine-exposed infants projected by the year 2000. We see the human costs of drug and alcohol abuse in premature and low-birth weight infants; in fetal alcohol syndrome—the leading known cause of mental retardation in the western world; in the prenatal transmission of HIV in the linkage between substance abuse and sexual abuse and domestic violence. The United States ranks poorly among Western nations in infant mortality. Maternal use of alcohol and other drugs is a major factor.

The problem is explosive, and it is getting bigger for the pure and simple reason we do not have enough treatment programs in this country, especially for women. Women and children are still at the bottom of the totem pole in the treatment services that are delivered. In one national study it is estimated that less than 11 percent of substance-abusing pregnant women get the treatment they need. Of the women who do get treatment, only a fraction receive comprehensive care from treatment programs specifically designed to meet women's needs.

I want to close with this chart, which speaks to the heart of that old saying, "penny-wise and pound-foolish." I want to stress that these are conservative figures, and the figures speak for themselves. The cost of providing hospital care for newborns prenatally exposed to crack cocaine is $500 million a year. This is a low-ball figure which does not include babies affected by drugs other than crack. It does not include babies affected with Fetal Alcohol Syndrome which adds almost $100 to the cost of every birth in the United States. It does not include the cost of so-called boarder babies—infants abandoned in the hospital by their mother, many of whom abuse alcohol and other drugs. The average stay for a boarder baby is 4 months, at a cost of $35,000 per baby.

Preschool costs for these babies who require special care is another $850 million. This does not even touch the amount we will spend to get the most severely impaired through high school—a cost estimated at $750,000 per child.

Foster care costs add up to a whopping $1.3 billion. This is one-third of all the Federal money we spend on foster care. This is the cost of placing 43,000 children in foster care each year who were exposed to alcohol or other drugs before birth.

The last bar represents what the Federal Government spends each year on treatment programs specifically designed to meet the needs of women and children. Just $100 million. This is less than one percent of our Federal drug budget. Lessthan 1 percent of the Federal drug budget.

Mr. President, I think this chart speaks for itself. The amendment before us today will increase the money we spend on programs which directly and comprehensively address the treatment needs of women and children. Specifically, it will increase by $20 million the substance abuse block grant set-aside for women—money that will go directly to the States for treatment services for women and children. It will increase funding for comprehensive residential treatment programs for women and children by $15 million. And it will fund for the first time ever comprehensive outpatient treatment for women and children. At this time not one Federal dollar goes for comprehensive outpatient services for women. Residential treatment is not the answer for every family and it is high time that the Federal Government put needed dollars into outpatient services for families.

This amendment is endorsed by a number of organizations, including the Children's Defense Fund, the Child Welfare League of America, the Legal Action Center, the National Association of State Alcohol and Drug Abuse Directors, the National Council on Alcoholism and Drug Dependence, NAPARE, and the Therapeutic Communities of America.

Mr. President, I repeat: We are facing a problem which has the potential to bankrupt this Nation. The problem affects not just those individuals and families who abuse drugs, but ultimately all of us who must pay for the consequences of substance abuse. It is a problem which impacts the very fabric of this Nation—our health care system, our educational system, our child welfare system, our legal system—and the crisis will only get worse. I call on my colleagues to support this, Mr. President. It is important to note some facts here.

The defense budget for 1994 will be approximately $260 billion; that is $260 billion. It is very close to what this country spent during the cold war era between the Korean and Vietnam wars, in between the Vietnam war and the Reagan-Bush unprecedented military buildup.

If $260 billion per year was needed from 1955 to 1965 and from 1972 to 1980 to stop the Soviet Warsaw Pact threat, why do we still need $260 billion every year when the Soviet threat is literally gone?

The DOD, the Department of Defense, unobligated funds are estimated to be about $46.4 billion at the end of fiscal year 1993. HHS unobligated funds are estimated to be less than $3.4 billion at the end of fiscal year 1993, with this amount decreasing to $160 million at the end of fiscal year 1994.

In addition, most HHS programs have a high spend-out rate, much higher than the DOD program. HHS funds are all spent by the end of the second year, and money traditionally is never returned to the Treasury.

Let me address the issue of why we are using a Defense bill for doing something on drugs. This body and the President made that judgment back in 1989 where we authorized and appropriated $300 million from the defense budget to help fund the Anti-Drug Abuse Act of 1988. This year we are spending $1.147 billion on antidrug activities. So we have a precedent for this action today. As a matter of fact, the Senator from Georgia was instrumental in passing the 1989 Anti-Drug Abuse Act, the 1988 bill, which placed firmly our defense establishment and capabilities and resources in the war against drugs.

The Senator from Georgia worked hard to pass that bill, as did many of us here, to see that some defense dollars were put into the war against drugs, and I am pleased that has happened and that the Defense authorization committee has continued over the years to increase that. Many of us have urged that more and more be done. I am only asking that $50 million of unobligated funds, funds that have not and will not be spent by the end of this fiscal year, be set aside for treatment of women and infants.

In my State of Arizona there is a small project now underway at a treatment center called Amity, and that center takes in mothers and children or pregnant women who are cocaine addicts or drug addicts. They live together, have their child there, and then live together and learn how to cope with this particular problem. It is a difficult problem.

I was just there last week, talking to the mothers who have had their babies or come in with their babies and the babies are cured. They are not drug addicts. The mothers are on their way to being rehabilitated. Many of them already have been. They are getting their high school education. They are getting training. They are starting to find out what it is to be a mother, to care for a sick child or a drug-addicted child, and to care for themselves.

So, once they can heal themselves, then they have a chance to bring this child on.

Of course, what happens to them is they realize that this is not the way of

life that they want to be involved in and they realize that there is a different way of life that many of them never thought even existed.

These are women who have been abused in their homes when they were children, abused by their relationship with men and with women, abused in so many different ways that they have forgotten what it is to be a real individual of society. And they take pride in this program. This program costs a few hundred thousand dollars, where they can come and live in security, in safety, be with their children, receive counseling, and secure their self-confidence in themselves and proceed on with the capabilities of living what we would like to think is a normal life.

So, Mr. President, I am hopeful that the chairman of the committee and the ranking member and now the managing Senator from Mississippi might agree to this amendment. I understand the Senator from Georgia may have some substitute or a modification. In lieu of waiting for him to come back, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. NUNN. Mr. President, I did not hear all of the explanation of the Senator from Arizona, but he and I have talked about this amendment. It is my understanding, and the Senator can correct me if I am wrong, that the DeConcini amendment basically makes available $50 million in funds from the unobligated balances of the Department of Defense for the purpose of drug treatment.

Mr. DECONCINI. The Senator is correct.

Mr. NUNN. I believe that drug treatment is directed toward——

Mr. DECONCINI. Women and children.

Mr. NUNN. Mr. President, I think everybody in this body would like to see more money available for drug treatment of women and children. My problem is that the Defense budget is coming down at a very strong rate. I am very concerned about the rate at which we are reducing defense. I am concerned about the jobs. I am concerned about the morale of the men and women in uniform, as well as the civilian workers. I am concerned about, bottom line, the national security and what we may be doing to it unintentionally, in good faith.

Therefore, I oppose the DeConcini amendment as it is now presented. All of this money would come out of defense. If we have a high priority on drug treatment—and I would certainly share the Senator's view that that is a very high priority and Senator MOYNIHAN and I, when we chaired the drug task force several years ago, we stated then unequivocally we felt drug treatment and education should have about 50 percent of all drug enforcement money, and law enforcement should have about 50 percent. We have come nowhere near that goal.

So I am on board philosophically with the Senator. My problem is I do not want to see the Defense budget of the United States continue to be raided for every purpose, no matter how noble, because the bottom line is there is no more important responsibility to the Federal Government under the U.S. Constitution than the national security.

So what I am proposing and will propose, and I talked with the Senator about this and I hope he will agree to it, is that we take this amendment that would basically have the same amount of money for the same purpose as desired by the Senator from Arizona, but we take it out across the board of all unobligated balances in the Government. This would mean that Defense would have a part of but not all of the $50 million cut. This then puts it in a situation where all unobligated balances would be totaled up on discretionary funds—this would not include the trust funds—and Defense and others would take their proportionate share of the $50 million in proportion to their overall share of the unobligated balances.

AMENDMENT NO. 793 TO AMENDMENT NO. 792

Mr. NUNN. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 793 to amendment No. 792.

Mr. NUNN. 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 3, strike lines 5 through 11 and insert in lieu thereof the following:

"(b) TRANSFER OF FUNDS.—

(1) The Director of the Office of Management and Budget shall transfer $50,000,000 from the funds appropriated for any discretionary programs, projects or activities which remain unobligated and available to all departments and agencies of the executive branch of the federal government as of October 1, 1993 as provided in paragraph (2).

(2) The amount authorized to be transferred from the unobligated balances of any department or agency pursuant to paragraph (1) shall be an amount which bears the same ratio to $50,000,000 as the amount of unobligated funds of that department or agency on October 1, 1993 bears to the total amount of unobligated funds for the discretionary programs of all departments and agencies of the executive branch on October 1, 1993.

(c) ALLOCATION OF FUNDS.—Of that amount—"

Mr. NUNN. Mr. President, I yield to the Senator from Arizona.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, what the Senator is offering is a reasonable alternative, and I do want to reiterate as I said when he was not here, the Senator was extremely instrumental in 1988 in passing the Anti-Drug Abuse Act where it set the precedent for $300 million in that year of appropriated funds from the defense budget would be spent on drug treatment and enforcement.

Since then, that has risen with the leadership of both the Senator from South Carolina, the Senator from Virginia and, of course, the chairman, Senator NUNN, to $1.147 billion today.

What the Senator is suggesting is that every account at the end of this fiscal year would share a proportionate share of the transfer of the $50 million. The sheet I have from OMB shows, for instance, an unobligated balance as of today in defense of roughly $46 billion; an unobligated balance in the Department of Health and Human Services of $3 billion; an unobligated balance in Housing and Urban Development of $30 billion; an unobligated balance in Transportation of 13; Department of Treasury, 35. Each of these will give a proportionate share toward this $50 million of transfer; is that my understanding, as I read the amendment?

Mr. NUNN. The Senator is correct.

Mr. DECONCINI. Mr. President, I thank the Senator from Georgia for his willingness to work out an effort here that would actually see some money transferred and would hope that the Senator could stay committed to this in conference because I think we really have an opportunity here to make a substantial increase in the effectiveness of the programs that do work with mothers and children who are cocaine and other drug addicts. I am willing certainly to accept that amendment and perhaps my amendment would be accepted. If not, I would like a vote on it.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, in view of the fact that the distinguished Senator from Arizona has agreed to the second-degree amendment of Senator NUNN, I am willing to go along with that and adopt it on that basis.

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not sure I am going to object to the amendment, and I do not even expect my friend from Georgia to answer this question, but it does seem to me the Senate ought to know this is very unusual. Which subcommittee is going to

be charged for this money as we appropriate this $50 million, if we do? Is it coming out of defense?

I thought the purpose was so it would not get charged to defense. If it is not going to get charged to defense, when the appropriators put the 13 categories together, put the money in, are we now to expect that authorizing bills can come along and direct us in the Appropriations Committee to take a little bit out of every Appropriations Committee and the allocated funds? I do not quite really understand.

On the other hand, I do share a couple of Senator NUNN's thoughts here. We just cannot keep on, no matter how noble theprogram, reducing defense substantially more than the President has reduced it.

Many of us were worried it was on far too fast a track when he recommended his extra $120 billion in cuts over 5 years. Now we can come along and a little bit at a time say here is a good program. It sort of looks a little like defense and it has some defense problems, so let us pay for a social program out of defense.

My friend from Arizona has been one who, on this issue, does not take a back seat. This is something he has been worried about. He works on it all the time. He plugs away at it. He is doing that here tonight, and I have no criticism. But I do think in an authorizing bill to authorize that money to come out of all the obligated accounts of the Government on a defense authorization bill, I do not necessarily think it is subject to a point of order, but it surely sounds funny and from my standpoint, at this late hour, I am not going to do any more than lay this issue before the Senate. But clearly I can see this is a new approach to authorizing without any real sense of where the money is coming from.

So having said that, in deference to the chairman and the Senator from Arizona, I am not going to object or raise a point of order, or see if it is subject to one but, frankly, I am not going to sit by on very many more authorization bills and watch this kind of thing happen. Second, there is no assurance it would get appropriated in any event.

Mr. WARNER. Mr. President, could I make a brief response to the Senator?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The discussions that led to the recommendation by the chairman and the ranking member for the substitute amendment, it was made clear that this was done once before and, therefore, you said it might be a new start. It was done one time before, and that was brought to our attention.

Mr. DOMENICI. I think it was done on a $300 million item that everybody agreed on and the then President agreed upon and everybody knew what it was going to exactly do to defense if that is the precedent. I understand it and know that, but I can see the floodgates kind of coming. I just wanted to be there a little bit with my finger saying I do not like the idea.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I normally do not like the idea, and I am going to oppose it. We may or may not have done this before. If we did, sometimes these things get done without every Member being aware of what is going on. We are so strapped for time and so fragmented and fractionated in the subject matters to which we have to give our attention. So I cannot verify whether or not it has been done before. But we are all fully aware that it is being done now. This is a very bad thing to do, and I do not intend to support this and I intend to talk about it awhile in the event that it is pressed.

I will not say more just now in the hope that we will withdraw this amendment. I have studied the amendment by Mr. DECONCINI, and I have another problem with it. If it purports to shift funds from defense to domestic discretionary and thus increase the allocation for the subcommittee, the jurisdiction of which would be affected by the Senator's amendment, I would have to oppose that as well.

So I suggest that we either go to another amendment at this time or go into a quorum until we can kind of get our bearings and not shipwreck this important effort to bring this action on this bill to a close.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I do not quarrel with the Senator from West Virginia. And if we have enough Members in this body who are willing to vote to not take this money out of defense, then I would certainly join with the Senator.

My experience last year was that we had a similar amendment where we had an effort to shift $200 million from defense to cancer research. I was opposed to that amendment. And the body here voted for it overwhelmingly. That to me was an extremely bad precedent.

What I would say to the Senator from West Virginia, I believe that the second-degree amendment is preferable to the first-degree amendment. If you ask the Senator from Georgia his opinion, I would prefer that neither amendment pass. But if we are going to pass something on this subject, I think it is important that it be shared across the board and not taken strictly out of defense.

I would suggest, though, that we have a number of other amendments that we can accept tonight, and I think we would be well served to set this amendment aside, let us move to those amendments that can be agreed to with the DeConcini amendment and the second-degree amendment to that which is now pending recur tomorrow morning.

I ask the Senator from West Virginia if he would agree to that course of action.

Mr. BYRD. Mr. President, I am willing to move to table the underlying amendment which will carry both amendments with it. If that tabling motion fails, then we are in the soup. I shall not do that at the moment.

Let me call attention, if the Senator will yield without losing his right to the floor, we are saying, if this amendment is adopted, to the Director of OMB you are the head appropriator around here. You transfer $50 million from the funds appropriated for any discretionary programs—any of them. You make your choice. You are the big boy. You are the king. You take $50 million out of any discretionary program you want. Take it out of the items of the Senator from Kentucky——

Mr. FORD. I do not have any left.

Mr. BYRD. Or the Senator from Maine or the Senator from Georgia.

Mr. NUNN. Will the Senator yield on that?

Mr. BYRD. Yes.

Mr. NUNN. I have to correct the Senator. That is not what this amendment does. I would still prefer no amendment at all, as I have said to Senator DECONCINI and I have said to others. This amendment carefully follows the procedure we worked out before to avoid the very problem the Senator from West Virginia has described by making this a proportionate cut. The OMB Director would have no discretion here. He would have to make the cut across the board in proportion to the unobligated balances.

So it would be the Senate and the House, if the House agreed in conference to this, that would be making that choice and not OMB.

Mr. BYRD. Mr. President, will the Senator yield further without losing his right to the floor?

Mr. NUNN. Yes.

Mr. BYRD. The Senator is correct. I had not read paragraph 2. My eyes had gone blank when I read paragraph 1. But what the Senator says does not cure the problem. We are saying the Director of the Office of Management and Budget shall transfer $50 million from the funds appropriated for any discretionary programs. Now, when you do this, it has to be done in an amount which bears the same ratio to $50 million as the amount of unobligated funds to that department or agency on October 1 bears to the total amount. That is right, is it not, I ask the Senator?

Mr. NUNN. Correct.

Mr. BYRD. I am not willing to give this office, this OMB Director, or any other, or anybody else outside this Senate, that kind of authority. If the Senate wants to do that, wants to give its power of the purse away to that extent, then open the gates because we will do it again and again.

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Mr. President, I counted on living a while longer, but if the Senate is going to do this it is going to do it over my dead body. So that terminates my life rather quickly.

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

Mr. BYRD. The Senator from Georgia has the floor.

Mr. NUNN. I say to my friend from West Virginia that I would like to see the Senate make up its mind it is not going to transfer any more money.

Mr. BYRD. Right. Let us do it.

Mr. NUNN. I have opposed amendments and opposed amendments and opposed administration and opposed administration and watched time after time, particularly this year but in the Bush administration, the same thing happen. Again and again the amendments come up and the Senate votes to take money and put it elsewhere.

As the Senator from West Virginia will recall—and he and I were on the other side on this particular amendment—what I wanted to do and what we passed as a sense-of-the-Senate resolution this year would have cured this problem I think pretty significantly. That would be if we took money out of defense, if we cut money out of defense, then it would go to the deficit. It would not be able to be transferred to other programs.

The Senate of the United States went on record twice this year to do that. But then we voted on a procedural question where you had to have 60 votes and the walls came tumbling down. So now that the walls are tumbling down—and I opposed that—the Senate of the United States by majority opposed taking the walls down, but not by the 60 votes required under our rather tricky budget procedures now.

So what happened was the walls came tumbling down and now this defense bill is wide open to transferring money from defense to any other source.

We would cure the problem quickly by putting the walls back up, and then we would have any money taken out of defense—and I think there certainly can be defense cuts. We made a significant one here today. I did not vote with the majority but the majority prevailed. And if that money were to go to deficit reduction, then I think the taxpayers would be well served.

But what we have here is an open invitation for a raid on the defense budget. And even though sometimes it is done in this Chamber, it can also be done, I say in respect to the chairman of the Appropriations Committee, my good friend from West Virginia, it can be done by the chairman of the Appropriations Committee in allocating different funds to his subcommittees, and that is not an action that is taken by the Senate or House. That is an action taken by one committee.

So the problem is, the basic problem here that gives rise to this is that we have an open invitation to take money out of defense and to transfer it to other accounts.

This is just one way to do it. There are other ways that it has already been done, and I can cite by tomorrow morning to the Senator from West Virginia how this has been done in the appropriations process, how it has been done by the administration, how it has been done by OMB. I, frankly, am fed up with it.

If the Senator can prevail on a tabling of the underlying amendment, then I would vote with him. I would vote with him. I hope we would all stand together and say we are not going to take any money out of defense unless it goes to the deficit.

I am not saying every dime in defense is sacred. I am not saying that we cannot find money out of a $260 billion defense bill, but what I am saying is let us not go home and talk about curing the deficit if everybody knows what we are going to do time after time is take the money and transfer it.

So what I am trying to do—having observed this body in the past, would be willing to vote, for instance, $200 million out of defense for breast cancer—and I believe the vote was what, 89 to 4—89 to 4—having watched that and seen the knees buckle any time there is a worthy program mentioned that everybody is in favor of, it is my experience that as chairman of the committee I have to try to minimize the damage. I will be absolutely frank. This second-degree amendment is to try to minimize the damage.

Mr. DECONCINI. Will the Senator from Georgia yield?

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

Mr. DECONCINI. I thank the Senator. I just want to underscore to the Senator from West Virginia, I understand his prerogatives here and his concern. This is not the first time we have visited this particular issue.

In 1990, before the walls were there, which took the so-called super majority, such an amendment was before the Senate, almost identical to this, only it was $100 million at the time. And there was a motion then to table the amendment, and I am sorry to say the motion to table carried 51 to 48. I did not offer the amendment last year because of the walls. I did not think I could get the votes.

But some of us feel that the defense budget could easily take another $350 million to be used for women's and children's and drug treatment programs. That is what this does. So we are asking the Senate, whether it is a motion to table or up-or-down vote or as the second-degree amendment by the Senator from Georgia, to set an allocation here that out of a $260 billion bill can we take $50 million more and spend it on women and children who are drug addicts.

It seems to me very clear that you cannot without raiding the cupboard, without ruining our national security, and, yes, that ought to be a judgment here for this body, to determine whether or not that is a priority. In my judgment, it is. I wish we had done it back in 1990. We would have less crack babies today; we would have less mothers back on the street committing crimes, because there are some programs that have and are in place today that take mothers who are pregnant and mothers who have children, who are cocaine and heroin addicts, and let them live together in communities and be raised in a society that is different than they have ever known.

And what is the result? You know what the result is? It is a difference of their whole life. The children are no longer addicts; the mothers are at least on the verge of being cured—and many of them are. Some of them hold jobs. It is a matter of allocation.

There is nobody I respect more than the Senator from West Virginia and understand his prerogative and his carefulness as to protecting the appropriations process. I honor that and I do not just tromp on it or do it without careful thought. But it just occurs to me that now is the time when we have ample precedent of using defense funds—using defense funds—for the war on drugs, whether it is enforcement, the interdiction program, or whether it is treatment or education.

So if we have to have the motion to table, I understand the Senator from West Virginia's concern and I understand the Senator from Georgia. He did not want to take my amendment. He said "I will have to oppose it." But he said I may offer a substitute or second-degree. Obviously, he has the right to do that.

I thank the Senator from Georgia for yielding.

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, I have no interest in having the Senator yield to me. I have an interest in getting the floor.

Would the Senator indicate when I might get the floor?

Mr. NUNN. I will be glad to give up the floor in just a few minutes. I want to yield to my friend from New Mexico first.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Senator for yielding. I will not be long as I said to the Senator from West Virginia.

First, let me say to the chairman that I stand squarely with him in the observation on this issue. I stated my point about my concern a while ago. With the passage of each 5 minutes around here, I get more concerned because more things come to my mind.

Let me suggest this. Actually, aside from the part about the walls and the

issue that you have raised with reference to that, the situation is even more serious than that because the law of the land today is there are no laws.

So the Appropriations Committee does its work and in this case this year decided that they wanted to allocate less money to defense than the President asked for. That is their prerogative under the Budget Act and under the allocation of money to the 13 standing committees.

So they made that decision and these bills that are coming by are all responding to those allocations.

What really is disturbing is that after that is done and defense is reduced in that way, that we come along in a defense authorization bill and say let us cut it more by finding a function for defense money that is not defense but putting it on the defense bill.

And the question then comes, who gets charged for that money? Is it a defense function? Or is it where it properly belongs in labor, health, and human services?

Mr. NUNN. I say to the Senator the way this amendment is proposed, I am informed it would be charged to defense. This would be a direct charge to defense. The charge would be the difference in outlays. Budget authority is break even. The difference in outlays is something like $50 million and $48 million out of which is about a $2 million charge, direct charge, to defense of about $2 million.

Mr. DOMENICI. So my last observation—I am not at all sure that the Senator from Georgia has to respond to it, but it seems to me that you come here on an amendment that says here is a good social program, it is a good cause, and it is an establishment of priorities. We established the priorities. The priorities were established when we allocated the 13 functions of Government with dollars alongside of it and then we come along and we say here you have another good social program and it ought to come out of defense.

Mr. NUNN. If I could say to my friend from New Mexico, what we are hearing now is if the appropriators are going to join in with the Armed Services Committee to oppose the transfer out of defense to domestic programs in the full Senate, then I am going to vote with the appropriators who make the motion to table.

If there is a motion to table the underlying amendment even though it would take my second degree, I plan to support the Senator from West Virginia. I hope we can get a majority vote. If we get a majority vote, it will be a turnaround. This body will be turning around what it has been doing for the 2 or 3 years. I hope we do it on every amendment to ship money out of defense. I will voice that strong view and will vote on the appropriations and the authorization bill. I think this would be a remarkable development. And I hope it happens.

Mr. DOMENICI. I thank the Senator. Not that I need to do this in advance, but my vote will be that way.

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

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not want the record to stand as being this Senator's understanding of what we have been doing. I do not want the record to stand that this Senator understands what we have been doing as being in accordance with what the distinguished Senator from Georgia has just said we have been doing.

My opposition to this amendment is because it says to the Office of Management and Budget, the Director thereof, you do the appropriating. And may I say to my distinguished friend from Georgia, this Senate has already voted and the House also and the President signed the bill as to when the walls would come tumbling down. Senators already made that decision, that the walls will be down in fiscal year 1994. So I am not objecting.

As a matter of fact, I as chairman of the appropriations Committee have a right to make the allocations under the rule, and in making those allocations I can take money now that the walls are down from defense and give it to subcommittees that handle domestic discretionary matters.

I am not objecting to that. That is my right under thelegislation we all passed in the Budget Act. This was hewed out in 1990. So I do not regret that may I say to the Senator from Georgia. That is not what I am talking about here. I am talking about two things. When we transfer moneys out of defense and put them in the jurisdiction of the Interior Subcommittee or the other subcommittees that handle domestic, if we disturb the allocations and raise those allocations above the allocations which I recommended and the Senate voted on, then that raises a point of order.

So we have two problems here in mind. If we are going to shift money from defense to other subcommittees and raise their allocations over and above the allocations which were distributed to them by the chairman and voted on by the Senate, or at least will be voted on if those allocations go above the mark, that is a 60-vote point of order. If you are telling the Appropriations Committee that is what it would have to do, it would have a 60-vote point of order. I do not favor that. I make no apologies for distributing the money as I have seen fit to distribute. I do not have but so much money to go around. I try to be fair to all subcommittees.

But in 1990, we said that after fiscal year 1993 the walls are down.

If I may have the Senator's attention, if the distinguished Senator from Georgia thinks that I am coming to the altar tonight to confess my sins in having voted for the walls coming down, that is not what I am confessing at all. The Senate has already made that decision. The walls are down.

Mr. NUNN. Mr. President, if the Senator from West Virginia will yield, I do not in any way think the Senator is confessing to any sin. I do not know of any sin the committee chairman and the Senator from West Virginia has committed. So I am not asking nor implying any.

I am saying that the Senate of the United State voted twice for the walls not to come down by majority vote. The rules require 60 votes. The very intricate rules of the Budget Committee in effect were changed when the budget reconciliation came back. The Senate voted for that. In my view, the majority of the Senate never intended that to happen, but it did happen. It has happened. The Senate has acted. The Senator from West Virginia is basically within his right to do what he is doing. I am in no way implying otherwise.

I think it is bad government to have no walls, but that is a matter of disagreement. I think it is bad for national security and bad for the taxpayers, because instead of cutting defense for the deficit purposes, the money is going to be cut over and over again to be shifted.

But my point in no way implies or intended to imply that the Senator from West Virginia has not acted within his rights. I do not have to agree with the procedure of the Senate in taking down the walls. We have an honest disagreement.

Mr. BYRD. I understand the Senator's opposition to moving money from defense into discretionary subcommittee jurisdiction. I understand that and respect it. But the 60-vote point of order was in that 1990 budget agreement because I insisted on it. I insisted on having that kind of point of order to make the Senate and the House live up to the agreement, and it would give us an instrument by which we would discipline ourselves and make ourselves live up to that agreement. So you have to have 60 votes to break it.

It is also at my insistence that if the subcommittees exceed their allocations, there would be a 60-vote point of order on that score. I am glad the walls have come down.

I say further to my good friend from Georgia that if he can show me anywhere, in the morning, as he says, or now, or at any other time, where this Senator has supported any amendment that does what this amendment does, I will eat his coat right here in the Senate in front of everybody.

Show me where I have supported an amendment that says that the Director of the Office of Management and Budget shall transfer $50 million from the

funds appropriated for any discretionary programs.

Mr. NUNN. I say to the Senator from West Virginia that I will try to do that tomorrow morning, and I will be very careful what coat I put on when I dress. I will try to get that information.

It is my recollection that it was in 1989 that we worked it out carefully with the Senator from West Virginia, and the Senator from West Virginia suggested that we do it proportionately, so that there would be no discretion by the head of the Office of Management and Budget.

The Senator has been consistent because he objected at that time to taking it out of unobligated balances and giving any discretion to the head of OMB. But it is my recollection—and I will make sure this is correct tomorrow morning; I would not want to say I am certain now.

My vague recollection is that we accepted the formula of the Senator to prevent that by saying it was proportionate. I believe that formula was suggested by the Senator from West Virginia and incorporated in an amendment. It was amendment vote No. 51, votes on S. 1352, the National Defense Authorization Act, 1990–1991, and this was a Harkin amendment on drug funding. On this amendment, there were 90 yeas and 9 nays, with Senator BYRD and Senator NUNN voting in the affirmative.

Mr. BYRD. Let us see the wording of the amendment. Lay it down beside this amendment, and let us remember that was in 1989, before the budget agreement in 1990.

Mr. NUNN. I will be glad to read it.

It says:

Of the unobligated funds available to all Departments and Agencies of the executive branch of Government at the end of fiscal year 1989, from funds appropriated for defense and nondefense discretionary programs, $1.7 billion, as provided in subsection (b), is authorized to be transferred for the purpose of carrying out, during fiscal year 1990, the Anti-Drug Abuse Act of 1988, and the amendments made by such act.

This is the second part, which corresponds exactly to that amendment we have:

Part (b): The amount authorized to be transferred from the unobligated funds of any Department or Agency, pursuant to subsection (a), shall be an amount which bears the same ratio to $1.7 billion as the amount of unobligated funds of that Department or Agency at the end of fiscal year 1989 bears to the total amount of unobligated funds of all Departments and Agencies for the executive branch at the end of such fiscal year from funds appropriated for defense and nondiscretionary programs.

This is the amendment we both voted for. It is my recollection that the Senator suggested this formula to avoid the problem he described tonight, originally, of giving the OMB that kind of authority. This takes away the authority of the Office of Management and Budget, because it does it across the board. They have no discretion.

This is the exact amendment this was patterned after, and we did vote for it in 1989.

Mr. BYRD. Does that amendment direct that the Director of OMB shall make the transfer?

Mr. NUNN. I do not believe it had a person. It just made the directive by law to the executive branch.

Mr. BYRD. There is quite a difference.

Mr. NUNN. I do not know who else would do it other than OMB.

Mr. BYRD. I do not think we need to quibble with that. In the first place, we have a budget agreement now that we all voted for in the Senate that changed things drastically from 1989.

Mr. NUNN. I was responding to the Senator's question about whether the Senator had ever voted for this kind of amendment.

Mr. BYRD. I do not think I have. I do not think the Senate approved that the Director of the OMB shall transfer x amount of money from the funds appropriated for any discretionary programs, projects, or activities which remain unobligated and available to all Departments and Agencies to the executive branch of the Federal Government.

Mr. President, my memory is a pretty good one. It is not infallible.

Mr. NUNN. If I may say to the Senator from West Virginia, I will give him this amendment, and I will say that the difference is very slight.

The Senator from West Virginia did sponsor this with myself and Senator WARNER.

Mr. BYRD. I ask, what difference does it make? If the Senator shoots at me and misses me very slightly, by half an inch, he might as well have missed it by a mile.

Mr. NUNN. I say that the Senator from Georgia is not shooting at the Senator. And having on a coat that I treasure, I would be delighted if I missed slightly. That would be the best of all worlds.

Mr. BYRD. Let me tell the Senator what I usually do when I get a little bit tense. I have a picture I always pull out and look at of my little dog, Billy. It relieves all of the tension, and I break out in a smile.

Mr. MITCHELL. Mr. President, will the Senator yield for an inquiry?

Mr. BYRD. Yes.

Mr. MITCHELL. Mr. President, this has been, I think, for all Senators, a very informative discussion. I believe both the chairman of the Appropriations Committee and the chairman of the Armed Services Committee, as well as my colleague from Arizona, presented information to the Senate that will be useful in the disposition of this amendment.

The distinguished Senator from West Virginia earlier in this discussion stated that he intended to move to table the underlying amendment. He correctly noted that, if the motion to table prevails, the underlying amendment and the second degree amendment of the Senator from Georgia would go down.

I inquire of the Senator from Arizona and the Senator from West Virginia and the Senator from Georgia whether it would be possible, if that is going to occur, in view of the hour, to have it occur promptly so that we could then dispose of, or at least see whether it is possible to dispose of, this matter one way or the other and then proceed to determine how we are going to get on with the rest of this bill.

Obviously, I do not want to cut off anybody or encourage anybody who has something more to add not to do so. But I think it is 10:20 and, if that is going to occur, if the Senator from Arizona does not object to that, if the Senator from Georgia does not object to that, and if Senator from West Virgina does not object to that, we should go to a vote.

Mr. BYRD. I intend to make that motion shortly, unless the majority leader feels it is so late we should not impose upon Senators who already left the Hill.

Mr. MITCHELL. Senators have been on plenty of notice that we are going to proceed.

I fear, Mr. President, that, if we delay it until tomorrow, what would take 10 minutes tonight would take several hours tomorrow.

Mr. DECONCINI. Will the Senator from West Virginia yield without losing his right to the floor?

Mr. BYRD. Yes.

Mr. DECONCINI. Mr. President, the Senator from West Virginia does not have to have any concurrence of mine to move to table the underlying amendment at any time. That is exactly what happened before. It was not the Senator from West Virginia, but it was tabled in 1990, and the Senator from West Virginia voted to table it and so did the Senator from Georgia.

I had anticipated that, quite frankly, because the Senator from Georgia, when I talked to him yesterday about it, said, "I am going to oppose your amendment." He did not say he was going to table it, but I understood that was what he was probably going to do.

In the course of working on the amendment today, he came up with a second-degree amendment, which was agreeable to me. The reason it was agreeable to me is because it establishes $50 million for treatment of women and children who are drug addicts. That is the objective here.

The reason I am offering this on this particular bill is because I believe we have an opportunity to see some priorities, and, as has been pointed out in the debate here, there is ample precedent for it. Maybe we do not want to do it. That is a judgment call. We are all big boys and girls and we can make

that judgment. But there is precedent for it. We did it back in 1988. We did it on the Drug Abuse Act of 1988, where we clearly established that we were going to use defense dollars for the war on drugs. Now that was a little bit different because we set it up as a part of the original authorization bill, that there would be a transfer.

The authorization bill before us already has $1.4 billion, I believe, in it for the war on drugs. I am asking that we add $50 million for treatment of woman and children.

So I am prepared, of course to vote. I hope my colleagues will not vote to table. I think it would be a very clear statement of where our priorities are.

I do not think it is going to cause any great damage to our national security at all. As a matter of fact, I think that it would enhance our national security and enhance the better treatment of people in this country that can be much better spent here. Because let me just remind you, there are $46 billion of unobligated funds that have not been spent this fiscal year. We are asking for $50 million for woman and children in drug treatment plans.

This affects your criminal justice systems, your Medicare system, your health care systems all across the country. It is a good investment, I say to my colleagues.

I thank the gentleman from West Virginia for yielding.

Mr. BYRD. Mr. President, I will close shortly.

I believe that the walls should be down, that they are down in accordance with the provisions of the 1990 Budget Enforcement Act. I am not sorry for that and I am not voting to reinstitute the wall.

Second, I do not now, and I do not think I ever have, intend to knowingly vote for an amendment or legislation that directs the Director of the Office of Management and Budget, in essence, to be the chief appropriator. And that is no reflection on the gentleman who holds that office. He is a former Member of the House and a distinguished former Member of the House and one whom I respect and for whom I have friendship.

This Senator, as long as he is in his right mind, is not going to vote to tell the Director of the Office of Management and Budget that he shall transfer any amount of money from funds appropriated for any discretionary programs, any discretionary programs, projects—why, anybody could take some of my highway money out. He could. He could take something out of the Senator from Nevada's highway money. It says any programs, any projects, or activities.

I hope I have been in my right mine all these years.

In any event, the Budget Act of 1990, which I had a great deal to do with helping to write—and I supported it—changes the playing field, changes the game plan, and says the walls will be down. It says there will be walls for 3 years, but in the fourth and fifth years there would not be any walls.

It said, in essence, if authorities are transferred from one category to another and if it increases the allocations of the committee which is the recipient of the new authority above the caps, above the allocations by which that subcommittee is bound, it is a 60-vote point of order.

Before I move to table, let me express my respect for the Senator from Georgia. He is a very formidable Senator and he believes strongly in his work, in his committee's jurisdiction, and he ably defends it.

I am sorry to have had to disagree with him tonight to the point of saying that I would eat his coat. I do not think, though, that he could show me, line for line, what we are doing here. That is neither here nor there. If, per chance, my mind has slipped to that extent, it will not make any difference. My position is what it is exactly tonight and it will be the same.

I am going to move, now, to table. And I will move to table the underlying amendment. If it is not tabled, then this Senator is prepared to talk until this language is out. And I can do it and I can start now. That is no empty threat.

I just think it is a mistake to go in this direction. I do not want to go down that road under the Budget Enforcement Act; none of the circumstances in which we are now dealing with the Budget Act, appropriations bill, and authorization—I am just not willing to do. If the Senate wants to do that, it will be a while on this bill.

So, Mr. President, I move to table the underlying amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? The Senator from Georgia.

Mr. NUNN. I would say to the Senator from West Virginia, we are on the same side on this issue. I am with him on the motion to table. I am with him on the principle. I am with him on the underlying principle of not taking it out of unobligated funds.

As chairman of the Armed Services Committee, occasionally I have to read the sentiment, as the Senator from West Virginia does, on the floor. If I believe the overwhelming sentiment is in favor of taking some very substantial amounts of money out of defense and I can find a way to have less damage done, then that is what I was aiming to do. But I would be very pleased if the Senator from West Virginia's motion to table wipes out both amendments, and will be very pleased to join with the Senator from West Virginia in that.

I must add that I have, as the Senator knows, enormous respect for him and his leadership. So I urge the motion to table be accepted.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. BYRD. Mr. President, I withhold my motion momentarily.

Mr. THURMOND. Mr. President, I am very pleased the able Senator from West Virginia is pursuing the course he is. I think he is on the right track. Money here has been allocated to defense. Now there is an attempt here to take that money and use it for some other purpose.

If drug money is needed it should go through the appropriate committee in the Senate, the Labor and Human Resources Committee. If this motion fails, I then will vote for the second-degree amendment offered by the Senator from Georgia. But I think we can set a good precedent tonight to stop this idea of taking money from defense and using it for other purposes. I think that is a dangerous precedent. I think Senator Byrd is on the right track. I hope his motion will carry.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not want to be misunderstood here. I am not taking the position that I am now taking because we may be transferring money from defense to discretionary programs. As the chairman of the Appropriations Committee, that is my right to do when I allocate moneys to subcommittees. And I talk with each of those subcommittee chairmen, have their understanding, before I do it.

That is not what I am objecting to. The Senate can do that any time it wants to do that, if it has 60 votes to overcome thepoint of order that the allocations of the subcommittees are being raised above the allocations which were given at the beginning when all the subcommittees were sharing in a total pie. That is not my objection.

My objection is that we are shifting the power of the purse to the executive branch. We are saying that the Director of the Office of Management and Budget shall transfer moneys, take away moneys from the Defense and shift them to whatever—whatever it is, cut it out of discretionary programs and projects: Give him that role. I am not going to do that. That is what I am objecting to here.

And I am also objecting to raising the allocation of the affected subcommittee or subcommittees above the allocation that was given when this chairman distributed our limited resources among those subcommittees.

So do not let anybody put words in this Senator's mouth. I make the motion to table.

The PRESIDING OFFICER. The question is on the motion to table. 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 New Mexico [Mr. BINGAMAN], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from North Carolina [Mr. HELMS], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

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

The result was announced—yeas 61, nays 32, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—61

Akaka	Ford	Mathews
Bennett	Glenn	McCain
Bond	Gorton	McConnell
Breaux	Graham	Mikulski
Brown	Gramm	Murray
Bryan	Gregg	Nickles
Byrd	Hatch	Nunn
Campbell	Heflin	Packwood
Chafee	Hollings	Pressler
Coats	Hutchison	Reid
Cohen	Inouye	Robb
Coverdell	Johnston	Rockefeller
Craig	Kassebaum	Roth
D'Amato	Kempthorne	Shelby
Danforth	Kerrey	Simpson
Dodd	Kohl	Smith
Dole	Levin	Stevens
Domenici	Lieberman	Thurmond
Durenberger	Lott	Warner
Exon	Lugar	
Faircloth	Mack	

NAYS—32

Baucus	Feinstein	Moseley-Braun
Biden	Grassley	Moynihan
Boren	Harkin	Pell
Boxer	Hatfield	Riegle
Bradley	Jeffords	Sarbanes
Bumpers	Kennedy	Sasser
Burns	Kerry	Simon
Conrad	Lautenberg	Specter
DeConcini	Leahy	Wellstone
Dorgan	Metzenbaum	Wofford
Feingold	Mitchell	

NOT VOTING—7

Bingaman	Helms	Wallop
Cochran	Murkowski	
Daschle	Pryor	

So, the motion to lay on the table the amendment (No. 792) was agreed to.

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

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, we are going to try to accept a number of amendments that have been worked out very carefully with the staffs and with the Senators on both sides of the aisle. So any Member who would like to have theirs presented this evening should remain here. And we will start on debating an amendment tomorrow morning at 9 o'clock. I anticipate Senator REID will have an amendment at 9 o'clock. We do not have any order in terms of any unanimous consent. It will be my hope that the Senator from Iowa [Mr. HARKIN] would present an amendment after the Reid amendment is disposed of. Both of those will require rollcall votes. And then we will have a Lautenberg amendment following that one that will also require a rollcall vote. So we are making substantial progress.

AMENDMENT NO. 794

(Purpose: To express the sense of Congress regarding establishment of an Office of Economic Conversion Information within the Department of Commerce)

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, the amendment I have just sent to the desk expresses the sense of the Congress, and I would ask that the amendment be considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 794.

Mrs. BOXER. 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 242, after line 19, insert the following:

SEC. 1067. SENSE OF THE CONGRESS REGARDING ESTABLISHMENT OF AN OFFICE OF ECONOMIC CONVERSION INFORMATION WITHIN THE DEPARTMENT OF COMMERCE.

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

(1) The available Federal resources for defense economic adjustment and conversion assistance are spread among 23 different Federal departments and agencies.

(2) Numerous other Federal departments and agencies are involved in related technology reinvestment activities.

(3) Workers and communities adversely affected by closures of military installations or decreased spending for national defense often experience difficulty finding which Federal department or agency is appropriate for providing assistance needed by such workers and communities.

(4) Expanded coordination between Federal departments and agencies could greatly improve Federal efforts to assist in defense economic adjustment and conversion.

(b) SENSE OF CONGRESS REGARDING ESTABLISHMENT OF AN OFFICE OF ECONOMIC CONVERSION INFORMATION.—It is the sense of the Congress that the President should work with the Congress to establish within the Department of Commerce an Office of Economic Conversion Information which, under the joint direction of the Secretary of Commerce and the Secretary of Defense, would—

(1) serve as an information clearinghouse to provide comprehensive information regarding assistance for communities, workers, and businesses that have been adversely affected by closures of military installations and reduced spending for national defense;

(2) enhance and consolidate existing programs for collecting and disseminating information regarding defense economic adjustment and conversion;

(3) be widely publicized as the central point of access for the public on issues related to defense economic adjustment and conversion;

(4) develop data bases of information, to be available to help communities, businesses, and workers dependent on spending for national defense identify and apply for assistance from Federal departments and agencies, including—

(A) comprehensive listings and summaries of all major Federal, State, and local economic adjustment and conversion programs;

(B) a data base listing information available to the public regarding major defense contract terminations and closures of military installations and identifying affected communities, industries, and jobs;

(C) listings and summaries of defense conversion attempts and successes; and

(D) relevant reference lists and bibliographies;

(5) provide information to communities, workers, and businesses by such easily accessible and easily used means as toll-free telephone information lines, inexpensive and frequently updated manuals and other print materials, workshops on clearinghouse services, and on-line computer access to clearinghouse information;

(6) facilitate a series of community roundtables, involving consultation and briefings with communities, workers, and businesses adversely affected by closures of military installations and reduced spending for national defense, to be held annually in all major regions of the United States so affected; and

(7) establish a mechanism, coordinated by the Secretary of Commerce and the Secretary of Defense, to ensure adequate cooperation between all Federal departments and agencies that oversee defense economic adjustment and conversion assistance programs.

(c) SENSE OF CONGRESS REGARDING EVALUATION AND FUNDING OF THE OFFICE OF ECONOMIC CONVERSION INFORMATION.—It is further the sense of Congress that—

(1) after the Office of Economic Conversion Information has been in operation for three years, the Secretary of Commerce and the Secretary of Defense should jointly conduct a comprehensive evaluation of the operations of such office and consider whether the purpose of the office should be modified or the office should be terminated; and

(2) the operating expenses for the Office of Economic Conversion Information should not exceed $5,000,000 for each of the first three full fiscal years in which the office is in operation.

Mrs. BOXER. Mr. President, the amendment I have just sent to the desk expresses the sense of the Congress that the President should work with the Congress to create an Office of Economic Conversion Information to serve as a one-stop shop for information on defense conversion. The office would be located in the Department of Commerce, but would be jointly operated by the Department of Defense and the Department of Commerce.

Currently, resources and information on defense conversion are spread out among 23 different Federal agencies. Communities and workers adversely affected by the defense industry slowdown find themselves faced with an unnavigable maze of redtape. Amazingly, there is no single point of access—no single phone number to call,

where all their questions can be answered.

My amendment calls for the creation of an information clearinghouse to serve as a central point of access for the public on issues related to defense conversion. The clearinghouse would develop databases of information on a wide variety of subjects that would help affected communities cut through the redtape and find the help available to them.

If we create an information clearinghouse, displaced defense workers and discharged military personnel will be able to call one phone number and learn about all the worker training and assistance programs available in the Department of Labor, the Department of Defense, and the Department of Energy.

Communities hit by base closures and cutbacks by large defense contractors can learn about the different kinds of planning and technical and financial assistance they can obtain from the Defense Department's Office of Economic Adjustment and the Commerce Department's Economic Development Administration, and about airport improvement funds available from the Federal Aviation Administration to help turn military air bases into civilian airports.

Defense-dependent firms would be able to find out about business assistance programs in the Small Business Administration and the Department of Commerce that can help them make the transition to civilian markets. They could learn all about the technology development and deployment programs of the Technology Reinvestment Project headed by the Advanced Research Projects Agency, and all the other relevant R&D programs administered by numerous agencies throughout the Federal Government.

The point is, Mr. President, that people threatened with the loss of their livelihood should not have to contact each of these offices individually. The defense conversion clearinghouse would serve as a one stop shop for all this information. One call and you could learn which programs can help your family, your community, or your business.

Mr. President, the slowdown in the defense industry combined with the recent rounds of base closures have hit my State of California hard. The administration and the Congress have worked diligently to develop innovative initiatives to help our Nation make the difficult transition to a civilian economy. This amendment would refine those efforts by making it easier for people to take advantage of these much-needed programs.

Finally, I would like to thank the Chairman of the Armed Services Committee and his staff for their assistance and for accepting this amendment as well as the ranking member and the minority staff.

I understand that both the majority and the minority staffs have no problem with this amendment.

I hope this amendment will in fact be accepted.

Mr. NUNN. Mr. President, I thank the Senator from California for working with the committee to both present this amendment and then resolve the amendment.

All of us are eager to see this conversion program work, and I suspect that no one is more anxious than the Senators from California because we all know that California has been hit very hard in the builddown in defense. All of us want to make sure that we have the kind of dual use industrial base that will meet our future defense needs as well as the broader needs of society and our economy.

This year, we received just under 3,000 proposals for conversion funds we authorized last year. I have been advised that about 25 percent of those came from California. I am sure that there are a number of outstanding proposals in that group. I believe that that is also due to the emphasis both Senators from California have placed on the importance of the conversion program in stimulating interest.

Mr. President, I urge adoption of the amendment. This amendment would set up an office within the Department of Commerce that would develop an extensive data base on defense conversion programs, and this data would be made available to the public, to States, to communities, to labor unions, to chambers of commerce, to industrial organizations and companies.

It would include State, local, and Federal programs. It would include outreach programs. It will include an interagency coordinating committee. The office would help particularly small companies that are totally dependent on defense conversion and are overwhelmed with trying to keep up with data relating to it.

It think it would also help State and local communities, not only in California, but throughout the country.

So I urge adoption of the amendment.

Mr. THURMOND. Mr. President, the Members on the Republican side have no objection to the amendment offered by my colleague, Senator BOXER of California. There is no question that some agency in the Federal Government must act as a single point of contact for the numerous programs for economic adjustment and defense conversion. This sense of Congress language affirms that principle.

The fact is that an office in the Defense Department has already been assigned the responsibility to act as the single point of contact for the Federal defense conversion programs. There is a companion office assigned to act as a clearinghouse for technologies that may have commercial applications. It is important that the record reflect Senate support for these ongoing efforts. We must ensure that changes to the administration of defense conversion programs in no way disrupt progress setting up clearinghouse activities in the Department of Defense.

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

The amendment (No. 794) was agreed to.

AMENDMENT NO. 795

(Purpose: To express the sense of Congress regarding targeting defense conversion funds to geographic areas most adversely affected by defense downsizing and military base closures and to small businesses)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 795.

On page 180, after line 24, insert the following:

SEC. 804. TARGETING DEFENSE CONVERSION FUNDS.

It is the sense of Congress that—

(1) defense conversion funds, including funds for community assistance and dislocated personnel, should serve to relieve distress in areas of the country that are the most adversely affected by reduced spending for national defense and by military base closures;

(2) in the determinations of whether applicants for defense conversion assistance meet applicable cost-sharing requirements, all non-Federal funds, including funds from States and from local sources, should be considered;

(3) by April 30, 1994 (with respect to activities during the first half of fiscal year 1994) and by October 31, 1994 (with respect to activities during the second half of fiscal year 1994), the Secretary of Defense should submit to Congress a report setting forth—

(A) the geographic distribution of the sources of all proposals received for defense conversion assistance and the geographic distribution of the defense conversion assistance awarded (in order to indicate the extent to which the policy in paragraph (1) is being carried out); and

(B) the number of proposals for defense conversion assistance received from small businesses and the number of awards of defense conversion assistance to small businesses (in order to provide a basis for determining whether sufficient opportunities exist for small businesses to receive an appropriate portion of defense conversion funds and whether the cost-sharing requirements for small businesses should be reduced); and

(4) by January 1, 1994, the Secretary of Defense should—

(A) submit to Congress any recommendation that, taking into consideration the experience with providing defense conversion assistance during fiscal year 1993, the Secretary considers appropriate regarding—

(i) what share of the costs of participating in a defense conversion program should be

borne by non-Department of Defense sources; and

(ii) what, if any, changes should be made in the laws providing authority for defense conversion programs; and

(B) prescribe regulations to provide full credit for in-kind contributions of non-Department of Defense sources for purposes of defense conversion program cost-sharing requirements.

Mrs. FEINSTEIN. Mr. President, I understand that the amendment has been cleared on both sides.

I would also like to thank the chairman and ranking member of the Armed Services Committee for help in drafting this amendment. This is a very important issue to me and I am very glad that we could reach an agreement that was satisfactory to everyone. So I thank you very much, again.

Mr. President, this amendment expresses the sense of the Senate that defense conversion funds should be aimed toward areas of the country adversely affected by defense downsizing and military base closures.

As the distinguished Senator from Georgia just remarked, there are some 3,000 defense conversion applications, of which at least 25 percent, it is my understanding and his, come from the State of California.

In California to date, defense-related job loss has been 250,000 in the last 2 years. This is directly relating to downsizing.

By 1998, it is estimated that the job loss will reach 650,000.

These are good, high-paying quality jobs. Not the minimum-wage jobs that we have been creating for the last decade, but these jobs pay $30,000 to $40,000 a year. People can raise a family and buy a home. They are blue-collar jobs, and good-paying jobs. Unfortunately, they are being wiped out as we reduce defense allocations and as bases are closed.

Mr. President, the $20 billion defense conversion program is a step I believe in the right direction. But one of the problems is that it does not necessarily utilize the money where the job losses and the downsizing and the base closures are taking place.

This sense-of-the-Senate resolution is simple and direct in saying that there should be attention given to seeing that these dollars go into areas where the need it most.

This is important to small business. It is important to the ability, if you are going to close down a shipyard, to be able to put that yard into some kind of civilian production.

So I am very pleased that both the distinguished Senator from Georgia and the ranking member of the committee have helped in drafting this language.

I rise today to introduce a very simple—yet very important—amendment expressing the sense of Congress that defense conversion funds should be targeted to areas of the country adversely affected by defense downsizing and military base closures.

Many areas throughout the country, and in particular California, are in desperate need. The end of the cold war has led to massive downsizing of the defense industry. Hundreds of firms are going bankrupt. The future economy of entire communities is in turmoil. And hundreds of thousands of hard-working men and women have lost their jobs or are at risk of losing their jobs in the future.

More than 250,000 defense related jobs have been lost in California in just the last 2 years. And, by 1988, California's job loss due to defense downsizing and base closures is expected to reach 650,000. These are good paying, high-quality jobs. Not the minimum wage jobs that are all too common in today's economy. These jobs pay $30 to $40 thousand a year. People can raise a family and, yes, buy a home. They are blue collar jobs—good paying jobs. Unfortunately, these jobs are being wiped out as we reduce defense spending in the aftermath of the cold war.

We, as a Nation, must not leave those who helped us win the cold war out in the cold. Strong steps must be taken immediately to help the transition from defense to civilian production so that new, high-quality jobs and economic opportunities can be quickly created.

President Clinton's 5-year, $20 billion defense conversion program is a step in the right direction. Its intentions are good—the transformation of the U.S. defense industry toward civilian production—but I fear that the program,in its current form, will not significantly address the needs of the defense industry and those who depend on it for their economic livelihood.

The backbone of defense conversion is job creation. Job creation for workers who lose their jobs when a production plant shuts-down, and job creation for workers who lose their job when a military base closes.

Currently, the various defense conversion programs include: community assistance programs that help cities and towns across the country plan for the reuse and redevelopment of closed military bases; job retraining and job placement programs that help laid-off workers learn new skills and find new jobs; and dual-use technology initiatives that help create new jobs by providing advanced and affordable products that will be competitive in the commercial market.

All of these programs are great ideas on paper, but in order for defense conversion initiatives to be truly effective, funds must go where the effects of defense downsizing are being felt the most. It just doesn't make sense to provide billions of dollars in defense conversion funding, if these funds will not benefit those most in need.

I agree that these defense conversion grants, commonly known as technology reinvestment grants, should be based on competitive procedures to assure that every scarce defense conversion dollar is spent wisely. But, consideration must be given to applicants from areas of the country most adversely affected by defense downsizing. It is that simple. In defense conversion programs, consideration should be given to areas of the country most adversely impacted by defense downsizing—where the suffering and need are greatest.

Targeting defense conversion funds will help protect the economic security of the U.S. defense industry. Targeting funds will help those who need the help the most. The defense conversion process will be helped along, dual-use capabilities will be encouraged, and critical technologies will be saved from extinction.

I also believe that an appropriate portion of defense conversion funds should go to small businesses. As we all know, small businesses are the key to growth in this Nation and the number one source of new jobs being created today.

Small defense firms are on the cutting edge of technology and have the most potential for economic growth and job creation in this Nation. At the same time, the risk involved in their technology and business ventures is often quite high and it may be nearly impossible to obtain capital. As a result, small defense firms have a crucial need for defense conversion funds to help them convert to civilian or dual-use production.

However, the high matching requirement could handicap small firms who are in desperate need of defense conversion funds. Because small businesses have less capital, less are less able to meet the high cost-sharing requirement. Thus, many small defense firms will be hindered from obtaining the desperately needed funds.

My amendment would also direct the Department of Defense to report to Congress on the number of small business applicants and the funds they receive. This will allow Congress to determine if the matching requirement should be lowered for small businesses.

Finally, my amendment would direct the Department of Defense to report on the progress of its defense conversion programs and make any recommendation it believes will assist these vitally important programs in the future.

This is a common sense amendment that I hope will be quickly adopted. It simply states:

First, defense conversion funds should be directed to areas where they are needed most; and

Second, the Defense Department should report to Congress on how its defense conversion programs are proceeding.

It is that simple. I urge my colleagues to support this important amendment.

The PRESIDING OFFICER (Mr. BRYAN). Is there further debate?

Mr. NUNN. Mr. President, again I say to the Senator from California, Senator FEINSTEIN, as I said to Senator BOXER, that I understand very well—and I know the Senator from South Carolina understands very well, also, because he knows how important the defense conversion funds are to California.

I also understand how diligently Senator FEINSTEIN and Senator BOXER are working to help those industries and those individuals that are affected, as well as the communities that are affected by the defense drawdown.

This amendment, I think, is a good amendment. It would emphasize that we intend, it is the sense of the Senate the conversion funds should serve to relieve distress in the areas of the country that are most adversely affected. It also provides certain considerations for small business that are important.

So I congratulate the Senator from California. I urge adoption of the amendment.

Mr. THURMOND. Mr. President, I rise to support the amendment offered by my colleague, Senator FEINSTEIN from California. As she pointed out in her statement introducing her similar legislation in May, defense conversion and economic adjustment programs should have the effect of relieving distress caused by defense cutbacks and base closures. My State of South Carolina will be hit very hard by base closures in the Charleston area, and we must ensure that such communities receive all the assistance they need and deserve. The men and women who have devoted the greater part of their working lives to supporting our national defense depend on us to provide them with an adequate transition into the post-cold-war economy. I urge Senators to support this amendment.

The PRESIDING OFFICER. The Chair hearing no further debate, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 795) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 796

(Purpose: To require the Secretary of Defense to prescribe regulations governing Economy Act purchases by the Department of Defense.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. COHEN, proposes an amendment numbered 796.

Mr. LEVIN. 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 190, after line 24, insert the following:

SEC. 825. DEPARTMENT OF DEFENSE PURCHASES THROUGH OTHER AGENCIES.

(a) REGULATIONS REQUIRED.—Not later then six months after the date of the enactment of this Act, the Secretary of Defense shall issue regulations governing the exercise by the Department of Defense of the authority under section 1535 of title 31, United States Code, to purchase goods and services under contracts entered into or administered by another agency.

(b) CONTENT OF REGULATIONS.—The regulations issued pursuant to subsection (a) shall—

(1) require that each purchase described in subsection (a) be approved in advance by a warranted contracting officer of the Department of Defense with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

(2) provide that such a purchase of goods or services may be made only if—

(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the Department.

(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies; or

(D) the purchase is authorized by an Executive order or a revision to the Federal Acquisition Regulation setting forth specific additional circumstances in which purchases referred to in subsection (a) are authorized;

(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the Senior Acquisition Executive responsible for purchasing by the ordering agency or unit; and

(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and administering the contract or other agreement under which the order is filled.

(c) MONITORING SYSTEM REQUIRED.—The Secretary of Defense shall ensure that, not later than one year after the date of enactment of this Act, systems of the Department of Defense for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations issued pursuant to paragraph (a).

(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations issued pursuant to subsection (a) take effect.

Mr. LEVIN. Mr. President, on July 30, the Subcommittee on Oversight of Government Management, which I chair and on which Senator COHEN is the ranking Republican, held a hearing on the practice of contract off-loading at Federal agencies. Contract off-loads are interagency purchases which occur when one agency buys goods or services through a second agency, under a contract administered by the second agency.

We learned that the abuse and misuse of contract off-load costs the taxpayers hundreds of millions of dollars every year.

Contract off-loads, which are intended to help agencies save money by using the expertise of other agencies or consolidating similar requirements in a single contract, are abused and misused to avoid competition. They are abused and misused to spend expiring funds before they revert to the Treasury. They are abused and misused to avoid audits in contract oversights. All too often, such off-loads result in sole source contracts with favored contractors for which agencies escape management responsibility.

Let me describe a typical case.

In 1991, the Department of Defense's nonacoustic antisubmarine warfare office decided that it needed outside expertise. Instead of competing the contract for it, the office entered into an interagency agreement with the Tennessee Valley Authority. You heard it right: the Tennessee Valley Authority.

The TVA then entered into an agreement with a company called ESG, Inc., a tiny company made up of just a handful of employees that did none of the required research themselves and had no capability to do it. ESG then subcontracted 96 percent of the work on a sole source basis to the subcontractor selected by the antisubmarine warfare office. That was pure subterfuge at the expense of the taxpayers. The Tennessee Valley Authority had no expertise in the area of antisubmarine warfare.

The DOD inspector general found that the antisubmarine warfare office off-loaded the project to TVA—in effect, it used TVA as the funnel—for one purpose only: To "quickly obligate funds and obtain the support of a specific contractor, without having to advertise or compete the program."

What was the result of that off-load? According to the DOD inspector general, neither the DOD nor TVA was able to document any formal approvals of work performed or costs incurred by that contractor, ESG. ESG was paid without providing such basic information such as names, position, rates, number of hours worked by employees. Its subcontractors were paid without even submitting invoices.

As a result, the inspector general found that the Department of Defense paid inflated billing rates, paid costs which should have been allocated to other projects, and paid fees for unallowable items like liquor and travel on corporate jets. The inspector general found that the added cost to the taxpayer could be as much as $2.8 million on an $18 million program. That does not include the half million dollars that ESG charged for its management services, or the $1 million "brokering fee"—brokering fee—that TVA raked off the top for doing nothing but being used as a funnel.

The story gets worse. As a result of an earlier DOD inspector general investigation of off-loading to TVA, the Undersecretary of Defense for acquisition ordered all commands to "stop paying other agencies to execute contracting functions that we should be performing ourselves."

The antisubmarine warfare office ignored that directive. It continued to send money to TVA and ESG. It took a second inspector general investigation before the antisubmarine warfare office stopped sending money to TVA.

But then the office used a new subterfuge to continue the off-load. Instead of terminating the agreement with TVA and ESG, the antisubmarine office redirected the funds to the National Oceanic and Atmospheric Administration, NOAA, which turned around and—you guessed it—off-loaded the money to TVA and to ESG. The documents sending that money to NOAA expressly state that "funds may not be redirected. The acceptor must be the performer." But NOAA, at the request of that same antisubmarine warfare office, sent that money to TVA and ESG anyway. And as a result of the deception, the antisubmarine warfare office was able to send an additional $3.3 million in DOD funds to TVA and ESG, despite two inspector general reviews condemning the practice. This case is not unique. For every abuse in that office, we have inspector general reports documenting a dozen more cases equally as bad.

For example:

> We have the Army Missile Command placing a $750,000 order for independent verification of test program sets through DOE, which the IG found was done so the Army could continue its sole-source relationship with a company whose Army contract had not been renewed.
>
> We have the very same command trying to purchase computer software for inventory item managers through a DOE laboratory and several layers of subcontractors—a procurement so badly botched that the command eventually had to terminate DOE, the contractor and two levels of subcontractors, and re-award the project to a local small business, to get the work done right.

We have the Army Tank and Automotive Command buying $750,000 of tank kits through NASA's Jet Propulsion Laboratory, which the IG found was done for the purpose obtaining the services of a specific contractor on a sole-source basis.

We have the Navy Ship Systems Engineering Station sending $32 million to TVA for ship modernization systems, in an apparent effort to obligate expiring funds that otherwise have been returned to the Treasury at the end of the fiscal year.

We have the Marine Corps sending more than $10 million to the Department of Transportation for logistics and computer support systems, holding on to expiring funds that could not otherwise have been spent after the end of the fiscal year.

We have an Air Force Wing spending $1 million on a gas utility vehicle, hand-held walkie-talkies, asbestos removal, design of a machine gun range, and brush-clearing services from TVA, which the IG found was done so that it would spend expiring year-end funds.

We have the Air Force Air Mobility Command sending $16 million to TVA to contract on a sole basis for the development of an audiovisual inventory control system, support for equipment management, and support for fasteners, connectors and tools modeling, augmentation of a computer local area network, and development of an underground storage tank proposal.

Here is what one Army memorandum has to say about the abuse and misuse of contract off-loads:

> Unauthorized and ill-considered offloading of Army acquisition requirements to other agencies, particularly to agencies not subject to the Federal Acquisition Regulation and the Competition in Contracting Act (CICA) (thus circumventing the competition requirements of CICA), are actions clearly contrary to policy and regulation. They cost the Army millions of dollars in fees for performance of a function (contracting) that we already pay a highly trained, professional staff to perform properly.

Many contractors are well aware that off-loading can be used to circumvent procurement laws and regulations, and turn this loophole to their own advantage. In unsolicited testimony submitted to the subcommittee, one contractor described how it was able to capitalize on off-loads through the DOE laboratories to obtain sole-source contracts from DOD. The testimony states:

> I became aware of a procurement process where one branch of the government sends money to another branch of the government to procure desired goods and services. An executive of another company explained to me how it worked and of course, assured me that it was totally above board and legal. All I had to do was find a customer in DOD that wanted my services. I would then arrange to have Martin Marietta Energy Systems (Martin) go with me to brief the customer on how to obtain my services through an interagency transfer of monies to the Department of Energy, Oak Ridge National Laboratory in Oak Ridge, Tennessee. . . . As DOE's agent, Martin would administer the money from my customer and make the procurement. For Martin's procurement services they would receive 20% off the top.

This contractor, who subsequently became disillusioned with the process, adds:

> It is my belief that the transferring of the procurement responsibility in the [DOE] "Work for Others Program" is at least unethical and perhaps illegal. The sole purpose for the program's existence is to circumvent the DOD procurement process. . . . It is a program of technological welfare that does not serve any national interest.

In all, we have documented more than $100 million of improper off-loading through the TVA; almost $100 million of improper off-loading through a single DOE laboratory; more than $10 million in improper off-loading through NASA's Jet Propulsion Laboratory; and more than $50 million in questionable off-loading through the Department of Transportation's Volpe Research Center.

There are billions of dollars in other off-loads that have not even been analyzed to see whether they have been subject to similar abuses. The DOD IG found that DOD alone is making more than $3 billion in off-loaded contracts every year. And this may be just the tip of the iceberg, because DOD has consistently refused to institute any system for tracking off-loads—and because DOD is far from the only agency that improperly off-loads contracts.

As a result of our subcommittee hearing, DOD promised to take steps to prevent future abuses. Unfortunately, however, such promises have been made in the past, with little apparent effect.

In a hearing before the Senate Governmental Affairs Committee 4 years ago, the DOD inspector general revealed that DOD had improperly off-loaded $80 million of contracts through the Library of Congress. That is right, the Libraryof Congress. DOD officials were sending millions of dollars of taxpayer money to the Library of Congress to purchase goods and services for them.

As a result of that hearing, and the Inspector General's report, the Department of Defense and each of the three military services promised to address the problem and make sure that it couldn't happen again.

Well, it has happened again, and again, and again. It has happened again through the TVA; it has happened again through the DOE laboratories; it has happened again through NASA; and it has happened again through the Department of Transportation.

The time has come for more direct action. The Economy Act—the basic statute which authorizes contract off-loads—provides absolutely no guidance as to when an off-load is in the best interest of the government. Well, let me tell you—it is not in the best interest of the government to avoid competition and place a contract with a favored contractor on a sole-source basis. It is not in the best interest of the government to spend expiring year-end funds as quickly as possible, to avoid having to return them to the Treasury. And it is not in the best interest of the government to duck responsibility for contract management and allow contractors to spend taxpayer money as they please.

We need clear, strong guidance on this point, and we need it now—before we send hundreds of millions more taxpayer dollars down the bottomless pit of improper contract off-loads. The amendment that I am proposing, with Senator COHEN as a co-sponsor, would require the Department of Defense to stop improper off-loads.

Under our amendment, DOD would be permitted to off-load contracts to other agencies only in specific circumstances—described by the Department at our hearings—where such off-loads are appropriate. These circumstances are where: (1) the other agency is purchasing similar goods or services for itself, and it makes sense to consolidate the purchases; (2) the other agency has unique capabilities or expertise, not otherwise available to the ordering agency or unit; or (3) the other agency is specifically authorized to make purchases on behalf of other agencies. The amendment would authorize off-loads in additional circumstances, in the event of the issuance of an Executive Order or a revision to the Federal Acquisition Regulation setting forth specific additional circumstances in which such purchases are appropriate.

Under the amendment, any off-load would have to be approved in advance by a contracting officer or other official specifically authorized by regulation to approve such purchases. Contracting officer approval is already required by regulation, but only 10 of 502 acquisitions reviewed by the DOD IG complied with the requirement. The amendment gives DOD flexibility to authorize higher-ranking procurement officials to approve off-loads in appropriate circumstances. As under the current rules, however, such approvals should be in the hands of procurement officials, and not program officials.

In addition to requiring new guidance and contracting officer approval of off-loads, our amendment would—

Prohibit DOD from off-loading contracts to agencies that are not covered by the Competition in Contracting Act and the Federal Acquisition Regulation, without prior approval by a Senior Acquisition Executive. There is absolutely no good reason for DOD to make purchases through agencies like TVA and the Library of Congress, and it has got to stop.

Prohibit the payment of any fee to the agency or unit to fill the order in excess of the actual or estimated cost of entering into and administering the contract. This provision would put an end to the practice by which some agencies charge a premium to help other agencies break their own procurement rules.

Require DOD to establish a system to track contract off-loads, so that we will know how many such agreements are entered, with whom, and by which commands within DOD. Appropriate data on contract off-loads would include, at a minimum, the number and value of off-loads, the identity of both the ordering agencies and the agencies filling the orders. This kind of information is essential if we are going to prevent future abuses. Despite repeated recommendations by the DOD IG, however, the Pentagon has refused to institute a tracking system, taking the position that what it doesn't know can't hurt it.

Although the amendment would address only off-loads from DOD to other agencies, there have been similar abuses of off-loads between DOD components. For example, in the early 1990's, when the Army Training Directorate bought $24 million of instrumentation systems for its combat training centers through the Marine Corps, for the apparent purpose of giving the project to a favored company which employed the spouses of two Army program officials. The amendment would not address these intra-DOD off-loads, because steps are already being taken to address these abuses, and because the Department needs flexibility to assign procurement responsibility among its components. However, we will be watching closely to make sure that the abuses we have seen in this area do not recur.

Finally, because we do not want to tie DOD's hands and limit regulatory flexibility in perpetuity, the amendment would cease to be effective one year after the date on which final implementing regulations become effective. The provision is drafted this way to permit appropriate changes to the regulation as the procurement system evolves in the years to come. This expiration date is not intended to authorize—and we would not tolerate—the withdrawal of the required regulations after the one-year period elapses.

Under this amendment, the DOD will be permitted to off-load contracts to other agencies only in specific circumstances as described by the Department at our hearings where off-loads loads are appropriate. Under the amendment, we are going to stop the inappropriate, wrongful funneling of money through other agencies to avoid competition, for hurry-up spending, to avoid competition in contracting, to avoid audits. We are taking a series of steps to put an end to those practices. They are shocking practices. It is a complicated, complex, technical subject.

The word "off-loading" will cause most eyes to glaze over in this body. I took months to figure out what off-loading really was. What it really is is the application of responsibility by our agencies to contract competitively for the services and products that they need, and by subterfuge, to use other agencies, with whom no competition is required, to funnel the money, frequently to favored contractors, in order to get goods and services without competition and in violation of requirements relative to year-end spending.

Mr. President, again, I thank the Chair. I thank my friends who worked long and hard today. It was a long day. I am sorry I took this 10 minutes, but this is a very significant wrong that is going on, and not just at DOD, but at a number of agencies that contract. We have to put an end to it. I thank Senators NUNN and THURMOND for helping with this amendment and to approve it as they have. I also thank Senator COHEN for cosponsoring this amendment.

Mr. NUNN. Mr. President, I congratulate the Senator from Michigan not only for this amendment but for his leadership in the whole defense area. Particularly, he zeroed in on the procurement process more than anybody on our committee, and I think more than anyone in the Congress. So I have tremendous respect for him, both in his capacity on the Defense Committee and Governmental Affairs Committee, where he works on procurement.

I am in favor of the amendment. There are abuses going on, and the Senator from Michigan is exactly right on that. Those abuses are not acceptable and must be curbed. These abuses are not confined, as he said, to the Department of Defense but also to other agencies. I want to add one word, though, and that is that the reason we have these abuses—and again there is no excuse for them—but the reason we have them is because the agencies, including but not limited to DOD, are simply overwhelmed with procurement requirements and regulations. It is just overwhelming, the combination of all of the things we do in the Congress, and that they do at the DOD level in terms of directors and what causes this moving around and maneuvering between agencies, is to avoid some of the rules and regulations that have made so cumbersome over the years, so that the procurement system takes forever to get anything done. The longer you

take on procurement, the more bureaucracy and rules and regulations you have, and the more its costs.

So what we have are an awful lot of rules, regulations, laws and DOD directives that have all been well-meaning. Each one is designed to cure one problem here and one problem there. All of them had their purpose. Yet, when you accumulate them, total them, it is my view that all of the abuses they were aimed to cure—if you summarized all of those and added up the dollar marks, it would probably not be as much as the total cumulative burden of the regulations we have.

So in agreeing to this amendment, I would like to put down a marker that I believe most of my colleagues on the Armed Services Committee at least would agree with: We have to simplify the procurement rules and regulations. We have to change the acquisition system. We have to make it more like the commercial sector. If we do not, we are going to continue to have the abuses, because people are really, in effect, trying to work around the system. I urge support of the amendment.

Mr. LEVIN. If I could ask the Senator from Georgia just to yield for 1 minute. I think he is correct that there are many instances where it is the complication, the complexity of regulations which cause contract officers to try to evade them. However, that does not justify it, as my friend from Georgia aptly pointed out. And in any event, there is a significant percentage of this offloading which goes on for reasons which cannot be explained by the complexity of regulations.

So in many cases, indeed, the complexity which my friend from Georgia points out does explain that frustration on the part of people who are trying to get things done and to take short cuts. It does not justify it, but it does explain it in some instances. But in other instances we have had pointed out at our hearings with witnesses that there is not even that rationale for the subterfuge that goes on in so much of our contracts.

This amendment will address it in the Department of Defense and we will try to do it in other agencies as well, and work on some of the complex regulations which are needless, which in fact do frustrate so many of our contracting officers.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I favor this amendment and wish to commend my distinguished colleagues, Senators COHEN and LEVIN, for conducting the investigative hearings that have brought to light abuses with the use by the Department of Defense of other Federal agencies to enter into contracts for goods and services for the Department. Such practices have enabled offices within the Defense Department to avoid, among other things, competition requirements and restrictions on the expenditure of funds at the end of a fiscal year.

The amendment offered by Senators COHEN and LEVIN would require the Department of Defense to issue regulations governing the use of other Federal agencies for purchasing goods and services. This legislation will not change permanent law and will sunset once the required regulations are issued. It is an excellent model for how such problems should be addressed by Congress. I urge the adoption of the amendment.

The PRESIDING OFFICER. The Chair hearing no further debate, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 796) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, earlier in the day, the Senator from South Carolina wisely suggested that the number of amendments had to be limited at some point and that we should basically get a list of the amendments from both Democrats and Republicans and let us say these are all the amendments that will be eligible.

We have discussed this, both of us have, with our respective leaders, the minority leader and the majority leader, and on behalf of the majority leader, I ask unanimous consent that the list of amendments at the desk, which are both Democrat and Republican amendments, all we know about, be the only amendments remaining in order to the DOD authorization bill; that they be subject to the relevant second-degree amendments; that upon disposition of the amendments remaining in order to the bill, the bill be read a third time and, without any intervening action or debate, the Senate proceed to final passage on S. 1298.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I concur with the request of the distinguished chairman of the committee and I favor that action.

The PRESIDING OFFICER. Without objection, the unanimous-consent agreement propounded by the Senator from Georgia is agreed to.

Mr. NUNN. Mr. President, lest anyone think we have a small list and they might have been left out, we have a total of 123 amendments that are at the desk. So I am not sure anyone has been left out. That is more than one amendment per person here in this body.

We hope to be able to agree to a number of the amendments. We hope a number of the amendments will await another bill, because some of them do not relate to the military at all and are not relevant to this bill.

So it is my hope that we will clear away some of this by around noon tomorrow. It is still my view that we can pass this bill tomorrow night. I do think everyone ought to be prepared to be here late in the afternoon and in the evening. I would put all Senators on notice to that effect.

I know that the Senator from South Carolina has put in a very full day and I assure him that only the amendments agreed to on both sides will be agreed to and I will see him tomorrow morning.

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

REPUBLICAN AMENDMENTS TO DOD AUTHORIZATIONS

Grassley—Advanced procurement.
Grassley—Anti-deficiency Act.
Grassley—C-17
Grassley—Defense Business Operations Fund.
Helms—Relevant.
McCain—Maritime Administration.
McCain—Israel.
McCain—Iran-Iraq Nonproliferation.
McCain—Reports.
McCain—Def. Expenditures.
Lott—Delay of 95 BRAC.
Lott—SOS Naval Oceanography.
Gramm—Relevant.
Warner—Drug Rehabilitation.
Roth—NATO.
Roth—Defense Acquisition Reform.
Chafee—Navy Compliance with MARPOL.
Stevens—Procurement.
Stevens—Advisory Commission.
Coverdell—Veterans.
Smith—SGLI.
Smith—Food Distribution.
Smith—Navy Medal.
Mack—Re: Military Health Care.
Burns—Ft. Missoula.
Burns—Minute Man 3.
Cohen—C-17.
Kempthorne—Nominee Restrictions.
Wallop—DOE Tech. Transfer.
Hatch—Personal Property/BRAC.
Warner—Ship Navigation.
Warner—MPS.
Warner—Land Conveyance.
Warner—Yosemite.
Warner—Relevant.
Warner—Relevant.
Murkowski—Medical Study
Domenici—Jupiter Simulator.
Domenici—SSTO.
Domenici—DFAS.
Domenici—Nuclear Weapons Report.
Danforth—Troops to Teachers.
Danforth—Counter Proliferation.
Chafee—POW's in Arlington.
Warner—Counter-Prolif.
Warner—Joint Simulation Center
Warner—Relocate AFSC.
Brown—Environmental Compliance.
Brown—C-130.
Dole—MRE's.
Dole—UN Troops.
Dole—MFEL-Burn.
Dole—Guard Technicians.
Dole—Envir. Ed.
Dole—Relevant.
Thurmond—Veterans Awards.
Thurmond—Relevant.
Hutchison—Operational Support Aircraft.

DEMOCRATIC AMENDMENTS TO DOD AUTHORIZATION

Nunn: (1) Relevant, (2) Relevant.

Riegle: (1) Chemical Weapons Gulf War, (2) Base closing.

Harkin: (1) Nuclear testing, (2) Nuclear testing, (3) Anti satellite.

Boxer: (1) Conversion clearing house, (2) base personnel training for cleanup.

Akaka: Sense of Senate leave for military members.

Robb: (1) Ship transfer, (2) Competitive procurement.

Glenn: (1) Relevant.

Breaux: (1) Vessel charters.

DeConcini: (1) Transfer funds from DoD to HHS, (2) Nuclear test evaluation, (3) Commercial use test facilities.

Exon: Relevant.

Metzenbaum: Relevant.

Reid: (1) No funds for Ground Waves (GWEN project), (2) Prohibit military at Duck Valley Reservation, (3) Low overflights over Nevada, (4) Relevant, (5) Relevant.

Bingaman: (1) Waste Isolation Pilot,(2) ARPA Pilot program, (3) Missile proliferation, (4) Strike export loan guarantees.

Lautenberg: Burden sharing.

Kennedy: (1) Humanitarian land mines, (2) C–17 live fire testing.

Levin: (1) Defense contract off-loading, (2) Base closure, (3) Serbian sanctions, (4) Residual values, (5) Army modernization, (6) Army modernization, (7) Homosexuals, (8) Peacekeeping report.

Bryan: Credit Unions federal buildings.

Graham: (1) Military and maritime prepositioning, (2) Defense technology reinvestment projects, (3) Ft. Lauderdale Navy land/airport transfer, (4) Contractor dealings with military installations on BRAC list, (5) Youth Corp Academy at Orlando.

Moynihan: Intelligence budget.

Bumpers: SDI.

Pryor: (1) Defense conversion, (2) Recruiting.

Feingold/Kohl: Terminate Navy ELF operation.

Leahy: (1) B2, (2) Land Mines.

Wellstone: (1) Relevant, (2) Relevant.

Feinstein: (1) Defense conversion; Feinstein (with Lott): (2) Base Closure.

Dorgan: (1) Sense of Senate relocating research personnel.

Baucus/Chafee: Marine plastics.

Johnston: (1) National Labs, (2) National Labs, (3) Environmental cleanup, (4) DOE Employment Rules (Conflict of Interest), (5) Defense Nuclear Waste.

Simon: (1) Corp Engineers, (2) Corp Engineers.

Mitchell: (1) Relevant, (2) Relevant, (3) Relevant.

AMENDMENT NO. 797

Mr. NUNN. Mr. President, on behalf of Senators ROBB and WARNER, I propose an amendment to authorize the Secretary of the Navy to transfer the obsolete destroyer tender *Yosemite* to a nonprofit organization called Ships at Sea. This organization proposes also to use this vessel as part of a program of drug education and drug rehabilitation. The Secretary of the Navy would be allowed to prescribe the terms and conditions under which this vessel would be transferred.

Mr. President, I send the amendment to the desk and urge its adoption.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ROBB (for himself and Mr. WARNER) proposes an amendment numbered 797.

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:

SEC. . TRANSFER OF OBSOLETE DESTROYER TENDER YOSEMITE.

(a) AUTHORITY.—Notwithstanding subsections (a) and (c) of section 7308 of title 10, United States Code, but subject to subsection (b) of that section, the Secretary of the Navy may transfer the obsolete destroyer tender Yosemite to the nonprofit organization Ships at Sea for education and drug rehabilitation purposes.

(b) LIMITATIONS.—The transfer authorized by subsection (a) may be made only if the Secretary determines that the vessel Yosemite is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

The PRESIDING OFFICER. If there is no further debate, without objection the amendment is agreed to.

The amendment (No. 797) was agreed.

AMENDMENT NO 798

Mr. NUNN. Mr. President, I send another amendment to the desk on behalf of Senator WARNER and Senator ROBB.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. WARNER and Mr. ROBB, proposes an amendment numbered 798.

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:

SEC. . Notwithstanding any other provision of law, none of the funds authorized for appropriations in fiscal years 1994, 1993, and 1992 for the Navy shall be obligated or expended for the procurement of ring laser gyro navigation systems for surface ships under a sole source contract.

Mr. NUNN. Mr. President, on behalf of Senators ROBB and WARNER, I offer an amendment to prohibit the Navy from awarding any sole source contracts to purchase surface ship navigation systems including ring laser gyroscope inertial measurement units. The Navy and the contractors will be ready for a free and open competition for such systems in fiscal year 1994. The Navy should not be permitted to take any sole source procurement action in the mean time that could tend to prejudice that competition. Therefore, Mr. President, I urge that the Senate adopt this amendment.

Mr. WARNER. Mr. President, it is my understanding that the U.S. Navy intends to award a sole source procurement contract for the acquisition of ring laser gyro navigation systems for DDG–51 guided missile destroyers authorized in the fiscal year 1993 budget. Such action would represent a sole source procurement for a system which is still in the developmental stage.

To date, the Navy has been procuring a WSN–5 spinning mass navigation system for surface ships currently under contract. This amendment will enable the Navy to continue to procure spinning mass navigation systems for these ships. It will, however, prohibit the Navy from spending appropriated dollars in fiscal years 1992 through 1994 for the procurement of an untested ring laser gyro navigation system under a sole source procurement.

The Navy has stated that it does have a requirement to upgrade the current navigation system on surface ships and submarines with a more reliable and capable system. I believe it is in the best interests of the Navy and in keeping with standard Department of Defense procurement practices, that the Navy hold a full and open competition for a procurement of a new system such as the ring laser gyro. Competition will ensure that the Navy gets the most capable system at the most competitive price. It will also eliminate the possibility that the Navy will procure limited numbers of a RLG set under a sole source contract and incur an enduring logistics support requirement for a system that may not survive the subsequent competition.

In the interests of fairness and cost effective procurement, I strongly encourage my colleagues to adopt this amendment.

The PRESIDING OFFICER. Without objection, the amendment offered on behalf of Senators WARNER and ROBB is agreed to.

The amendment (No. 798) was agreed to.

AMENDMENT NO. 799

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of myself and the distinguished Senator from Michigan, Mr. LEVIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. LEVIN, proposes an amendment numbered 799.

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 appropriate point in the bill, add the following new section:

SEC. . Authority to reprogram funds for the Close Combat Tactical Trainer Quickstart Program. Subject to existing reprogramming procedures, the Secretary of the Army is authorized to reprogram funds in fiscal year 1994 to procure long lead component hardware items to accelerate the

Close Combat Tactical Trainer Quickstart program.

Mr. WARNER. Mr. President, not all of the works of the Senate qualify as major issues. This amendment deals with a little issue, but it represents a chance to save $18 million.

The Army is developing a new generation of simulators to train combat forces called the Close Combat Tactical Trainers. The Army has been on the forefront of simulation technology. These simulators permit realistic training of combat units at a fraction of the cost of expensive field maneuvers.

The Army developed a plan to accelerate the fielding of these simulators in order to lower operating costs. The contract they negotiated anticipated this accelerated program. If the Army could initiate procurement in fiscal year 1994, it could save $18 million on the first two production lots. Unfortunately, the Army didn't negotiate this favorable contract until after the fiscal year 1994 budget was submitted.

The Army is prepared to find the funds to initiate this procurement, but they need reprogramming authority to do so. Defense Department rules prohibit starting a new program through a reprogramming, or to spend funds for long lead items in other procurement accounts.

My amendment would authorize the Army for this program to reprogram funds to initiate long-lead procurement in fiscal year 1994. This amendment doesn't provide any additional funds to the Army. It merely authorizes them to reprogram funds from other programs. The Army would have to comply with all existing reprogramming procedures, however.

Mr. LEVIN. Mr. President, this is a excellent amendment. The subcommittee I chair has taken the lead in promoting simulation technology. Two years back we encouraged the Army to initiate this so-called Quickstart program in order to get these simulators into the field faster. The Army is prepared to do that. This amendment doesn't provide more money. It does authorize the Army to prioritize its programs and take advantage of the favorable contract.

I am pleased to support this amendment and urge my colleagues to adopt it.

Mr. WARNER. This amendment is cleared on both sides, Mr. President.

The PRESIDING OFFICER. The Chair, hearing no further debate, without objection, the amendment offered by Senator WARNER is agreed to.

The amendment (No. 799) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider en bloc all the amendments that have been adopted in the last few moments, and I move to table those motions en bloc.

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

AMENDMENT NO. 800

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of the Senator from Arizona, Mr. MCCAIN, 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 Virginia [Mr. WARNER], for Mr. MCCAIN, proposes an amendment numbered 800.

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 appropriate place in the bill, add the following section:

SEC. . TRANSPORTATION OF CARGOES BY WATER.—Chapter 157 of title 10, United States Code, is amended by inserting a new section 2631a, as follows:

"2631a. Contingency planning

"(a) CONSIDERATION OF PRIVATE CAPABILITIES.—The Secretary of Defense shall ensure that all studies and reports of the Department of Defense, and all actions taken in the Department of Defense, concerning sealift and related intermodal transportation requirements take into consideration the full range of the transportation and distribution capabilities that are available from operators of privately owned United States flag merchant vessels.

"(b) PRIVATE CAPACITIES PRESENTATIONS.—The Secretary shall afford each operator of a vessel referred to in subsection (a), not less often than annually, an opportunity to present to the Department of Defense information on its port-to-port and intermodal transportation capacities.

"(c) CERTIFICATION REQUIREMENT.—The Secretary shall submit to the Secretary of Transportation, not less often than annually, a certification of compliance with the requirements of subsection (b)."

Mr. MCCAIN. Mr. President, my amendment deals with our rapidly disappearing U.S.-flag merchant marine fleet. The facts are simple: the number of merchant ships operating under U.S. registry has been in a steady decline for the past several decades. If the trend is allowed to continue, we will soon witness the virtual extinction of U.S.-flag vessels operating in foreign trade.

Mr. President, I wish to acknowledge the concern that other Members have expressed for this increasingly serious situation. Senator BREAUX, the distinguished chairman of the Merchant Marine Subcommittee, and Senator LOTT, the distinguished ranking member of that subcommittee, are well aware of the problem and have recently held hearings to explore potential solutions. Their counterparts on the House Merchant Marine and Fisheries subcommittee have been similarly engaged. I know they are all working diligently to find an answer.

My amendment, therefore, is aimed only at areas that are clearly within the purview of the Armed Services Committee. It provides for the following:

First, it requires the Secretary of Defense to ensure that all studies and actions taken within the Department that concern sealift take into consideration the full range of the transportation and distribution capabilities that the operators of privately owned U.S.-flag merchant vessels can provide.

Second, it affords each operator an opportunity to present to the Department of Defense at least annually information on its port-to-port and intermodal transportation capabilities.

Third, it requires the Secretary of Defense to formally report to the Secretary of Transportation at least annually that he has afforded the operators the opportunity to make these presentations on their capabilities.

Mr. President, this amendment will make no sweeping changes in our Nation's maritime policy—that task will be left to the Commerce committees and their respective subcommittees. I only hope to send a clear signal to those few remaining operators of U.S.-flag merchant vessels that we recognize the importance of their contribution to our national security, and that we are prepared to work with them to ensure their viability operating under U.S. registry with U.S. crew members.

Mr. WARNER. This amendment has been agreed to on both sides.

Mr. NUNN. Mr. President, I urge the adoption of this amendment.

The PRESIDING OFFICER. The Chair, hearing no further debate, without objection, the amendment offered on behalf of the Senator from Arizona [Mr. MCCAIN] is agreed to.

The amendment (No. 800) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 801

(Purpose: To provide for a land conveyance, Charleston, South Carolina)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from South Carolina [Mr. THURMOND].

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THURMOND, proposes an amendment numbered 801.

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:

On page 353, between lines 4 and 5, insert the following:

SEC. 2842. LAND CONVEYANCE, CHARLESTON, SOUTH CAROLINA.

(a) IN GENERAL.—The Secretary of the Navy may convey to the Division of Public

Railways, South Carolina Department of Commerce (in this section referred to as the "Railway") all right, title and interest of the United States in and to a parcel of real property consisting of approximately 10.9 acres and comprising a portion of the Charleston Naval Weapons Station South Annex, North Charleston, South Carolina.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a) the Railway shall pay to the United States on amount equal to the fair market value of the property as determined by the Secretary.

(c) USE OF PROCEEDS.—The Secretary may use the proceeds received from the sale of property authorized by this section to pay for the cost of any environmental restoration of the property being conveyed. Any proceeds which remain after any necessary environmental restoration has been completed shall be deposited in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Railway.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Secretary considers to be necessary to protect the interests of the United States.

Mr. THURMOND. Mr. President, the amendment I am introducing will authorize the Navy to convey to the division of public railways, South Carolina Department of Commerce approximately 11 acres including the railroad equipment maintenance facility known as the Roundhouse located in North Charleston, SC. The property will be conveyed at a fair market value of $500,000.

Mr. President this property is excess to the Navy and has not been used since it was damaged by Hurricane Hugo in 1989. The Navy has no plans to repair the facility nor is there any other use contemplated.

The division of public railways, which provides rail service for the Port of Charleston, owns property adjacent to the Navy property. It will repair the facility and use it as its equipment maintenance facility.

Mr. President, this is a good government provision. It requires the payment at fair market value. It will result in putting derelict property back into business. Most importantly, it will assist in the economic recovery of the Charleston community which is being devastated by the closure of the Charleston Navy Base.

Mr. President, I urge my colleagues to support this amendment.

Mr. WARNER. Mr. President, this has been cleared on both sides.

Mr. NUNN. Mr. President, this amendment provides an expedited conveyance of fair market value of approximately 11 acres of property developed in the railyard of the naval weapons station to the division of public railways, South Carolina Department of Commerce. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment offered on behalf of the Senator from South Carolina, Senator THURMOND, is agreed to.

The amendment (No. 801) was agreed to.

Mr. NUNN. 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.

AMENDMENT NO. 802

(Purpose: To authorize the Advanced Research Projects Agency to carry out certain pilot demonstration projects and prototype projects)

Mr. NUNN. Mr. President, on behalf of Senator BINGAMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BINGAMAN, proposes an amendment numbered 802.

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 190, below line 24, add the following:

SEC. 825. AUTHORITY OF THE ADVANCED RESEARCH PROJECTS AGENCY TO CARRY OUT CERTAIN PILOT DEMONSTRATION PROJECTS AND PROTOTYPE PROJECTS.

(a) AUTHORITY.—The Director of the Advanced Research Projects Agency may, under the authority of section 2371 of title 10, United States Code, carry out pilot technology demonstration projects and prototype projects that are directly relevant to weapons or weapons systems proposed to be acquired or developed by the Department of Defense.

(b) EXERCISE OF AUTHORITY.—(1) Subsections (d)(2) and (d)(3) of such section 2371 shall not apply to pilot projects carried out under subsection (a).

(2) The Director shall, to the maximum extent practicable, utilize competitive procedures when entering into agreements to carry out projects under subsection (a).

(c) PERIOD OF AUTHORITY.—The authority of the Director to carry out projects under subsection (a) shall terminate 3 years after the date of the enactment of this Act.

Mr. BINGAMAN. Mr. President, the amendment which I am offering would allow the Advanced Research Projects Agency to use cooperative agreements authority on a pilot basis to execute some of its defense projects. ARPA already has the authority to use cooperative agreements and others transactions to implement its dual-use projects, where industry contributes its own resources and use of contracts would not be appropriate. Indeed, ARPA expects to utilize that authority extensively to implement the programs under the Technology Reinvestment Project.

My amendment would permit ARPA on a pilot basis over the next 3 years to experiment with use of cooperative agreements in carrying out its purely military research and development projects, to which we should not expect industry to contribute its own resources. Use of this more flexible authority is consistent with the thrust of the National Performance Review which the Vice President submitted to the President yesterday and with the desire for more flexibility in the defense acquisition system. ARPA led the way in use of cooperative agreements for dual-use projects, such as the high-performance computing program. I am sure the agency will make good use of this new authority and urge my colleagues to support this amendment.

Mr. NUNN. This amendment allows ARPA to use the authority in section 2371 of title X, U.S.C. to carry out pilot projects that are directly relevant to weapons or weapons systems. This amendment will allow ARPA to use the cooperative agreements for purely military research as a 3-year test.

The PRESIDING OFFICER. The Chair, hearing no further debate, without objection, the amendment offered on behalf of the Senator from New Mexico [Mr. BINGAMAN] is agreed to.

The amendment (No. 802) was agreed to.

Mr. NUNN. 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.

AMENDMENT NO. 803

(Purpose: To extend the review of the Waste Isolation Pilot Plant in New Mexico)

Mr. NUNN. Mr. President, I send an amendment on behalf of Senator BINGAMAN and Senator DOMENICI to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BINGAMAN, for himself and Mr. DOMENICI, proposes an amendment numbered 803.

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 413, between lines 18 and 19, insert the following:

SEC. 3139. EXTENSION OF REVIEW OF WASTE ISOLATION PILOT PLANT IN NEW MEXICO.

Section 1433(a) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2073) is amended in the second sentence by striking out "four additional one-year periods" and inserting in lieu thereof "nine additional one-year period".

Mr. NUNN. This amendment would extend the period of time for four additional 1-year periods in which the Department of Energy may contract with the Environmental Evaluation Group to conduct independent evaluations of the design, construction, and operation of the waste isolation pilot plant in New Mexico.

Mr. BINGAMAN. President, the amendment which I am offering with Senator DOMENICI will extend the contract currently in force between the Secretary of Energy and the New Mexico Institute of Mining and Technology that enables the Environmental Evaluation Group [EEG] to conduct independent reviews and evaluations of the design, construction, and operation of the waste isolation pilot plant [WIPP] in New Mexico.

This contract was first authorized in the 1989 Defense Authorization Act and will expire next year if not extended. This amendment provides for a simple 5-year extension of the contract and is needed to allow the EEG to continue their important work.

Additionally, Public Law 102-597, the WIPP Land Withdrawal Act, enacted into law last year requires the Secretary of the Energy to consult and cooperate with the EEG under the terms of the contract first authorized in 1989. In order for the Secretary to comply with the law and congressional intent, it is necessary to extend this contract.

This amendment has been cleared by the Energy and Natural Resources Committee on both sides of the aisle and by the Armed Services Committee on both sides. My staff has been informed that Tom Grumbly, Assistant Secretary of Energy for Environmental Restoration and Waste Management, has no objection to the amendment.

I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 803) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 804

(Purpose: To improve pricing policies for use of major range and test facility installations of the military departments)

Mr. NUNN. Mr. President, on behalf of Senators DECONCINI, DOMENICI, and BINGAMAN I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DECONCINI, for himself, Mr. DOMENICI, and Mr. BINGAMAN, proposes an amendment numbered 804.

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 190, below line 24, add the following:

SEC. 825. IMPROVEMENT OF PRICING POLICIES FOR USE OF MAJOR RANGE AND TEST FACILITY INSTALLATIONS OF THE MILITARY DEPARTMENTS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2680 the following new section:

"§ 2681. Use of test and evaluation installations by commercial entities

"(a) CONTRACT AUTHORITY.—The Secretary of the military department concerned, in consultation with the Secretary of Defense, may enter into contracts with commercial entities that desire to conduct commercial test and evaluation activities at a Major Range and Test Facility Installation under the jurisdiction of the Secretary.

"(b) TERMINATION OR LIMITATION OF CONTRACT UNDER CERTAIN CIRCUMSTANCES.—A contract entered into under subsection (a) shall contain a provision that the installation commander may terminate, prohibit, or suspend immediately any commercial test or evaluation activity to be conducted at the Major Range and Test Facility Installation under the contract if the installation commander certifies in writing that the test or evaluation activity is or would be detrimental

"(1) to the public health and safety;

"(2) to property (either public or private); or

"(3) to any national security interest or foreign policy interest of the United States.

"(c) CONTRACT PRICE.—A contract entered into under subsection (a) shall include a provision that requires a commercial entity using a Major Range and Test Facility Installation under the contract to reimburse the installation for all direct cost to the United States that areassociated with the test and evaluation activities conducted by the commercial entity under the contract, as determined by the installation commander. In addition, the contract may include a provision that requires the commercial entity to reimburse the installation for such indirect costs related to the use of the installation as the installation commander considers to be appropriate.

"(d) RETENTION OF FUNDS COLLECTED FROM COMMERCIAL USERS.—Amounts collected under subsection (c) from a commercial entity conducting test and evaluation activities at a Major Range and Test Facility Installation shall be credited to the appropriation accounts under which the costs associated with the test and evaluation activities of the commercial entity were incurred.

"(e) REGULATIONS AND LIMITATIONS.—The Secretary of the military department concerned, in consultation with the Secretary of Defense, shall prescribe regulations to carry out this section. The authority of installation commanders under subsections (b) and (c) shall be subject to the authority, direction, and control of the Secretary of the military department concerned.

"(f) DEFINITIONS.—In this section:

"(1) The term 'Major Range and Test Facility Installation' means a test and evaluation installation under the jurisdiction of the Secretary of a military department and designated as such by the Secretary.

"(2) The term 'direct costs' includes the cost of—

"(A) labor, material, facilities, utilities, equipment, supplies, and any other resources damaged or consumed during the test or evaluation activities or maintained for a particular commercial entity; and

"(B) construction specifically performed for the commercial entity to conduct test and evaluation activities.

"(3) The term 'installation commander' means the commander of a Major Range and Test Facility Installation.

"(g) TERMINATION OF AUTHORITY.—The authority provided to the Secretary of a military department by subsection (a) shall terminate on September 30, 1998.

"(h) REPORT.—Not later than January 1, 1999, the Secretary of each military department shall submit to the Secretary of Defense and Congress a report describing the number and purposes of contracts entered into under subsection (a) and evaluating the extent to which the authority under this section is exercised to open Major Range and Test Facility Installations to commercial test and evaluation activities."

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2680 the following new item:

"2681. Use of test and evaluation installations by commercial entities.".

Mr. NUNN. Mr. President, this amendment allows test facility commanders to set prices for the commercial use of DOD test facilities. Revenues from commercial use would be retained by the facility to defer costs rather than returned to the Treasury.

This is a more flexible pricing policy which would tend to attract commercial businesses to DOD test facilities. I urge the adoption of the amendment.

Mr. DOMENICI. Mr. President, I rise today to cosponsor the amendment offered by the Senator from Arizona, Senator DECONCINI, on the improvement of pricing policies for use of "major range and test facility installations of the military departments." This amendment will allow the service Secretaries to enter into contracts with commercial entities that desire to conduct commercial test and evaluation activities at major range and test facility installations.

Earlier this year, I introduced a bill to create the Commission for the Study of Dual-Use Application of Facilities and Resources at White Sands Missile Range Act. With the end of the cold war, the demise of communism, and the resurgence of democratic principles across the world, the United States has an opportunity to expand its attention and resources to economic growth and job creation in the American economy.

I had intended to offer my bill as an amendment to the DOD authorization bill. However, the report accompanying the bill contains language that directs the Secretary of Defense to appoint a Commission to study if some of our Nation's defense test centers, laboratories and other acquisition infrastructure could be converted to serving the commercial needs of the country. After engaging in a short colloquy with the distinguished chairman of the Armed Services Committee, and his assurances that WSMR was one of the facilities that could be studied under this

section, I decided against offering my amendment.

I believe that the assurances of the chairman, coupled with the DeConcini amendment satisfy my concerns; namely, that DOD installations like WSMR be given the authority to enter into contracts to perform work for private industry.

White Sands is already collaborating with the private sector. For example, White Sands Missile Range's electromagnetic radiation effects facilities are being used to test air bags for Chrysler, Honda, and Nissan. This testing is to ensure that the air bag system will not erroneously deploy due to spurious electromagnetic radiation. White Sands Missile Range's shock and vibration facilities are being used to test shipping crates for Phillips Electronics. Phillips Electronics was experiencing a large failure rate in their electrical transformers after shipping. White Sands Missile Range is subjecting the creates to a series of vibration and shock tests. Finally, White Sands Missile Range's large temperature test facility is being used to test the heating and cooling system in General Electric's trailer-sized magnetic resonance imaging system. I believe that these examples are just the tip of the iceberg of what can be accomplished, Mr. President.

I believe that the amendment that the Senator from Arizona has offered will help facilitate collaboration for all of the major range and tests facility installations, and I am pleased to cosponsor this amendment. I urge my colleagues to support it, and I thank the Senator from Arizona for his fine work in this regard.

Mr. DECONCINI. Mr. President, I rise today to offer an amendment concerning pricing policy at major Department of Defense range and test facilities. I am pleased to be joined in this effort by both of the distinguished Senators from New Mexico, Senator BINGAMAN and Senator DOMENICI.

As you may be aware, Mr. President, the range and test facilities operated and maintained by the Defense Department are unique assets which have been developed and assembled over many years with considerable effort. Land has been set aside and future growth and development adjacent to these ranges has been limited so that the Departments of Defense and Energy are able to effectively develop and test the defense systems which have proven themselves in engagements such as Operation Desert Shield/Desert Storm.

Indeed, this Nation is fortunate that farsighted Government officials—going back to Gen. John Pershing at the turn of this century—recognized the advantages to the Army of having access to a desert test range such as that which has been developed at the Yuma Proving Ground in Yuma, AZ. This is but one example of the importance and uniqueness of these facilities. As we reduce our presence overseas, and as our access to overseas ranges is proscribed, facilities such as the Yuma Proving Ground and others here in the United States become even more important.

However, in an odd twist of fate, current regulations oftentimes limit or otherwise inhibit private U.S. companies from gaining access to these ranges at competitive prices. Often, these companies are forced to utilize similar facilities overseas in order to test a product and ultimately ready it for commercial sale. And, in the current need to reduce DOD infrastructure, there has been discussion of closing or consolidating some of these facilities because they are underutilized. If we do not allow the private sector access to the ranges, and we close them because there is not enough work for them to do, then we force U.S. companies and U.S. jobs overseas. This does not make any sense.

If we in the Congress are serious about putting some muscle behind the much-discussed phrase "defense conversion," then we should seriously examine the feasibility of allowing U.S. private sector companies access to our major DOD range and test facilities when they are not otherwise being used for their original purpose by the Defense Department. This makes a great deal of sense.

My amendment allows the Defense Department to establish pilot programs for the commercial use of major range and test facilities. It also ensures that such programs do not interfere with the regular activities being performed by the Armed Forces. As the Defense budget is further reduced, efforts permitting the utilization of these major range and test facilities by the commercial sector will help maintain these strategic assets at a reduced cost to the Defense Department, and thus the American taxpayer.

I thank my colleagues from New Mexico for their strong support and guidance in developing this legislation. I understand that this bipartisan amendment is supported by the Department of Defense. To this Senator it makes a great deal of sense for DOD to pursue the options provided for in this amendment, and I urge its adoption by the Senate.

Mr. BINGAMAN. Mr. President, I rise in support of the amendment offered by Senator DECONCINI regarding pricing policy at major range and test facilities.

Mr. President, the Defense Department's major range and test facilities are critical and in many cases unique U.S. assets. While the DOD range and test infrastructure represents a very large U.S. investment, the declining defense budget has impacted these facilities. In the coming years, we are in danger of losing critical capabilities that should be maintained. This amendment, which would facilitate the use of Department of Defense range and test facilities by the U.S. commercial sector, will go far in helping us maintain critical assets at a lower cost.

The type of government-industry partnership proposed by this amendment is very much in line with the efforts by the Armed Services Committee to support government-industry R&D partnerships and promote dual-use capabilities, as well as with the administration's efforts to reinvent government. This amendment allows the Department to establish pilot programs for the commercial use of major range and test facilities, when that use does not interfere with the military mission of those facilities, thereby lowering the cost of maintaining our testing infrastructure while benefiting the private sector.

By way of example, there is a major range and test facility in my State of New Mexico, White Sands Missile Range, with many capabilities that would be of interest to the private sector. However, under current policy it is difficult for the private sector to make use of this facility. I am informed that in some cases U.S. companies are even forced to go overseas to do the testing necessary to bring a product to market. This amendment will help facilitate the use of this critical testing infrastructure by the U.S. private sector and keep those jobs here at home.

Mr. President, this amendment is supported by the Department of Defense and by Members on both sides of the aisle. I believe that it is good government, and I urge my colleagues to accept it.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 804) was agreed to.

AMENDMENT NO. 805

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of Senator SMITH. I think I shall read this because I think it is rather interesting. If I may, I will read this prior to the clerk reporting it.

This amendment requires the Secretary of the Navy to award the Expeditionary Medal to those naval personnel who participated in the task force which supported the Doolittle Raiders in their attack on Tokyo in April 1942.

I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SMITH, proposes an amendment numbered 805.

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 appropriate place in the bill, insert the following:

SECTION 1. AWARD OF THE NAVY EXPEDITIONARY MEDAL.

The Secretary of the Navy shall direct that members of the Navy who served in Navy Task Force 16, culminating in the air-raid commonly known as the "Doolittle raid on Tokyo", during April 1942, be awarded the Navy Expeditionary Medal for such service.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

Mr. WARNER. If the chair will indulge the Senator from Virginia while I have a momentary conversation with the chairman?

Mr. NUNN. Mr. President, Senator WARNER and I conferred on this. We believe this needs for further examination. It may be we will agree with this tomorrow, but we will withdraw the amendment.

Mr. WARNER. I concur in that. Chairman NUNN and I, I think, basically are in favor of the concept, the objective. We just want to make sure if the Senate desires to take this action, that all persons who were involved in that raid were considered so that no one be omitted. This seems to be restricted to one branch of the service. We want to make certain the other members of the other branches of the service, the Marine Corps—this does not say Navy Department. It just says the Navy. I concur in that.

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

The amendment (No. 805) was withdrawn.

AMENDMENT NO. 806

Mr. NUNN. Mr. President, on behalf of Senator LEVIN, I offer an amendment to authorize the Department of Defense to reprogram, subject to the normal review procedures, up to $40 million for procuring and testing unmanned aerial vehicle systems consisting of nondevelopmental items to fill an urgent requirement for unmanned reconnaissance systems. Fielding an unmanned reconnaissance capability is critically important to military capability in future contingency operations.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. LEVIN, proposes an amendment numbered 806.

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

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

The amendment is as follows:

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

SEC. . Interim Reconnaissance Program. (a) Of the funds authorized to be appropriated in section 201 for the Joint Program Office for Unmanned Aerial Vehicles, up to $40,000,000 may be obligated and expended for the purposes of initiating a long-endurance, unmanned reconnaissance aerial vehicle program, subject to the conditions outlined in subsection (b) and subsection (c).

(b) The funds may be obligated only to procure, integrate, test and evaluate non-developmental airframes, sensors, communication equipment, mission planning equipment and ground stations.

(c) None of the funds may be obligated until the Department identifies the programs within the jurisdiction of the Joint Program Office that will be terminated or deferred, consistent with normal reprogramming procedures.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 806) was agreed to.

Mr. WARNER. Mr. President, I ask the Senator from Virginia be named as a cosponsor. I served on the subcommittee with the distinguished Senator from Michigan [Mr. LEVIN].

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

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 807

Mr. NUNN. Mr. President, on behalf of Senators KENNEDY and COHEN I send an amendment to the desk to delete a portion of a provision in last year's Authorization Act that would require the Air Force to use only fiscal year 1993 funds to conduct live-fire survivability testing on the C-17 aircraft. Additional testing will fall in other fiscal years. We believe this testing is important.

I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. KENNEDY, for himself, and Mr. COHEN, proposes an amendment numbered 807.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following section:

SEC. . Live-Fire Survivability Testing of C-17 Aircraft.

Section 132 (d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) is amended by striking out "for fiscal year 1993."

Mr. NUNN. Mr. President, we urge that the Senate adopt this amendment to permit this C-17 testing to proceed in an orderly fashion.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 807) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 808

(Purpose: To express the sense of the Senate relating to equitable treatment for members of the Armed Forces from outside the continental United States in the provision of excess leave and permissive temporary duty in connection with the separation of the members from the Armed Services)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. AKAKA, proposes an amendment numbered 808.

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 156, between lines 2 and 3, insert the following:

SEC. 655. SENSE OF SENATE RELATING TO EXCESS LEAVE AND PERMISSIVE TEMPORARY DUTY FOR CERTAIN MEMBERS OF THE ARMED FORCES.

(a) SENSE OF SENATE.—(1) It is the sense of the Senate that the Secretary of Defense ensure that a member whose home of record is outside the continental United States and who is stationed inside the continental United States at the time of the separation of the member be eligible to receive the same amount of excess leave or permissive temporary duty under section 1149 of title 10, United States Code, as a member who is stationed overseas.

(2) In this subsection, the term "continental United States" means the 48 contiguous States and the District of Columbia.

(b) REPORT ON AREAS OF INEQUITABLE TREATMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense submit a report to Congress—

(1) describing all provisions of law concerning pay and allowances for members of the Armed Forces in which members whose homes of record are outside the continental United States receive different treatment than members whose homes of record are in the continental United States; and

(2) containing recommendations to equalize such treatment.

Mr. NUNN. Mr. President, this amendment expresses the sense of the Senate that separating military personnel with the home of record outside the continental United States shall be eligible for the same amount of excess leave or permissive temporary duty, PTD, as separating military personnel

with a home of record in the continental United States.

I urge the adoption of the amendment.

Mr. AKAKA. Mr. President, the amendment I am offering today will provide equitable treatment for Armed Forces personnel who are stationed, or whose home of record is, outside the continental United States.

There have been a number of occasions where military personnel stationed at non-foreign bases have been denied basic benefits normally afforded to servicemembers because of that post. There have also been those who, as a result of the present build-down, have attempted to return to their home of record outside the continental U.S. only to be discriminated against by policies established by the Defense Department.

Several years ago, the Department of Defense implemented a policy for dependent relocation which discriminated against military personnel whose home of record was outside the continental United States.

A particular incident comes to mind in which a servicemember whose home of record was non-CONUS was ordered to a new overseas permanent station from a base in the United States. As allowed, he requested that his family accompany him to the new post. Since housing was unavailable at the new location and anticipated vacancies could not be projected, the service denied concurrent travel with his family. Under normal circumstances, the service member would have had the right to temporarily relocate his family to the home of record until suitable housing became available. However, since his home of record was non-CONUS, his request for temporary relocation was denied.

I understand that fiscal constraints have an affect on many decisions that are being made today. However, if you compare the expense of transporting a military serviceperson with three dependents between San Diego, California, and Honolulu, Hawaii, with that of travel from San Diego to Washington, D.C., you would find that there is no significant difference. The average cost of transporting a military family the 2,612 air miles from San Diego to Honolulu is $10,512. The move from San Diego to Washington, D.C. is 2,275 air miles, at a cost of $8,796. On a per-mile basis, you save 4 percent.

To deny benefits and assistance to members and their dependents simply because their home of record is not part of the contiguous United States is inappropriate. In fact, the need for family support, which is one of the reasons dependents are allowed to return to their home of record in such situations, is even more critical for those from non-foreign states and territories.

This is not an isolated example of a discriminatory policy either. Just this year, another servicemember, whose home of record was non-CONUS, was preparing to return home on Permissive Temporary Duty [PTDY]. PTDY is provided to individuals who are honorably discharged involuntarily, or have separated under the Voluntary Separation Incentive [VSI] and the Special Separation Benefit [SSB] programs. The policy established by the Department of Defense provided 20 days of PTDY to individuals stationed in CONUS and 30 days for those stationed in non-CONUS. This was obviously prejudicial against those individuals who had to leave their CONUS posts for their homes in the non-contiguous states or territories. The matter was brought to the DOD's attention by Congressman Robert Underwood. As a result, the PTDY policy was changed to provide 30 days of leave to individuals returning to their home of record in the non-contiguous states or territories.

The amendment I am offering today will ensure that servicemembers from outside CONUS are eligible for the same amount of PTDY as those who are from CONUS. It also seeks to correct other inequities by requiring the Defense Department to provide Congress with a report on all personnel allowances and policies which treat CONUS-stationed personnel differently from non-CONUS personnel, as well as recommendations on how to remedy them. It is time to recognize the contributions of all members of our Armed Forces, regardless of their home origin. Members who have sacrificed for the defense of this nation should not be overlooked or denied equal benefits simply because they come from Hawaii, Alaska or the U.S. territories or possessions. Those who have served their country with distinction should be treated with dignity and be afforded the same opportunities and benefits as their counterparts from the 48 contiguous states—no more but, certainly, no less.

I understand that this amendment has been accepted by both sides of the aisle. I thank the Chair and the Ranking Member for their support. Mr. President, I yield the floor.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 808) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 809

(Purpose: To authorize the burial in Arlington National Cemetery of the remains of former prisoners of war)

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of the Senator from Rhode Island, Mr. CHAFEE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. CHAFEE, for himself and Mr. THURMOND proposes an amendment numbered 809.

Mr. WARNER. 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 242, after line 19, insert the following:

SEC. 1067. BURIAL OF REMAINS AT ARLINGTON NATIONAL CEMETERY.

(a) ELIGIBILITY.—Under regulations prescribed by the Secretary of the Army, former prisoners of war who, having served honorably in active military, naval, or air service (as determined in accordance with such regulations), die on or after the date of the enactment of this Act shall be eligible for burial in Arlington National Cemetery, Virginia.

(b) SAVINGS PROVISION.—This section may not be construed to make ineligible for burial in Arlington National Cemetery any former prisoner of war who was eligible before the date of the enactment of this Act to be buried in such cemetery.

(c) DEFINITION.—In this section, the term "former prisoner of war" has the meaning given such term in section 101(32) of title 38, United States Code.

Mr. CHAFEE. Mr. President, my amendment will allow all prisoners of war—or POW's—from World War I, World War II, and the Korean war to be buried at Arlington National Cemetery. This will correct what, in my view, was a bureaucratic oversight, that has prevented thousands of veterans from being buried at Arlington Cemetery.

Currently, burial at the cemetery is limited to those who were killed in action, those who retired from the military with over 20 years of service, those with more than a 30 percent service connected disability, and recipients of the Purple Heart or other medals above the Bronze Star. In the 1960's an Executive Order awarding the Purple Heart to all future prisoners of war was issued, therefore entitling Vietnam era POW's to burial at Arlington Cemetery. This order was not made retroactive because of a Pentagon decision in the wake of World War II that injuries incurred during captivity constituted war crimes and should not be recognized as injuries incurred in war. Almost 50 years later, this distinction no longer makes sense.

Some may feel that if we allow these POW's to be interred at Arlington Cemetery, space will be depleted sooner than it otherwise would. Yet at present, there are 38,000 burial spaces remaining and between 50,000 and 100,000 columbarium spaces remaining at the Cemetery. As such, space will remain available there until the year 2025. The American Ex-Prisoners of War Association estimates that out of

the 60,000 living prisoners of war, 75 percent currently qualify for burial at the Cemetery anyway. Of the remaining 25 percent only 5,000 have requested space there. Thus this measure will not accelerate the process of filling the Cemetery to any great degree.

Mr. President, I am certain my colleagues would agree that the torture and mistreatment American soldiers suffered in Japanese, German, or North Korean POW camps was no different than the conditions endured by those in Vietnam, and later conflicts. How can we deny our men and women who fell prisoner as they defended their country in World War I, World War II, and the Korean War the honor of burial at Arlington Cemetery? They, too, were subject to transport, like cargo, on crowded ships and boxcars, lack of medical care, grossly inadequate food, poor living conditions, forced marches in the middle of winter or in the jungle, and solitary confinement for refusal to divulge military plans and secrets.

Arlington National Cemetery is reserved for those who served their country to an exceptional degree. I believe that these World War I, World War II and Korean War POW's also served to an exceptional degree, and have earned the right as those who are already eligible under the law.

I think my colleagues would agree that survivors of the "Death March" to prison camps on Bataan and Corregidor should be granted the honor of burial at Arlington cemetery. And yet under current regulations, some of these POW's are denied this honor.

All prisoners of war who have served honorably have earned the privilege to be buried at Arlington National Cemetery. And I would urge my colleagues to honor our proud, brave POW's and vote for the passage of my amendment.

Mr. WARNER. I ask unanimous consent that the Senator from Alaska, Mr. MURKOWSKI, be designated as a cosponsor.

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

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

The amendment (No. 809) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 810

(Purpose: To make findings regarding maintenance of defense cooperation between the United States and Israel)

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of the Senator from Arizona, Mr. MCCAIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN, proposes an amendment numbered 810.

Mr. WARNER. 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 233, after line 23, insert the following:

SEC. 1056. FINDINGS REGARDING DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

Congress makes the following findings:

(1) The President has made a commitment to maintain the qualitative superiority of the Israeli Defense Forces over any combination of adversely armed forces.

(2) The President has expressed a desire to enhance United States-Israeli military and technical cooperation, particularly in the areas of missile defense, counter-proliferation of weapons of mass destruction, and counter-proliferation of ballistic missiles.

(3) Maintaining the qualitative superiority of the Israeli Defense Forces and strengthing United States defense ties with Israel will help to ensure that Israel has the military strength and political support necessary for taking risks for peace while providing Arab states an incentive to pursue negotiations instead of war.

(4) The establishment of the United States Israel Science and Technology Commission, the binational Senior Planning Group, and the Technology Transfer Working Group is in the interest of both the United States and Israel.

(5) It is in the national interests of the United States and Israel for the organizations referred to in paragraph (4) to work to strengthen existing mechanisms for cooperation and to eliminate barriers to further collaboration between the United States and Israel.

(6) Israel continues to face difficult threats to its national security that are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

Mr. MCCAIN. Mr. President, my proposed amendment would serve to preserve the balance of power in the Middle East by continuing to support the qualitative edge of the Israeli military.

There are many benefits to the United States resulting from our strategic relationship with Israel. I commend the administration's commitment to maintaining Israel's qualitative edge over any combination of adversaries through technical cooperation, particularly in the areas of missile defense and counterproliferation.

The threat of conflict underscores the everyday existence of countries in the Middle East. I believe that negotiation is always preferable to conflict, however, this same belief is not shared as strongly by the Arabic countries which border Israel. Strengthening United States-Israeli defense ties provides an incentive for Arab states to pursue negotiations.

Mr. President, the initiatives currently being undertaken in the area of technical United States-Israeli relations, such as: The United States-Israel Science and Technology Commission, the binational Senior Planning Group, and the Technology Transfer Working Group are commendable. These bodies should continue to work to strengthen existing cooperation mechanisms and break down any barriers which may exist to hinder further collaboration.

Despite the ongoing process to bring about a lasting Middle East peace accord, Israel continues to face a difficult threat environment which is compounded by the proliferation of weapons of mass destruction and ballistic missiles. To help Israel maintain its qualitative edge, I recommend that any item, designed to prevent attacks by these types of weapons, which is offered for release to any NATO member, should also be available for purchase by Israel unless that would contravene United States national interests.

Furthermore, since Israel has not yet been accepted as a member of the Missile Technology Control Regime [MTCR], but has agreed to comply with its guidelines, Israel should be entitled to the same status with respect to technology exports and imports as MTCR signatories so long as Israel abides by the MCTR guidelines.

I believe this legislation will enable Israel to continue to negotiate with her neighbors in good faith, and will pay substantial dividends to the United States.

Mr. President, my amendment is a sense-of-the-Congress amendment with a simple purpose. It states our commitment to maintain Israel's military edge, and to strengthen military and technical cooperation between the United States and Israel. It declares what I believe we all agree is the policy of the United States: That our commitment to the security of Israel is just as strong in the post cold war era as it has been before.

I believe that we need to restate this policy for several reasons. First, because peace in the Middle East can only be based on a strong Israel which can deter and repel aggression. Second, because nations like Iran and Iraq must have no doubt about American policy towards Israel. And third, because Israel's neighbors must not confuse our search for a just peace with a lack of commitment to Israel's security.

We all hope that the present negotiations will bring peace to the Middle East. We hope that Israel will be able to live in peace and security. We hope that the Palestinians will find an acceptable political settlement, and that the threat of war along the Jordanian, Lebanese, and Syrian borders will end.

As recent weeks have shown, however, peace is a hope, but conflict is a reality. The conflict along the Lebanese border, and the shipment of Iranian arms to the Hezbollah, are further

warnings that only a strong Israel can deter broader and more serious conflicts in the Middle East. These incidents are also warnings that only a strong Israel can ensure that a just peace is not broken.

The amendment I propose recognizes that fact. It is a signal to the world that we will continue to provide Israel with the aid and technology that is the key to deterring war in the Middle East, to support a strong Israel, and make peace the only alternative. It is a pledge to maintain the level of strength needed to sustain a peace settlement.

It is also a statement that if the peace negotiations should fail, or the proliferation of weapons of mass destruction should continue unchecked, Israel will never be left without the technology and support it needs. It is an assurance that peace is the only option, and that our friendship and alliance is unbreakable.

Mr. President I ask unanimous consent that other material be printed in the RECORD.

QUALITATIVE EDGE FOR ISRAEL

The Committee recognizes the many benefits to the United States resulting from our strategic relationship with Israel. The Committee commends the Administration's commitment to maintaining Israel's qualitative edge over any combination of adversaries. The Committee supports the Administration's desire to enhance Israeli-American military and technical cooperation, particularly in the areas of missile defense and counter-proliferation. The committee believes that maintaining Israel's qualitative edge and strengthening United States-Israel defense ties will help insure that Israel has the military strength and political support necessary for taking risks for peace, while providing the Arab states with an incentive to pursue negotiations instead of war. Further, the Committee compliments the establishment of the United States-Israel Science and Technology Commission, the binational Senior Planning Group, and the Technology Transfer Working Group. The Committee believes these bodies should work to strengthen existing cooperation mechanisms and break down barriers to further collaboration.

Despite the peace process, Israel continues to face a difficult threat environment compounded by the proliferation of weapons of mass destruction and ballistic missiles. To help Israel maintain its qualitative edge, the Committee recommends that it be United States policy that an item offered for release to any NATO member should concurrently be available for purchase by Israel, unless that would contravene United States national interests. Furthermore, since Israel has not yet been accepted as a member of the Missile Technology Control Regime [MTCR] but has agreed to comply with its guidelines, Israel should be entitled to the same status with respect to technology exports and imports as MTCR signatories so long as Israel abides by the MTCR guidelines.

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

U.S. SENATE,
Washington, DC, July 12, 1993.

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

DEAR SENATOR NUNN: I am writing to express my continued commitment to a strong U.S.-Israeli strategic relationship. As you are well aware, Israel is one of our most important allies in a volatile area of the world. Israel shares our commitment to democratic values, and provides the U.S. with opportunities for strategic cooperation including: prepositioning of defense materials, access to strategic ports and ship repair, combined military exercises, and joint high-tech weapons research and development.

Based on my commitment to a strong and growing U.S.-Israeli strategic relationship, I fully support the Administration's request for $56.4 million within the Theater Missile Defense account for continued funding of the U.S. share of the Arrow Continuation Experiments phase II program. As the Acting BMDO Director, Major General Malcolm O'Neil, recently stated, "We have real evidence of significant benefit that has been given to the United States through the [Arrow] program." I also understand that the Administration is currently negotiating with the Government of Israel to determine joint funding levels to support ancillary systems related to the Arrow test program. I believe funding of these ancillary systems is important to provide our country with the maximum technological benefit possible from this program.

I also support the Administration's funding request for the Joint Program Office for Remotely Piloted Vehicles, including the $69.3 million for Low Rate Initial Production of the Short Range Unmanned Aerial Vehicle (UAV) system and $180.112 million for Close and Short Range UAV R&D. As our experience in the Gulf War demonstrated, UAVs provide real time reconnaissance, surveillance, and target acquisition information without subjecting U.S. military personnel to risk while flying in enemy air space.

Further, I support the Administration's request of $60 million within H-1 development for continued Marine Corps procurement of the Night Targeting Systems for the AH-1W Super Cobra attack helicopter. This system will give the Cobra extra capability to operate at night and in adverse weather conditions. I also support the Administration's request for $20 million in Navy procurement for the Multisensor Stabilized Integrated Systems, enabling effective day and night observation capabilities in the most adverse weather conditions.

As part of our efforts to save funds in these times of drastic defense cuts, I also support the Administration's $34.913 million request for the Foreign Comparative Testing program. This program allows the DoD to test and evaluate off-the-shelf technology of foreign companies for possible inclusion in the U.S. defense arsenal, saving valuable U.S. defense dollars. In addition, I support the Administration's request for $15 million within Air Force O&M for the U.S.A.F.E. F-15 O&M. In 1991, IAI/Bedek was awarded a five year contract for the maintenance and repair of 60 U.S.A.F.E. F-15s.

I support the Administration's request for $20.811 million within Air Force RDT&E for the KC-135 Aerial Refueling program. This program will provide refueling capabilities for some of the KC-135 aircraft in order to use these planes to refuel Navy fighters. The need for this capability was demonstrated in the Gulf War. This worthwhile program also has the potential to further strengthen U.S.-Israeli security cooperation through the participation of Israeli firms in the program.

Finally, I support the inclusion of language in the FY-1994 Defense Authorization bill supporting the United States' continued commitment to maintain Israel's qualitative military edge over its enemies. I wholeheartedly advocate the continued growth and strengthening of the U.S.-Israeli strategic relationship. Through joint research and development efforts, joint military planning and exercises, enhanced pre-positioning of military equipment, as well as concerted efforts to lower barriers to trade, we can continue to help provide Israel the necessary tools to enable her to defend herself while increasing U.S. security and protecting U.S. interests.

Thank you very much for your concern regarding these issues. I look forward to working with you to ensure their eventual passage.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

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

The amendment (No. 810) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 811

(Purpose: To increase flexibility in the authority to allot space in Federal buildings to credit unions)

Mr. NUNN. Mr. President, on behalf of the distinguished occupant of the chair, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BRYAN, for himself and Mr. COATS, proposes an amendment numbered 811.

Mr. NUNN. 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 356, between lines 19 and 20, insert the following:

SEC. 2854. ALLOTMENT OF SPACE IN FEDERAL BUILDINGS TO CREDIT UNIONS.

Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended in the first sentence—

(1) by striking out "at least 95 per centum" and all that follows through "and the members of their families,"; and

(2) by striking out "allot space to such credit union" and all that follows through the period and inserting in lieu thereof "allot space to such credit union without charge for rent or services if at least 95 per centum of the membership of the credit union to be served by the allotment of space is composed of persons who either are presently Federal employees or were Federal employees at the time of admission into the credit union, and members of their families, and if space is available.".

Mr. WARNER. Mr. President, I note this is an amendment cosponsored by the Senator from Indiana [Mr. COATS]. It appears also that the Senator from Michigan [Mr. RIEGLE] and the Senator from New York [Mr. D'AMATO] are to be cosponsors. I ask unanimous consent that they be added as cosponsors of the amendment.

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

Mr. NUNN. Mr. President, as the Chair well knows, this being his amendment, this amendment is really in the jurisdiction of the Banking Committee, but we have been requested by both the chairman and the ranking member of the Banking Committee to agree to the amendment.

This deals with the Federal Credit Union Act, title 12, United States Code, section 1770, by adding after the phrase "at least 95 percent of membership" the following words: "to be served by the allotment of space."

This amendment gives greater flexibility to the 95-percent rule. It will clarify that credit unions could continue to occupy space on Federal property provided 95-percent of those who use the office on Federal property meet membership criteria, thus offering needed flexibility. It also ensures allotment of space of the credit union to continue to receive no special provisions for space and would not result in any increased cost to the Government.

I urge the adoption of the amendment.

Mr. WARNER. I ask unanimous consent that a letter addressed to the distinguished chairman of the Armed Services Committee, signed by Senators D'AMATO and RIEGLE, be printed in the RECORD.

There being on objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, July 27, 1993.

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

Hon. STROM THURMOND,
Ranking Republican Member, Armed Services Committee, U.S. Senate, Washington, DC.

DEAR SENATORS NUNN AND THURMOND: We are writing to ask you to incorporate an amendment into the defense authorization bill dealing with the allotment of space in federal buildings for credit unions.

This amendment is technical in nature and it would merely clarify current law. The amendment would continue to allow credit unions to occupy offices on military bases if 95% of the members using the office located on federal property are military or federal employees and family members of these employees—even if they were forced to expand their field of membership to individuals outside the military base. Off-base facilities, however, would not receive special treatment and would be subject to all the normal expenses of credit unions in similar areas, including the payment of rent and logistic expenses.

The Department of Defense supports this change and had approved the Defense Credit Union Council's request for a moratorium on the application of the "95%" rule to allow time for congressional action to amend the Federal Credit Union Act.

This is not a controversial amendment. This is an issue which needs immediate attention since the Banking Committee presently has no legislation which will move in a timely fashion. The need for the amendment results from the impending base closings and military downsizing, and it would be appropriate to attach this amendment to the FY94 defense authorization bill.

We respect your desire to keep the defense authorization bill clean. However, we feel this issue is within the scope of the Armed Services Committee and the bill is the most appropriate vehicle to get this provision enacted into law.

Thank you for your consideration on this matter. If you have questions, have your staff contact Shellie Berlin or Gillian Garcia on the Banking Committee at 224-7391.

Sincerely,

ALFONSE M. D'AMATO,
Ranking Member.

DONALD W. RIEGLE, JR.,
Chairman.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 811) was agreed to.

AMENDMENT NO. 812

(Purpose: To amend the act to prevent pollution from ships to provide for the control of shipboard plastic and solid waste on certain ships owned or operated by the Department of the Navy)

Mr. NUNN. Mr. President, on behalf of Senators BAUCUS and CHAFEE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BAUCUS, for himself and Mr. CHAFEE, proposes an amendment numbered 812.

Mr. NUNN. 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 94, between lines 11 and 12, insert the following:

SEC. 328. SHIPBOARD PLASTIC AND SOLID WASTE CONTROL.

(a) SHORT TITLE.—This section may be cited as the "Act to Prevent Pollution from Ships Amendments of 1993."

(b) DEADLINE FOR COMPLIANCE BY SHIPS OWNED OR OPERATED BY THE DEPARTMENT OF THE NAVY WITH CERTAIN POLLUTION CONTROL CONVENTIONS.—Subsection (b)(2)(A) of section 3 of the Act to Prevent Pollution from Ships (33 U.S.C. 1902) is amended by striking out "after 5 years" and all that follows and inserting in lieu thereof ", subject to subsection (f) of this section, as follows:

"(i) After December 31, 1993, to all ships referred to in paragraph (1)(A) of this subsection other than those owned or operated by the Department of the Navy.

"(ii) Except as provided in subsection (c) of this section, after December 31, 1998, to all ships referred to in paragraph (1)(A) of this subsection other than submersibles owned or operated by the Department of the Navy when such submersibles are engaged in noncommercial service.

"(iii) Except as provided in subsection (c) of this section, after December 31, 2008, to all ships referred to in paragraph (1)(A) of this subsection.".

(c) SPECIAL AREA DISCHARGES.—Section 3 of such Act is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) DISCHARGES IN SPECIAL AREAS.—(1) Not later than December 31, 2000, all surface vessels owned or operated by the Department of the Navy, and not later than December 31, 2008, all submersibles owned or operated by the Department of the Navy, shall comply with the special area requirements of Regulation 5 of Annex V of the Convention.

"(2) Not later than 3 years after the date of the enactment of the Act to Prevent Pollution from Ships Amendments of 1993, the Secretary of the Navy, shall, in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency, submit to the Congress a plan for the compliance by all vessels owned or operated by the Department of the Navy with the requirements set forth in paragraph (1) of this subsection. Such plan shall be submitted after opportunity for public participation in its preparation, and for public review and comment.

"(3) If the Navy plan for compliance demonstrates that compliance with the requirements set forth in paragraph (1) of this subsection is not technologically feasible in the case of certain vessels under certain circumstances, the plan shall include information describing—

"(A) the ships for which full compliance with the requirements of paragraph (1) of this subsection is not technologically feasible;

"(B) the technical and operational impediments to achieving such compliance;

"(C) a proposed alternative schedule for achieving such compliance as rapidly as is technologically feasible; and

"(D) such other information as the Secretary of the Navy considers relevant and appropriate.

"(4) Upon receipt of the compliance plan under paragraph (2) of this subsection, the Congress may modify the applicability of paragraph (1) of this subsection, as appropriate.".

(d) COMPLIANCE MEASURES.—Such section 3 is amended by inserting after subsection (d), as redesignated by subsection (c)(1), the following new subsection:

"(e) COMPLIANCE BY EXCLUDED VESSELS.—(1) The Secretary of the Navy shall develop and, as appropriate, support the development of technologies and practices for solid waste management aboard ships owned or operated by the Department of the Navy, including technologies and practices for the reduction of the waste stream generated aboard such ships, that are necessary to ensure the compliance of such ships with Annex V to the Convention on or before the dates referred to in subsections (b)(2)(A) and (c)(1) of this section.

"(2) Notwithstanding any effective date of the application of this section to a ship, the provisions of Annex V of the Convention with respect to the disposal of plastic shall apply to ships equipped with plastic processors required for the long-term collection

and storage of plastic aboard ships of the Navy upon the installation of such processors in such ships.

"(3)(A) Within 12 months after the date of the enactment of the Act to Prevent Pollution from Ships Amendments of 1993, the Secretary of the Navy shall promulgate regulations applicable to ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy. The regulations shall be consistent with operational requirements of such ships and shall be revised from time to time in accordance with this subsection.

"(B) The regulations promulgated under subparagraph (A) of this paragraph shall include the following requirements:

"(i) That compacted trash discharged from submersibles be negatively buoyant and contain the minimum amount practicable of plastic.

"(ii) That plastics contaminated by substances other than food not be discharged overboard from any ship during the last 20 days before the ship enters port.

"(iii) That plastics contaminated by food not be discharged overboard from any ship during the last 3 days before the ship enters port.

"(4)(A) The Secretary of Defense shall publish in the Federal Register a report setting forth the names of ships provided with equipment enabling such ships to comply with Annex V to the Convention and describing the amount and nature of the discharges in special areas during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy. ".

(e) WAIVER AUTHORITY.—Such section 3, as amended by subsection (d), is further amended by inserting after subsection (e) the following new subsection:

"(f) WAIVER AUTHORITY.—The President may waive the effective dates of the requirements set forth in subsections (b)(2)(A) and (c) of this section and in subsection (f) of the Act to Prevent Pollution from Ships Amendments of 1993 if the President determines it to be in the paramount interest of the United States to do so. Any such waiver shall be for a period not in excess of 1 year. The President shall submit a report to the Congress each January on all waivers from the requirements of this section granted during the preceding calendar year, together with the reasons for granting such waivers.".

(f) OTHER ACTIONS.—(1) Not later than October 1, 1994, the Secretary of the Navy shall release a request for proposals for equipment (hereinafter in this subsection referred to as "plastics processor") required for the long-term collection and storage of plastic aboard ships of the Navy.

(2) Not later than July 1, 1996, the Secretary shall install the first production unit of the plastics processor on board a Navy ship.

(3) Not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 50 percent of the ships of the Navy that require such processors in order to comply with the provisions of section 3 of the Act to Prevent Pollution from Ships, as amended by subsections (b), (c), and (d) of this section.

(4) Not later than July 1, 1998, the Secretary shall complete the installation of plastics processors on board not less than 75 percent of the ships of the Navy that require such processors in order to comply with such provisions.

Mr. NUNN. Mr. President, this amendment will provide a fixed set of deadlines for the Navy to comply with the Marpol Convention. The Marpol Convention is the international agreement to which the United States is a signatory that regulates the disposal of plastics on the high seas and plastics and solid waste in environmentally sensitive special areas such as the Persian Gulf, the Mediterranean, and the North Sea.

This amendment requires the Navy to be in full compliance with the high seas plastics requirement by 1998 and special area requirements by the year 2000.

I urge the adoption of the amendment.

Mr. BAUCUS. Mr. President, my good friend, the distinguished ranking Republican on the Environment and Public Works Committee, and I join in offering this amendment to S. 1298, the Department of Defense authorization bill. This amendment will put the U.S. Navy on a strict schedule for compliance with the Marine Plastic Pollution Research and Control Act of 1987 and Annex V of the International Convention for the Prevention of Pollution by Ships [MARPOL].

This amendment is the result of some extraordinary cooperation on the part of the Navy, a number of environmental groups, the Keystone Center, and other parties to find a workable solution that protects the environment while recognizing the Navy's operational realities. This is the kind of cooperation that can overcome gridlock. I want to thank all those involved in the effort, especially Senator CHAFEE, for their hard work and perseverance. I hope the spirit exemplified here will be reflected in the work of our committee on other environmental issues over the coming months.

Briefly, this amendment requires that the Navy end the discharge of plastics from all of its surface ships by December 31, 1998, and from its submarine fleet by December 31, 2008. The amendment also establishes an interim compliance schedule.

Mr. President, the Navy has undertaken a serious, good faith effort in recent years to reduce plastic pollution from its ships. In addition, it has special processing equipment currently under development that will allow it to meet the schedule set forth in this amendment.

Furthermore, the amendment requires the Navy to comply with the restrictions on the discharge of all solid waste within the so-called "Special Areas," such as the Mediterranean Sea and the Gulf of Mexico, by December 31, 2000, for its surface ships, and by December 31, 2008, for its submarines.

The amendment has the wholehearted support of the Department of the Navy and is endorsed by several environmental groups, including the Center for Marine Conservation, Defenders of Wildlife, Ocean Advocates, the American Cetacean Society, the American Oceans Campaign, and the Gulf Coast Fisherman's Environmental Defense Fund. It is worthy of my colleagues' support.

Mr. CHAFEE. Mr. President, today I rise to join my colleague, the chairman of the Committee on Environment and Public Works, Senator BAUCUS, in offering an amendment to a law that is within the jurisdiction of the Committee on Environment and Public Works, the Act to Prevent Pollution from Ships. The amendment deals with the U.S. Navy's compliance with the major requirements of MARPOL Annex V, an international treaty which restricts and prohibits the dumping of garbage from ships at sea.

Although the Department of the Navy has been developing innovative waste technologies in order to implement Annex V, the Department cannot feasibly comply with all of the legislated requirements by December 31, 1993. The Navy does, however, expect to achieve surface ship compliance with the Annex's plastic dumping provisions by 1998 and submarine compliance by 2008. I might add, Mr. President, the Navy has given priority status to this program and is working to accelerate development, procurement, delivery and installation of plastic waste processing equipment on board its fleet.

Mr. President, our amendment is straightforward and is intended to provide the Navy with a stringent but rational schedule for compliance with Annex V. First, the proposal would give the Navy a 5-year window for complete compliance with the plastic dumping provisions of Annex V for its surface fleet and a 15-year schedule for its submarine fleet. Second, the amendment requires the Navy to submit to a plan to Congress within 3 years on compliance with the Annex V provisions regarding no-dumping of waste within special areas. Further, as specified by the amendment, by December 31, 2000, all surface vessels and by December 31, 2008, all submarines operated or owned by the Navy must comply with the special area requirements.

This amendment represents the combined efforts of the Department of the Navy, the distinguished chairman of the Environment Committee, Senator BAUCUS, myself, and several environmental groups. I commend the Navy and the interested parties from the environmental community for the willingness to work together to find a solution. At this point, I would like to submit letters of support from six of the environmental groups involved in the negotiations on this amendment for the RECORD.

Mr. President, this amendment represents a commonsense approach to dealing with the requirements of Annex V and establishes a clear-cut schedule for Navy compliance. I urge

my colleagues to support the amendment.

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

SEPTEMBER 8, 1993.

Hon. SAM NUNN,
Hon. STROM THURMOND,
Hon. MAX BAUCUS,
Hon. JOHN CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATORS NUNN, THURMOND, BAUCUS, and CHAFEE: On behalf of the following undersigned environmental organizations, we endorse the introduction of an amendment to the Department of Defense Authorization Bill, S. 1298, by Senators Baucus and Chafee on the Senate floor. As environmental members of the Navy Plastics Dialogue/Ad Hoc Advisory Committee on Plastics facilitated by the Keystone Center, we have been working closely with the Navy since 1987 on helping them solve their plastics and solid waste discharge problems.

The Baucus/Chafee amendment would give the Navy a five year schedule for complete compliance with the plastic dumping provisions of Annex V of the MARPOL Protocol for its surface fleet. Given the Navy's success so far in eliminating the overboard discharge of plastic debris, its expeditious development of a prototype for plastics waste processing, and the time necessary for procurement of said equipment, we feel this time frame is a legitimate one. The amendment will also require the Navy to report to Congress within three years on how they intend to comply, both technologically and environmentally, with the Annex V provisions for no-dumping of waste within special areas. The language in this provision, as part of a compromise, is acceptable to us. We welcome the opportunity to continue to work with the Navy and key congressional staff on issues dealing with special areas as we have in the past with the plastics' issue.

Because of some logistics problems beyond our control, we were unable to reach agreement with the Navy on appropriate language until today. We, however, do endorse the amendment and hope that Senators Baucus and Chafee will see fit to introduce it on the floor of the Senate this week. Thank you for your interest and concern with this issue.

Sincerely yours,

ALBERT M. MANVILLE, II, PH.D.,
SHARRON STEWART,
ANDREW PALMER, ESQ.,
SALLY ANN LENTZ, ESQ.,
BARBARA BRITTEN.

CENTER FOR MARINE CONSERVATION,
September 8, 1993.

Senator JOHN CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: The Center for Marine Conservation supports the proposed amendment to the Department of Defense Authorization Bill, S. 1298, offered by you and Senator Baucus, which requires Navy to comply with the Marine Plastic Pollution Research and Control Act (MPPRCA). Specifically it requires compliance with plastic discharges restrictions by December 31, 1998 and all restrictions in Special Areas by December 31, 2000.

We have been active participants in the Navy Plastics Dialogue/Ad Hoc Advisory Committee on Plastics for six years. As such, we have worked with the Navy, other environmental groups, and congressional staff on the amendment to be offered. It has been our pleasure to work with a variety of groups who we understand are also endorsing this amendment.

We endorse this legislation and its intent. We look forward to working with the Navy and Congress on its implementation.

We appreciate your assistance in bringing Navy into compliance with the MPPRCA, and your work toward a better marine environment.

Sincerely,

KATHRYN J. O'HARA,
Pollution Prevention Director.

Mr. THURMOND. Mr. President, I support the amendment offered by my colleagues, Senator BAUCUS and Senator CHAFEE. Their amendment, called the Shipboard Plastics and Solid Waste Control Act of 1993, will extend compliance deadlines for restrictions on waste discharges at sea by U.S. Navy ships.

It is reasonable to extend the deadlines because technology does not exist which would enable the Navy to comply with current law. Without the compliance extensions contained in this amendment, no Navy ship could stay at sea longer than 3 days. This is, of course, a serious detriment to our most important defense interests which we in this chamber cannot permit to occur.

The Navy continues to work hard with industry to develop the needed technology and equipment. This amendment will give the Navy the time it needs to complete research and development, and to plan the ship modifications which will be required.

I urge my colleagues to support this amendment.

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

The amendment (No. 812) was agreed to.

Mr. NUNN. 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.

AMENDMENT NO. 813

(Purpose: To promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes)

Mr. NUNN. Mr. President, on behalf of Senators JOHNSTON, BINGAMAN, DOMENICI, WALLOP, CRAIG, and SIMON, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for Mr. JOHNSTON for himself, Mr. BINGAMAN, Mr. DOMENICI, Mr. WALLOP, Mr. CRAIG, and Mr. SIMON, proposes an amendment numbered 813.

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

(The text of the amendment is located in today's RECORD under "Amendments Submitted".)

Mr. NUNN. Mr. President, this amendment adds additional provisions on technology partnership and technology transfer activities to the existing provisions in the authorization bill. These provisions provide broad jurisdiction to DOE activities, utilizing all funds authorized and appropriated to the DOE to enter into a wide variety of technology transfer and partnership agreements with industry. These provisions will allow DOE to carry out its missions, including defense missions, in such a manner that will allow broad industry participation and will help maintain the DOE technology base.

I urge the adoption of the amendment.

Mr. JOHNSTON. Mr. President, I have offered as an amendment to the National Defense Authorization Act the Department of Energy National Competitiveness Technology Partnership Act of 1993. The amendment is virtually identical to S. 473, which was reported by the Committee on Energy and Natural Resources on June 24, 1993. There are a few differences between the amendment and S. 473 as reported, which I will explain in a moment. The amendment replaces sections of the National Defense Authorization Act that address many of the same issues dealt with in S. 473.

The amendment will provide more flexible authority to the Department of Energy to work with domestic industry to strengthen the economic and technological competitiveness of the United States. The Department now has a significant program of cooperation with industry to develop new technologies. This legislation will build on DOE's existing program in response to the new emphasis the Clinton administration is placing on U.S. competitiveness.

We have a great opportunity to forge a government-wide policy for advanced technology development in the 103d Congress. Earlier this year, President Clinton forwarded to Congress the administration's technology initiative, which includes proposals to increase and expand the partnerships between our national laboratories and industry. Similarly, a number of our colleagues have introduced legislative proposals to improve the competitiveness of U.S. industry. We need to work together—among committees in Congress and with the administration—to develop a coordinated effort.

The amendment provides for the Department of Energy's role in a national effort to improve the competitive position of U.S. industry and to stimulate economic growth in the United States. It will enhance the ongoing efforts of the Department of Energy to work with U.S. industry to utilize the significant science and engineering assets

at the national laboratories to address the needs of the domestic economy.

To date, the Department has joined with industry in over 500 cooperative research and development agreements with a total value over $700 million. Industry pays nearly 60 percent of the costs under these agreements. There is a tremendous opportunity for cooperative work with the Department's laboratories to develop new technologies. The Department of Energy is the Federal Government's largest employer of scientists and engineers and owns the nation's premier laboratories and facilities for basic science. No national technology policy can afford to ignore these assets.

The Department's laboratory system consists of 10 multiprogram national laboratories and approximately 20 other specialized program facilities around the country. Development of the laboratory complex stemmed from the Manhattan Project, and the primary focus of the laboratories' work was initially in the area of weapons production. Over the years, the scope of research and development within the laboratory system has been broadened to include the full spectrum of fundamental sciences. Almost every area of basic scientific knowledge is represented in the research activities of the laboratories.

The laboratories currently employ over 60,000 scientists, engineers and technicians, more than 8,500 of whom have doctorate degrees. In fiscal year 1993, the laboratories will carry out $6.6 billion worth of research and development. More than 50 Nobel Prizes have been awarded for work related to that performed at the national laboratories. No single laboratory or group of laboratories anywhere in the country can compare with this resource or match its record of accomplishment. The laboratory system has evolved into an interdisciplinary environment with the capability to undertake very complex research and development projects. Altogether, the laboratories represent one of the largest complexes engaged in fundamental research anywhere in the world.

Entire industries, as well as new companies and products, have evolved from technology initially developed within the Department's laboratories. Legislation over the last 10 years has promoted and simplified the transfer of technologies from the laboratories to the private sector. Yet, the laboratories' potential still remains largely untapped.

Several years ago, the Committee on Energy and NaturalResources began to reassess the missions and roles of the Department of Energy laboratories and to take a hard look at the adequacy of the mechanisms for technology transfer. In the 102d Congress, the Committee reported S. 2566, which was passed by the Senate in July 1992. As there was no companion measure in the House, there was insufficient time for the House to act on the measure.

On March 2, 1993, along with a number of my colleagues from the Committee on Energy and Natural Resources, I introduced S. 473, which builds on the Committee's work over the past several years. S. 473 reflects the input the Committee received during hearings held on the bill as well as input from industry, the educational community, the Department of Energy, and the laboratories. The amendment I offer today is virtually identical to S. 473. There are, however, a few differences that should be noted.

After S. 473 was reported by the committee, the administration developed a statement for the Department of Energy's laboratories that delineate their missions and responsibilities. The amendment replaces section 1102(a)(2)(C) of S. 473 with the Administration's statement.

The administration's statement clarifies the role of the departmental laboratories in developing technologies important to the nation. S. 473 as reported recognized the Department's traditional missions in national security, energy and technology transfer. S. 473 would have established industrial infrastructure as an appropriate mission of the departmental laboratories. Microelectronics, high-performance computing, transportation, advanced manufacturing, advanced materials, space, human health and environmental science were listed as examples of industrial infrastructure technologies. The departmental laboratories possess expertise in all of these areas of technologies. S. 473 authorized the departmental laboratories to pursue technology development in any of these areas, or any other area, as long as the activity built on the core competencies of the departmental laboratories.

The administration's statement recognizes the departmental laboratories traditional missions, referring to them as primary missions, and authorizes the laboratories to pursue missions that support the primary missions. The statement sets forth an illustrative listing of supporting missions—high-performance computing, advanced materials and advanced manufacturing. Many areas of technology not listed would also be appropriate supporting missions such as in microelectronics, transportation, space, human health and environmental science. To decide if an area of technology would be appropriate as a supporting mission, the Administration's statement provides a list of criteria. One of the key criteria is that the activity build upon the competencies developed at the laboratories in carrying out their primary missions and does not interfere with a primary mission. S. 473 similarly required the departmental laboratories to build upon the core competencies of the laboratories when developing technologies beyond the energy or defense missions.

The administration's statement also requires that in carrying out a supporting mission the Department consult and coordinate with other agencies. The purpose of this change is to ensure the maximum efficient use of the Federal Government's resources. The Department of Energy already consults and coordinates with other agencies in carrying out many of its technology activities. For example, the Department of Energy has worked within the Federal Coordinating Council for Science, Engineering, and Technology to establish the Department's role in the interagency high-performance computing and communications initiative. The amendment requires that industry views on supporting missions be solicited. Finally, the supporting mission should support the technology policies of the President.

Another important difference between S. 473 and the amendment should be pointed out. Section 7 of S. 473 dealt with important issues in the area of information infrastructure and technology. For example, a program was established at the Department of Energy that would lead to new applications for use on high-speed computer networks. Provisions in other legislation before the Senate, however, deal with similar issues. The provisions of S. 473 must be reconciled with these other provisions before this piece of S. 473 can move forward. I expect that we will work out these issues soon, and they will be considered by the Senate in a separate vehicle.

The amendment I have offered, which incorporates S. 473 with the changes I have outlined, will leverage the capabilities and resources of the Department of Energy laboratories through partnerships with U.S. industry and universities in key areas of technology such as an energy, high-performance computing, the environment, human health, advanced manufacturing, advanced materials and transportation. The amendment will establish a minimum goal for the percentage of each laboratory budget to be devoted to partnerships with industry, and it will provide more flexible authority to the Department of Energy to enter into partnerships with the private sector. Through these partnerships, a closer and more effective working relationship can be developed among the laboratories, U.S. industry, the educational community and other federal agencies. These relationships will improve the coordination between the laboratories and the private sector and ensure that technologies important to this country's long-term survival will be developed. The amendment ensures that benefits from these partnerships will accrue to the United States.

The legislation will also take bold new steps in the way the Department interacts with small businesses. The amendment directs the Secretary to grant preferential treatment for partnerships involving small businesses and allows the Secretary to waive cost-sharing requirements for small businesses who would otherwise be unable to participate in partnerships.

During the hearings on S. 473, the committee received testimony on the difficulty that minority colleges and universities have in competing for Federal research dollars. Because these other schools possess equipment and facilities far superior to those of minority colleges and universities, our minority institutions are at a significant disadvantage. Minority colleges and universities trail other colleges and universities in the number of students graduating in the sciences and in carrying out scientific research.

The amendment will help minority colleges and universities in achieving equal footing with other colleges and universities that have historically received the bulk of Federal research dollars. The amendment authorizes research or educational programs involving minority colleges or universities and requires the Department of Energy to identify opportunities for minority colleges and universities to participate in programs and activities being carried out by the Department or the departmental laboratories. The amendment will help students at minority colleges and universities in their study of energy-related scientific, mathematical, engineering, and technical disciplines by creating a minority college and university scholarship program.

This legislation will also establish a career path program to maximize the benefit that can be derived from laboratory employees. Scientists in the Department's contractor-operated laboratories frequently refuse to serve for a time in the Department as Federal employees, because employment restrictions in current law could threaten future career opportunities in the national laboratory system.

Even though the national laboratories perform exclusively governmental work with Government funding and Government-owned property to carry out Government programs, they are operated by contractors. If a person leaves laboratory service for work in the Department, and later returns to the laboratory system, he is subject to post-employment restrictions like any other former Federal employee now with a private contractor.

It is essential to effective management of the national laboratories that the laboratory employees, particularly those involved in the management of the laboratory, be able to communicate with Department officials in carrying out the day-to-day operations of the laboratories. Such communication, however, becomes virtually impossible when the laboratory employee has worked for the Department.

Mr. President, if this laboratory complex did not exist, we could not afford to create it in today's budget climate. We have these laboratories as a legacy from the time when the Nation invested heavily in the infrastructure of science for defense. These laboratories are on the brink of change in how they operate. With the end of the cold war, we are at a crossroads. As funding for nuclear weapons declines, it is prudent to redirect the activities of the national laboratories to help American industry and universities.

Some may think that we should simply let these laboratories fade away as they are no longer needed. The fact is, however, that the Department's laboratories already do more civilian research than weapons research. But they can still do more. We now have the opportunity to use these laboratories to solve the problems of today. We must define a new mission for DOE's laboratories—that of contributing strongly to the Nation's technological and economic competitiveness. This amendment will redirect the resources of the laboratories—and streamline the process for doing business—to do just that.

Mr. President, this is an important amendment, and I urge its adoption.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator JOHNSTON in cosponsoring this amendment, which I believe is crucial to reorienting the DOE national laboratories, defense and civilian, to the post-cold war economic challenges facing this Nation.

The amendment we are offering today represents the result of three years of bipartisan effort by the Energy and Natural Resources Committee under Senator JOHNSTON's leadership. Senators WALLOP, DOMENICI, and CRAIG have all made important contributions on the Republican side, as has Senator MATHEWS on the Democratic side. It draws on a wide range of studies and is designed to promote our Nation's industrial competitiveness and economic growth by strengthening the linkages between the laboratories of the Department of Energy and the private sector.

The amendment, which contains most of the provisions of S. 473 as reported by the Energy Committee in May, is a critical component of our Federal technology policy, one that enjoys strong support from the President.

I have twice had the opportunity to join the President on visits to DOE laboratories. Last September 18 he visited Sandia during the campaign and on May 17 he visited Los Alamos. On both occasions the President spoke of his enthusiasm for the efforts of these "crown jewels in technology and science" in a broad rage of missions, including nonproliferation technologies, environmental and health care technologies, and industrial partnerships to support commercial industry. He was on both occasions particularly enthusiastic about the partnerships already forged between the labs and key sectors of our economy, such as semiconductors, high-performance computers, automobiles, and advanced materials.

Mr. President, we have a great opportunity to apply the enormous scientific and technical resources of the DOE national laboratories to the economic challenges facing this Nation. President Clinton and Vice President GORE in their February 22 technology policy statement clearly recognized this in calling on the multiprogram laboratories of the Department to devote 10 to 20 percent of their budgets to cost-shared partnerships with industry and in proposing to streamline the process whereby the private sector can enter into partnerships with the Federal labs.

We are convinced that the President's call to devote a larger percentage of the Federal R&D enterprise to industry-driven partnerships is exactly on the mark. We want to see the department and its laboratories play a role commensurate with their broad-ranging core competencies in this effort. In areas ranging from semiconductors and supercomputers to advanced materials to environmentally conscious manufacturing, the department and its laboratories clearly can and should work with industry to find synergies between the capabilities of the laboratories and the needs of industry.

I believe the amendment before the Senate today is totally consistent with the President's technology policy. The bill draws on a number of recent studies of lab-industry partnerships, including the work of the Office of Technology Assessment, the General Accounting Office, the Council on Competitiveness, the Center for Strategic and International Studies, and the Atlantic Council. On the key issue of the mission statement for the DOE laboratories, the President's Science and Technology Adviser, Dr. Jack Gibbons, on August 5 provided Senator JOHNSTON, Senator HOLLINGS and me language which has been incorporated in our amendment and which Senator JOHNSTON has described in his statement. I appreciate Dr. Gibbons' constructive contribution to moving this legislation toward enactment. I ask unanimous consent that his August 5 letter appeared in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection it is so ordered. See Exhibit 1. Our amendment is a complement to the other pieces of the President's technology policy, as Dr. Gibbons pointed out in his August 5, letter. It is a complement to Senator

HOLLINGS' bill, S. 4, which addresses the role of the Department of Commerce and the National Science Foundation in our technology policy. It is a complement to the work which the Armed Services Committee did in last year's defense authorization bill and is continuing in this year's bill to outline the role of the Department of Defense, especially the Advanced Research Projects Agency, in fostering the development and application of dual-use technologies in partnership with the private sector and State and local governments.

I have personally been associated with all of these legislative efforts and I want to emphasize today the importance of making the best use of all of our Federal R&D resources, of the core competencies of all of our agencies and laboratories, to achieve the goals we all share, namely the growth of our economy and the creation of good jobs for American workers. In my view a far larger share of the $75 billion Federal R&D enterprise needs to be driven by industry's needs and executed in partnership with industry. We need more SEMATECH's, more advanced battery consortiums, more textile consortiums, more biotechnology, materials and manufacturing consortiums. Each of the Federal mission agencies has a constructive role in this effort to build effective partnerships with industry and they need to work together, as they already are in the Technology Reinvestment Project, high-performance computing, and other areas to insure the most effective use of our limited Federal resources.

Senator JOHNSTON's amendment aims to make the Department of Energy's laboratories, both defense and civilian, full partners with American industry in the broad array of technologies in which they have unmatched resources and capabilities. I believe such partnerships will benefit both the labs in carrying out their missions and industry as it competes in the global marketplace.

We have been going down this path for only a very brief time. In 1989 the National Competitiveness Technology Transfer Act for the first time made an effective mechanism, the cooperative research and development agreement, available to the DOE laboratories to work with industry. That was 3 years later than the Government-operated laboratories, such as the National Institute of Standards and Technology, received this authority in the Federal Technology Transfer Act of 1986.

Much progress was made in the last administration toward using this authority and toward broadening the laboratories' missions to include greater partnership with the private sector. But the practice of the past 3 years has also revealed significant problems in building the DOE-industry partnerships which the President's technology policy is calling for. The reports by OTA, GAO, CSIS, the Council on Competitiveness, and the Atlantic Council which I mentioned earlier have cataloged those problems and recommended solutions. Secretary O'Leary, to her credit, has vigorously sought to resolve those problems within the constraints of current statutes.

What we are trying to do in our legislation is give the Secretary additional authority to move the Department in the direction she and the President want to go. In each of the problem areas identified in the various reports, we have either directly proposed a solution or put in place a process which will empower Secretary O'Leary to achieve a solution. Our goal, and it is one I know Secretary O'Leary shares, is to put in place in DOE and its laboratories flexible arrangements for conducting cost-shared partnerships with industry. We are trying to learn from the best practices across government, whether at the Advanced Research Projects Agency or the National Institute of Standards and Technology or the National Institutes of Health, and put those practices into place at the Department of Energy.

The amendment would:

First, provide a clear and expanded mission statement for the DOE and its labs in research, development and application of a broad range of critical technologies;

Second, streamline the process by which partnerships between the labs and private industry are approved and improve the attractiveness of partnerships to industry;

Third, encourage use of a broader range of partnership mechanisms, extending beyond the Cooperative Research and Development Agreement [CRADA];

Fourth, starting in fiscal year 1994, set a minimum goal of 20 percent of each multiprogram lab's budget for use in cost-shared partnerships with industry;

Fifth, strengthen the ability of the Secretary of Energy to enter into cooperative agreements with industry;

Sixth, establish industry advisory boards at both Department of Energy and lab levels to maximize industry's involvement in lab activities;

Seventh, encourage the laboratories to work with other Federal agencies to address the needs of industry; and

Eighth, encourage employees of multiprogram labs to take assignments within the Department of Energy.

I urge my colleagues to support this important amendment, and once again express my appreciation to Senator JOHNSTON for his leadership in this effort.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF SCIENCE AND TECHNOLOGY POLICY,

Washington, DC, August 5, 1993.

Hon. JEFF BINGAMAN,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: As you know, President Clinton and his administration are committed to moving technology in a new direction to build America's economic strength and spur the Nation's economic growth. The President and Vice-President made clear in their technology policy document of February 1993 that they want all the technology programs and institutions in the Federal government to contribute effectively to these goals.

In this spirit, Vice-President Gore asked me to develop a statement for the Department of Energy's laboratories that would effectively delineate their missions and responsibilities, distinguishing them from those of other agencies with leading technology missions and at the same time assuring that special—and sometimes unique—capabilities in the Department of Energy laboratories are open to collaboration with industry and encouraged to contribute to the Nation's economic growth.

Over the past weeks, I have consulted with Secretaries Ron Brown and Hazel O'Leary and other members of the Administration to develop language that would meet the President's goals. Having reached agreement within the Administration, and on behalf of the Administration, I am sharing with you our conclusion on an appropriate and constructive statement of supporting missions for the Department of Energy's laboratories, in addition to their primary missions of national security and energy-related science and technology (Attachment A).

I also want to reiterate the Clinton Administration's firm commitment to early passage of S. 4, the National Competitiveness Act, and to strengthening the Commerce Department's technology programs. It is our intention to steadily increase funding for these programs, as announced in the President's vision statement of February 17, 1993. We also strongly support contributions to the President's technology goals from other government agencies, such as Secretary O'Leary's newly announced strategy to make cooperation between the Department of Energy and industry simpler and more effective.

We believe that the mission statement we have developed will effectively carry out the Administration's policies to use technology to build America's economic strength, and respectfully urge you to adopt it in relevant legislation.

Sincerely,

JOHN H. GIBBONS,
Director.

MISSION STATEMENT FOR DEPARTMENT OF ENERGY LABORATORIES [TO SUBSTITUTE FOR SUBSECTION 1102(a)(2)(C) IN S. 473]

(3)(A) In addition to the missions established in subsection (a)(2), the Departmental laboratories may pursue supporting missions to the extent that these supporting missions

(i) support the technology policies of the President; and

(ii) are developed in consultation with and coordinated with any other Federal agency or agencies that carry out such mission activities; and

(iii) are built upon the competencies developed in carrying out the primary missions

defined in subsection (a)(2) and do not interfere with the pursuit of the missions identified in subsection (a)(2); and

(iv) are carried out through a process that solicits the views of United States industry and other appropriate parties

(B) These supporting missions shall include activities in the following areas:

(i) developing and operating high-performance computing and communications systems, with the goals of contributing to a national information infrastructure and addressing complex scientific and industrial challenges which require large-scale computational capabilities;

(ii) conducting research on and development of advanced manufacturing systems and technologies, with the goal of assisting the private sector in improving the productivity, quality, energy efficiency, and control of manufacturing processes;

(iii) conducting research on and development of advanced materials, with the goals of increasing energy efficiency, environmental protection, and improved industrial performance.

Mr. DOMENICI. Mr. President, I join today with my colleagues; Senators JOHNSTON, WALLOP, and BINGAMAN, to propose an amendment to the 1994 Defense Authorization Act. This amendment is a landmark measure designed to maximize the use of the Department of Energy [DOE] national laboratories' flexibility and diversity in nondefense areas while maintaining the labs' abilities in their national security and energy-related science and technology missions. If enacted into law, the measure will permit the Secretary of Energy and the Congress to maintain the labs by funding their various, diverse missions.

This legislation permits the national laboratories to focus the genius of its scientists and engineers on the new priority of helping American industry improve its competitive position.

Under the terms of the legislation, the Secretary of Energy and the directors of the labs will be allowed to enter into partnerships with the private sector that build on the core competencies of the labs. The legislation would also streamline and speed up the process under which the labs work with industrial and academic partners.

This measure is a significant addition to the National Competitiveness and Technology Transfer Act of 1989 that was included in the 1990 Defense Authorization Act. It directs the laboratories toward broad partnerships with consortia of industry to develop generic and precompetitive technologies. The measure also directs the Secretary of Energy to resolve many of the issues that have made the process of working with the labs through partnerships slow and bureaucratic.

If enacted, this measure will significantly increase the value of our laboratories to the Nation. It will enable them to make unequalled contributions to national competitiveness and ensure their resources will be brought to bear on national challenges.

Specifically, the legislation will expand the laboratories' missions in areas such as high performance computing, communications, advanced manufacturing, energy efficiency, and environmental protection.

This measure sets a goal for the DOE to spend 20 percent of each labs' annual funding on partnerships with industry and requires the Secretary of Energy to ease the process through which industry and academia work with the labs. This will entail that the Secretary develop guidelines for dealing with complicated issues such as intellectual property rights, U.S. preference, and liability resulting from research and development conducted under partnerships. By developing guidelines, the Department will avoid the time-consuming case-by-case negotiations that have backed-up the present process for approving CRADAs.

This legislation will also provide special incentives for small business to a work with the labs through partnerships by waiving some of the cost-share requirements small businesses have a hard time meeting.

The legislation authorizes all the funds available to the Secretary of Energy to be used in partnerships and directs that the Secretary shall, as much as possible, use partnerships to fulfill the missions of the Department.

The measure encourages cooperation between the DOE and State and local programs for technology development and dissemination.

In addition to their existing missions, this legislation authorizes the labs to pursue supporting missions. Three areas in which the laboratories will have a supporting mission are explicitly stated in the legislation to serve as examples; high performance computing and communications, advanced manufacturing systems and technologies, and advanced materials. The departmental laboratories possess capabilities in a number of other areas such as microelectronics, transportation, space, human health sciences, and environmental science which could also serve as examples of areas in which it is appropriate for the departmental laboratories to pursue supporting missions.

Finally, the legislation includes a number of other provision directed toward improving the administration of the Department's technology transfer activities. These provisions include the establishment of the career path program to allow lab employees to serve in the Department and return to their lab positions, the creation of three Under Secretary of Energy positions, and the creation of a laboratory partnership advisory board.

This legislation will greatly improve the ability of the national laboratories to make their expertise and resources available to non-Federal partners. I would like to thank my colleagues with whom I have worked closely on this legislation, and I look forward to its enactment.

Mr. CONRAD. Mr. President, I would like to applaud the Senator from Louisiana, the distinguished Chairman of the Committee on Energy and Natural Resources, for introducing this legislation to strengthen the links between the technology programs at the Department of Energy and private industry. The Department of Energy has tremendous technological resources that could provide great benefits to the U.S. economy if they were brought to bear effectively on the problems facing U.S. industry. The key requirement is to create productive working relationships between the technology programs funded by the Department of Energy and partners in private industry.

The Energy and Environmental Research Center at the University of North Dakota is a shining example of success in technology partnerships with private industry. Though no longer a DOE facility, EERC has a long-standing Cooperative Agreement with the Department of Energy to support cost-shared joint ventures on energy and environmental technology with private industry. Under this agreement EERC receives roughly $2.5 million per year for the Jointly Sponsored Research Program, which requires at least an equal matching of funds by industrial partners.

Using funding provided by the Department of Energy in fiscal year 1993 EERC received matching commitments for over $2.8 million from 48 industrial partners. Mr. President, I ask unanimous consent that a list of these partners be printed in the RECORD.

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

COMMERCIAL SPONSORS—1993 JSRP PROJECTS

1 3M.
2 Ahlstrom Pyropower.
3 Air Products.
4 AMAX.
5 American Coal Ash Assn.
6 APC.
7 API.
8 Babcock & Wilcox.
9 Bennett Industries of Alabama, Inc.
10 BNI Coal.
11 CAPP (Canadian Assn. Petro. Producers).
12 Community Energy Alternatives.
13 CONSOL.
14 Contech-J.W. Brett.
15 Cooperative Power.
16 Cyprus Coal.
17 Dakota Gasification Co.
18 EnerTech Environmental Inc.
19 Enviromentor.
20 EPRI.
21 ESEERCO.
22 GRI.
23 ISGS.
24 J.R. Simplot Co.
25 Kansas City Power & Light.
26 Kellogg.
27 Knife River Coal Mining Co.
28 LA County Sanitation Dist.
29 MDU Resources.
30 Minnesota Power.
31 Minnkota Power Cooperative.
32 National Corn Growers Assn.

33 Nebraska Ash.
34 NIPSCO.
35 North American Coal Company.
36 NRG Energy Inc.
37 NSP.
38 N.D. Industrial Comm.
39 Ontario Hydro.
40 Otter Tail Power.
41 Peabody Coal.
42 Riley Stoker.
43 Southern Co. Services.
44 Union Electric.
45 Utility Fuels, Inc.
46 U. of NY—Stony Brook.
47 Wisconsin Power and Light.
48 Ziegler Coal.

Mr. CONRAD. Mr. President, because of this record of success, the Department of Energy recently agreed to extend this Cooperative Agreement with EERC for an additional 5 years.

Mr. President, I believe that the Jointly Sponsored Research Program at EERC is an example of the type of program that this legislation is designed to promote.

Mr. JOHNSTON. I agree that the Cooperative Agreement between the Secretary of Energy and the Energy and Environmental Research Center is a good model for coupling technology programs supported by the Department of Energy into partnerships with private industry. The Secretary of Energy and the Departmental laboratories could learn from the example of the Jointly Sponsored Research Program at EERC in carrying out the mandate of this bill to pursue technology partnerships.

Mr. CONRAD. There is no need to reinvent the wheel when it comes to technology partnerships. It would be unproductive to create new programs that displace successful programs like EERC. Am I correct in assuming that the intent of this bill is to build on existing models of success like EERC?

Mr. JOHNSTON. The Senator is correct. This bill is not intended to displace the successful program at EERC. It is my view that successful technology partnerships like the Cooperative Agreement between DOE and EERC should be encouraged.

Mr. CONRAD. As I read this bill, it gives the Secretary of Energy the authority to undertake technology partnerships in any program of research, development, demonstration and the commercial application of technologies. This is not limited to programs at the departmental laboratories. Is that a correct interpretation?

Mr. JOHNSTON. That is correct.

Mr. CONRAD. With its experience in joint ventures with industry, the Energy and Environmental Research Center has much to offer to the Department of Energy as it works to implement this bill. EERC has the entrepreneurial spirit necessary to seek out productive partnerships with the private industry and has built up strong working relationships with a large number of industrial partners. The Department of Energy should make use of EERC's resources and experiences in developing technology partnerships programs to carry out this act.

Mr. JOHNSTON. I agree with the remarks of my colleague from North Dakota.

Mr. CONRAD. I thank the distinguished Chairman for clarifying the intent of this bill.

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

The amendment (No. 813) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 814

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senators JOHNSTON, WALLOP, BINGAMAN, DOMENICI, and CRAIG, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. JOHNSTON, for himself, Mr. WALLOP, Mr. BINGAMAN, Mr. DOMENICI, and Mr. CRAIG proposes an amendment numbered 814.

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 408, line 26, after "prescribes." insert:

"The Under Secretaries shall be compensated at the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code."

Mr. NUNN. Mr. President, this is an amendment in the nature of a technical amendment that will conform the provision in the authorization bill adding an additional two Under Secretaries of the Department of Energy to the existing language in the Department of Energy Organization Act that established the management structure at the Department of Energy.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? Without objection, the amendment is agree to.

So the amendment (No. 814) was agreed to.

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

The PRESIDING OFFICER. The chair would entertain a motion to table.

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

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I believe that that completes all the amendment that we are going to be able to complete tonight. I thank the cooperation of all Senators. We have had a long day, a very productive day. We have handled many amendments. We have handled at least 4 major controversial amendments today. We will be busy all day tomorrow and into the evening, but I think we can get through tomorrow night.

ACCESS TO MEDICAL CARE AT REMOTE BASES

Mr. BINGAMAN. Mr. President, I rise to engage my colleague Senator SHELBY, the chairman of the Armed Services Subcommittee on Force Requirements and Personnel, in a colloquy regarding access to medical care at remote military bases. During markup of the bill before us, Senator SHELBY and I discussed the problem of inadequate access to medical care for many of those in the military services. In response to this problem, which many of us have been made aware of this year, Senator SHELBY included language in the bill before us requiring the Secretary of Defense to certify the adequacy of all future submissions of the Defense health program budget. This was done in response to persistent underfunding of these accounts by the Department of Defense, which has resulted in the disruption or termination of certain services, and inconsistencies in the delivery of services both geographically and among the military services.

Mr. President, I strongly support that provision. I believe that we need to make every effort to ensure that DOD health program beneficiaries have access to normal medical services. Unfortunately, in many instances this is not the case. This is especially true of remote military bases with little access to civilian medical care. Holloman Air Force Base in New Mexico is a case in point, and I would inquire of my colleague Senator SHELBY if the provision we included is intended to address the medical care issues facing remote bases such as Holloman.

Mr. SHELBY. Mr. President, the Senator is correct that the provision we approved in the Force Requirements and Personnel Subcommittee is intended to improve access to medical care in those places where access may have fallen short. I understand the situation Senator BINGAMAN is describing. In fact, I have similar situations in my State. I believe that the actions we have taken will address these problems, and I look forward to continuing to work with Senator BINGAMAN on this issue in the years to come.

Mr. BINGAMAN. I thank my colleague for those remarks. I also believe that the provision we included in the committee markup will address these problems, and I would like to commend Senator SHELBY for his leadership in this area. I would add that it is my belief that the Department of Defense

needs to take into account the location of military bases in budgeting for health care within the Department. Servicemembers and their families at these bases do not have access to the types of civilian health care facilities that others may have access to in larger cities. I feel that a special effort should be made to ensure that every beneficiary has access to normal medical services.

Mr. SHELBY. I agree that every beneficiary of these services deserves access to normal medical services, and I will work with my colleague from New Mexico to ensure that access.

Mr. BINGAMAN. I thank the Senator. I yield the floor.

MC CAIN AMENDMENT NO. 779

Mr. GORTON. Mr. President, since Estonia first won its independence in 1920, it has enjoyed 22 years of freedom—the first twenty coming between the two world wars and the last two having come recently, since the fall of the Soviet Union. In between, Estonia was absorbed by Russia, invaded by Germany, then retaken by the Soviet Union.

Of all the casualties of Soviet expansion, Estonia was one of the most painful. That country—with its agriculture, timber and oil shale resources—almost certainly would have used its 45 years of subjugation, if free, to its advantage, forging an economy more similar to its Scandinavian and European neighbors than to the Soviet Union. The extent of that development can only be guessed now that we see Estonia's accomplishments over the past two years: roughly 3.5% unemployment, 1.7% inflation, and a stronger and more stable currency than any other in either the former Soviet Union or Scandinavia.

It is understandable then that Estonia is intent on establishing its independence from Russia, including the creation of its own defense force. On February 1, Estonian President Meri wrote President Clinton to ask that he authorize a retired Army Colonel, Aleksandr Einseln, to assume the position of commander of these defense forces. The Estonian President's intentions were pure; Colonel Einseln was chosen because he could safely streamline and retrain Estonia's small defense forces. Early this Summer the Department of State denied Mr. Einseln authorization for the move, concerned that the presence of a retired military officer in Estonia could heighten tensions with Russia. When Col. Einseln assumed the position without the Department of State's authorization, the Department of Defense was then compelled by law to revoke Col. Einseln's pension, and reconsider the status of his citizenship.

Mr. President, I consider these measures, particularly the Department of State's opposition to Col. Einseln's move, unjust. The State Department's greatest concern for Col. Einseln's new position—that the Russian Government would object to an American in his position—has not materialized. And, when one considers that Col. Einseln now commands a force of 2,000 soldiers, two planes, and three small ships, it is highly unlikely that it will materialize. In my opinion, Col. Einseln is more likely to stabilize the area by providing responsible training, based on respect for the rule of law and human rights.

Today, however, I am more concerned with reinstating Col. Einseln's pension—an entitlement that should not be jeopardized by the State Department's refusal to authorize his move. Col. Einseln has served two tours in Vietnam, another in Korea, and earned three dozen medals, including two Bronze stars and the Legion of Merit. That service warranted a full pension. Any recent disagreement with the Department of States does not negate that service, and should not disqualify him for those benefits.

Mr. President, I am pleased to be a cosponsor of an amendment that Senator McCain successfully offered to the Defense Authorization bill yesterday. That amendment will allow retired U.S. members of the military to serve democratic countries, and, in the process, return Col. Einseln's pension in full. It is clear that the concerns that prevented the authorization of his command were not necessary, and that the Defense Department's requirements to revoke his pension was, in this case, unfair. With this amendment Col. Einseln will be allowed to continue his service with the Estonian defense forces without risk to his pension for citizenship. I am confident that that service will contribute to the further growth of this newly independent country.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. NUNN. Mr. President, I ask unanimous consent that the previous unanimous consent agreement covering S. 1298 be modified to stipulate that the amendments listed as remaining in order to the bill be considered first-degree amendments.

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

MORNING BUSINESS

TRIBUTE TO NATHANIEL HANSFORD

Mr. HEFLIN. Mr. President, I want to take a moment to recognize a good friend and outstanding legal scholar, Vernon Nathaniel Hansford, who recently announced his intention to retire as Dean of the University of Alabama Law School. Nat, as his friends call him, served in a number of administrative positions at the law school over the last ten years. His resignation was effective September 7.

Dean Hansford has provided outstanding leadership for Alabama's Law School since arriving there almost 20 years ago as a professor. He did an excellent job of promoting progress at the school and university, and in improving the quality of legal education. The law school has gained a regional and national reputation, and several publications list it in their rankings of the top law schools in the Nation. Applications have increased significantly under his tenure as dean, and the school attracts some of the best and brightest students from all over the country.

A Phi Beta Kappa graduate of the University of Georgia, Nat also earned his law degree from Georgia. He later took his LL.M degree from the University of Michigan. After law school, he clerked for the Honorable Lewis R. Morgan, United States Court of Appeals for the Fifth Circuit. In 1970, he was commissioned a Captain in the Judge Advocate General's Corps and spent 3 years in the Army including 1 year in Korea. He remains a member of the United States Army Reserves and holds the rank of colonel.

Between 1973 and 1975, Nat practiced with the firm of Mitchell, Mitchell, Coppedge & Boyett in Dalton, GA. He joined the faculty of the University of Alabama Law School in 1975. From 1982 to 1985, he served as Associate Dean, and in June 1987 was appointed Dean.

In 1982, he was selected by the National Alumni Association of the university as the recipient of its Outstanding Commitment to Teaching Award, one of the highest honors bestowed upon faculty members at Alabama. Five years later, Nat was selected by the Law School Student Bar Association to receive the Outstanding Faculty Member Award. Clearly, he is a law professor of the highest caliber, and the school administration's loss will definitely be his students gain when he returns to the classroom.

Nat is the author of three books, Alabama Equity, UCC Transactions Guide, and Sales, Leases & Bulk Transfers, as well as numerous law review articles. He serves as a member of the Board of Directors of Synovus Financial Corporation of Columbus, Georgia, a bank holding company in Georgia, Florida, and Alabama. He is also a member of the Alabama, Georgia, and American Bar Associations.

Nathaniel Hansford has served the University of Alabama Law School well over the last two decades, and has been an outstanding dean during the last six. He is a true friend to faculty members and students alike, and his tenure as dean provides a new standard by which his successors will be measured. I congratulate him and wish him many productive years on the faculty of the Law School as he leaves the Dean's Office and returns to teaching the young attorneys of tomorrow.

TRIBUTE TO CHARLES B. ARENDALL, JR.

Mr. HEFLIN. Mr. President, I want to pay tribute to Charles Baker Arendall, Jr., of Mobile, Alabama, who recently passed away. At the time of his death, he was the senior partner in the law firm of Hand, Arendall, Bedsole, Greaves, and Johnson, one of the largest in Alabama. He was the driving force behind the growth of this outstanding firm. He once told me his goal in life was to build a truly outstanding law firm in Mobile. He certainly achieved his goal.

A native of Portsmouth, Virginia, Charles had been a resident of Mobile since 1921. His father was Dr. C.B. Arendall, who had served as the pastor of Dauphin Way Baptist Church for many years. Charlie graduated from the University of Richmond and Harvard Law School, where he was a cum laude graduate. He later served as a national vice president of the Harvard Law School Association and president of its Alabama chapter. He was also elected to the Samford University board of trustees in 1947 and served on the advisory board of Samford's Cumberland Law School.

Prior to joining the law firm that became known as Hand, Arendall, Bedsole, Greaves, and Johnson, Charlie was an associate with the firm of Smith and Johnston for 3 years. He was a member of the Mobile Bar Association, serving as its president in 1976, the New York Bar Association, the Alabama State Bar Association, and the American Bar Association. He was also a member of several fraternal organizations, including Kappa Sigma, Pi Delta Epsilon, and Alpha Psi Omega. His trial advocacy ability was recognized by his selection to the fellowship of the American College of Trial Lawyers.

Charles was indeed a pillar within the legal profession, to which he contributed so much over the last several decades. He was also a pillar within his community, commanding tremendous stature and respect. He was a deacon and Sunday School teacher of his Baptist Church and served as chairman of the Red Cross Fund Campaign for Mobile County. He was a founding member of Mobile College's Board of Trustees.

He was also the consummate family man, always making his wife and children his top priority, regardless of how busy his schedule became. He leaves behind four daughters and nine grandchildren.

Charles Arendall led a life focused on excellence, a commitment that carried through to every organization and task with which he chose to involve himself, and there were many. He was a giant in both his profession and his community and will be sorely missed by the many who had the honor and pleasure of knowing him over the years. I join his many friends and associates in extending my deepest condolences to his family.

IRRESPONSIBLE CONGRESS HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,391,317,318,053.12 as of the close of business on Wednesday, September 8. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,096.22.

THE TRAGEDY OF CONTINUING ANTI-ABORTION VIOLENCE

Mr. KENNEDY. Mr. President, this summer, a new wave of anti-abortion violence and blockades has demonstrated that enactment of the Freedom of Access to Clinic Entrances Act, S. 636, is more urgent than ever.

On August 19, in an incident all too reminiscent of the killing of Dr. David Gunn in Pensacola, FL last March, Dr. George Tiller in Wichita, KS was shot in both arms outside a clinic where he performs abortions. His assailant was an individual who had been arrested in 1989 for blocking access to a clinic in Portland, OR, and who has two outstanding warrants against her for trespassing at clinics in San Francisco and Milwaukee.

Earlier in August, a clergyman in Alabama tried to place an advertisement in the Mobile Press Register advocating the murder of doctors. The ad depicted a man about to shoot an abortion provider. Its caption read: "Justifiable Homicide?" Not long after, a doctor who owned two abortion clinics in Mobile was murdered, although at this time his death has not been linked to his medical practice.

Incitements to violence against abortion providers are on the rise. Some anti-abortion literature calls Dr. Gunn's alleged murderer a hero. An anti-abortion group in Florida has called the shooting of Dr. Tiller "honorable." Bumper stickers urge, "Execute Murderers/Abortionists."

In July, a coordinated campaign of demonstrations was waged against clinics in seven cities across the country. While that effort did not produce the turnout anticipated by its organizers, it did result in serious disruptions at several clinics, including facilities in San Jose, CA and the Philadelphia area, where access was successfully blocked by several hundred demonstrators. Clearly, these high-profile campaigns tend to inflame some extremists to resort to the outright violence and calls for further violence that we have witnessed this summer.

It is not enough for Congress simply to condemn this reprehensible conduct. Legislation must be enacted before another doctor dies, or another clinic is blockaded or burned to the ground.

The Freedom of Access to Clinic Entrances Act will protect health care providers and patients from violent attacks, blockades, threats of force, and destruction of property intended to interfere with the exercise of the constitutional right to terminate a pregnancy. S. 636 will establish new Federal criminal offenses for this conduct, as well as a civil cause of action for injured parties. It will send an unmistakable message that violent conduct will not be tolerated.

Those who express their opposition to abortion through peaceful picketing and other activities protected by the First Amendment have nothing to fear from this legislation. The bill is carefully limited to address violent, threatening, obstructive or destructive conduct. It does not cover speech or expressive activities protected by the Constitution.

S. 636 is a top priority of all of the leading women's rights groups. It is also supported by law enforcement officials, the medical profession, Constitutional scholars and civil liberties organizations. The Clinton administration endorses it. Attorney General Reno has urged the Senate to act quickly.

The bill was reported favorably by the Committee on Labor and Human Resources last July with strong bipartisan support from Senators who consider themselves pro-choice as well as others who consider themselves pro-life. It deserves broad support, and I look forward to swift action by the Senate, so that we can end this unacceptable reign of terror.

JIM KIELSMEIER AND NATIONAL AND COMMUNITY SERVICE

Mr. DURENBERGER. Mr. President, as the Senate took final action yesterday on the National and Community Service Trust Act, I noted the strong leadership that has been given this initiative by my home state of Minnesota.

No one individual has contributed more to that leadership than has Jim Kielsmeier, the founder and president of the National Youth Leadership Council.

Jim's vision of making community service an integral part of teaching and learning helping found the Council a decade ago.

And, earlier this year, the Council—again under Jim's able leadership—received the first Federal grant to establish a national clearinghouse on service learning. The clearinghouse is headquartered at the University of Minnesota.

Jim Kielsmeier's vision of national and community service also stresses the need to reconnect young people in America with their communities.

And, the legislation we have now passed will open that opportunity to millions of American young people—through both stipended service programs and non-stipended service learning.

Fortunately, Jim Kielsmeier has never been satisfied to sit back and rest on his past success.

And, that insistence on always pushing out the frontiers of linking young people and their communities through service is at the heart of Jim's latest new venture—a new venture that he's personally now launching in far away East Africa.

That venture has taken Jim, his wife Deb, and two young children to Nairobi, Kenya, for the next 12 months.

While he's there, Jim has taken on the enormous challenge of using a new Somali National Youth Service Corps to help connect young people in Somalia to their war-torn communities.

Jim will begin that incredibly difficult task from Kenya where he will meet Somali refugees who may become a part of this new corps. He will also be contacting agencies and funding sources who are interested in supporting a pilot national service corps.

Jim plans a fall trip into Somalia to meet with elders in the Somali village of Bule Burti. He has a Somalia partner in this venture from that village who will helpfully carry on Jim's vision long after he leaves to return to America.

Organizing youth and community service activity in this country is difficult enough. And, Jim has demonstrated time and time again over the years that he is clearly capably of meeting that challenge.

But, imagine the difficulty of organizing young people positively around service opportunities in their communities in the middle of a chaotic civil war.

And, also, imagine the potential of positively linking young people to their country and their communities when the only opportunities to make that link in the past have been through fighting and killing, and destruction of those very same communities.

While in Kenya, Jim's wife Deb will also be working with Young Life International—a non-denominational ministry that reaches out to adolescents by building bridges through which God can minister.

What a commitment for this young family to be making.

But, what a tremendous opportunity to demonstrate the power that young individuals can have in dealing with some of the most pressing needs and devastated communities on earth.

I believe those challenges can be met—in Kenya, in Somalia, and in the cities and rural communities of this nation as well.

Under the legislation we adopted yesterday, we have made a commitment to begin that job here in America.

But, whether we succeed won't depend on national government programs or even on Federal funds.

National and community service will meet its goals because of the leadership and vision of people like Jim Kielsmeier.

All of us owe him an enormous debt of gratitude for what he has already done in Minnesota and all over America.

And, I personally wish Jim—and his wife Deb and children Sarah and Stina—Godspeed on this newest venture they are now launching—a venture from which we all pray they will safely return.

Thank you, Mr. President. I yield the floor.

THE SITUATION IN SOMALIA

Mr. MACK. Mr. President, the situation in Somalia has become intolerable. When President Bush first sent troops there, they went for humanitarian reasons—to end the starvation which was devastating the country. I supported that mission, but as far as I can tell, that work is done.

But now we have a new President, and the mission has evolved into something much more nebulous. We find ourselves in the middle of a civil war, and some of our troops are not even under the direct control of American commanders.

The truth is, we have no clearly defined objectives for our forces in Somalia. Since the administration cannot satisfactorily explain those objectives, our troops should come home.

We are now in a no-win situation: just this afternoon, our forces killed scores of Somalis, including women and children, while trying to defend themselves from attack. The American military should not be hunting for warlords in the Somalian countryside, much like the Peruvian army searching in vain for Butch Cassidy and the Sundance Kid.

The proposal before us simply does not go far enough, and therefore I am compelled to vote against it. I can no longer, in good conscience, stand by while further lives are lost under these conditions.

It is time to bring our troops home.

MESSAGES FROM THE HOUSE

At 1:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to section 203(b)(1)(G) of Public Law 102-166, the majority leader and the minority leader appoint Mrs. ROUKEMA, on the part of the House, to serve as a member of the Glass Ceiling Commission; vice Ms. MOLINARI, resigned.

ENROLLED BILL SIGNED

At 6:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker signed the following enrolled bill:

H.R. 2010. An Act to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes.

At 7:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House had passed the following joint resolution, without amendment:

S.J. Res. 126. Joint Resolution designating September 10, 1993, as "National POW/MIA Recognition Day" and authorizing the display of the National League of Families POW/MIA flag.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2403) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes, it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. HOYER, Mr. VISCLOSKY, Mr. DARDEN, Mr. OLVER, Mr. BEVILL, Mr. SABO, Mr. NATCHER, Mr. LIGHTFOOT, Mr. WOLF, Mr. ISTOOK, and Mr. MCDADE as managers of the conference on the part of the House.

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-1399. A communication from the President of the United States, transmitting, notice relative to the fiscal year 1994 appropriations request for the Department of Energy; to the Committee on Appropriations.

EC-1400. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the sequestration update report for fiscal year 1994; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

EC-1401. 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 within five days of enactment; referred jointly, pursuant to the order of January 20, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Armed Services.

EC-1402. A communication from the Acting Director of the Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the annual report for fiscal year 1992; referred jointly, pursuant to Public Law 97-425, to the Committee on Energy and Natural Resources, and to the Committee on Environment and Public Works.

EC-1403. A communication from the Director of the Office of Management and Budget,

Executive Office of the President, transmitting, pursuant to law, a report of the mid-session review of the 1994 Budget; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, and to the Committee on the Budget.

EC-1404. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition and Forestry, to the Committee on Banking, Housing, and Urban Affairs, to the Committee on Commerce, Science and Transportation, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, and to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. MIKULSKI, from the Committee on Appropriations, with amendments:

H.R. 2491. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes (Rept. No. 103-137).

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. HOLLINGS:

S. 1444. A bill to establish a common market to bind together the countries of North America, Central America, and South America in a common commitment to promote democracy and mutually beneficial economic development; to the Committee on Finance.

By Mr. ROCKEFELLER (by request):

S. 1445. A bill to amend title 38, United States Code, to improve and clarify certain adjudication and appeal procedures relating to claims for benefits under laws administered by the Department of Veterans' Affairs; to the Committee on Veterans Affairs.

By Mr. WOFFORD:

S. 1446. A bill to help schools achieve the sixth goal of the National Education Goals, which provides that by the 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by supporting school and communitywide efforts to make schools and neighborhoods safe and drug free; to the Committee on Labor and Human Resources.

By Mr. KEMPTHORNE:

S.J. Res. 130. A joint resolution designating October 27, 1993, as "National Unfunded Federal Mandates Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS:

S. 1444. A bill to establish a common market to bind together the countries of North America, Central America, and South America in a common commitment to promote democracy and mutually beneficial economic development; to the Committee on Finance.

AMERICAN COMMON MARKET ACT OF 1993

Mr. HOLLINGS. Mr. President, I rise today to introduce a bill that would bind together the countries of North America, Central America, and South America in a common commitment to promote democracy and mutually beneficial economic development by establishing a common market for the Americas.

The first common market in the Americas was founded more than 200 years ago when the citizens of the 13 colonies pledged their lives, their blood and their sacred honor to form a union of liberty and democracy. The wealth our country has experienced throughout its history springs directly from those values and that commitment.

The Europeans got the picture. Rising from the ashes of World War II, the nations of Europe banded together to build a common market grounded in social and economic justice—free markets, free press, free association, and free elections—and buttressed by democratic institutions.

The accession treaty to the European Community declares that "principles of pluralistic democracy and respect for human rights form part of a common heritage of the peoples of the states brought together in the European Communities and constitute therefore essential elements of membership."

Mr. President, in the North American Free-Trade Agreement the word "democracy" does not appear. Yet the agreement attempts to integrate two developed, democratic, capitalist countries with a country that has been called the perfect dictatorship—without an attempt to address the fundamental differences between the nations. The disparity in wages between the United States and Mexico is indicative of the larger schism which will tear our economy apart unless we learn this lesson: the benefits of free markets cannot be enjoyed unless there are democratic institutions to protect the rights of its citizens.

Instead of pursuing the narrow economic agenda of the previous administration, we should offer a new vision for the Americas, one that will fulfill the legacy left by President Kennedy, who 30 years ago recognized that social change must accompany economic change. In his words,

> No program which is restricted to the technicalities of economic development can fully answer the needs of the Americas. Only an approach to economic progress and social justice which is based on wide acceptance of the fundamental ideals of political democracy and human dignity can conquer the many ills of our hemisphere and respond fully to the aspirations of our people.

Mr. President, the common market for the Americas enshrines the features necessary for the development of democracy and free markets—features that are absent from NAFTA:

First, admission to the common market for the Americas will require each country to commit to basic tennets of representative democracy.

Second, common market countries will agree to a social charter that will protect worker rights and guarantee the right to form independent labor unions.

Third, unlike NAFTA, which simply provides unlimited access to the U.S. market, the common market would be focused outward and would encourage exports from the Americas to other hemispheres.

Fourth, to prevent the nations of the common market from engaging in competitive devaluations, the market would create a mechanism to align exchange rates.

Fifth, the common market would also establish a common policy on competition so that large industrial conglomerates who operate free of the constraints of antitrust laws do not capture markets by engaging in predatory practices.

Mr. President, after decades of neglect it is time once again that we offer our neighbors to the south a proposal that puts people first by finally putting democracy first. Gone are the days of the cold war that forced us to embrace totalitarian regimes who shared our anti-Communist policies. As nations around the world are throwing off the mantle of oppression, it is time we stand with the forces of change and democracy rather than with the forces of status quo and oligarchy.

By Mr. ROCKEFELLER (by request):

S. 1445. A bill to amend title 38, United States Code, to improve and clarify certain adjudication and appeal procedures relating to claims for benefits under law administered by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

VETERANS' APPEALS IMPROVEMENT ACT OF 1993

• Mr. ROCKEFELLER. Mr. President, as Chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 1445, the proposed Veterans' Appeals Improvement Act of 1993, a bill to improve and clarify certain adjudication and appeal procedures relating to claims for benefits under laws administered by the Department of Veterans Affairs. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated August 13, 1993.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs

Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the transmittal letter and enclosed analysis of the draft legislation.

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

S. 1445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Appeals Improvement Act of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. COMPOSITION OF THE BOARD OF VETERANS' APPEALS.

(a) BOARD MEMBERS AND PERSONNEL.—Section 7101(a) is amended to read as follows:

"(a)(1) There is in the Department a Board of Veterans' Appeals (hereafter in this chapter referred to as the 'Board'). The Board is under the administrative control and supervision of a Chairman directly responsible to the Secretary.

"(2) The members of the Board shall be the Chairman, a Vice Chairman, such number of Deputy Vice Chairmen as the Chairman may designate under subsection (b)(4), and such number of other members as may be found necessary to conduct hearings and consider and dispose of matters properly before the Board in a timely manner. The Board shall have such other professional, administrative, clerical, and stenographic personnel as are necessary to conduct hearings and consider and dispose of matters properly before the Board in a timely manner.".

(b) APPOINTMENT AND REMOVAL OF BOARD MEMBERS.—Section 7101(b) is amended—

(1) in paragraph (2)(A), by striking "other members of the Board (including the Vice Chairman)" and inserting in lieu thereof "Board members other than the Chairman";

(2) in paragraph (2)(B), by striking "paragraph" and inserting in lieu thereof "subparagraph"; and

(3) by striking out paragraph (4) and inserting in lieu thereof the following new paragraph (4):

"(4) The Secretary shall designate one Board member as Vice Chairman based upon recommendations of the Chairman. The Chairman may designate one or more Board members as Deputy Vice Chairmen. The Vice Chairman and any Deputy Vice Chairman shall perform such functions as the Chairman may specify. The Vice Chairman shall serve as Vice Chairman at the pleasure of the Secretary. Any Deputy Vice Chairman shall serve as Deputy Vice Chairman at the pleasure of the Chairman.".

(c) ACTING BOARD MEMBERS.—Section 7101(c) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) The Chairman may from time to time designate one or more employees of the Department to serve as acting Board members.";

(2) by striking out paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) in paragraph (2), as so redesignated—

(A) by striking out "temporary Board members designated under this subsection and the number of"; and

(B) by striking out "section 7102(a)(2)(A)(ii) of this title" and inserting in lieu thereof "paragraph (1) of this section".

(d) CHAIRMAN'S ANNUAL REPORT.—Section 7101(d)(2) is amended—

(1) in subparagraph (D), by striking out "year; and" and inserting in lieu thereof "year;";

(2) in subparagraph (E), by striking out "year." and inserting in lieu thereof "year; and"; and

(3) by adding at the end the following:

"(F) the names of those employees of the Department designated under subsection (c)(1) to serve as acting Board members during that year and the number of cases each such acting Board member participated in during that year.".

(e) CONFORMING AMENDMENTS.—(1) Section 7101(d)(3)(B) is amended by striking out "section 7103(d)" and inserting in lieu thereof "section 7101(b)".

(2) Section 7101(e) is amended in the first sentence by striking out "a temporary or" and inserting in lieu thereof "an".

SEC. 3. ASSIGNMENT OF MATTERS BEFORE THE BOARD.

Section 7102 is amended to read as follows:

"§ 7102. Assignment of matters before the Board

"The Chairman may determine any matter before the Board, or rule on any motion in connection therewith, or may assign any such matter or motion to any other Board member or a panel of members for determination. Any such assignment by the Chairman may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.".

SEC. 4. DETERMINATIONS BY THE BOARD.

(a) IN GENERAL.—Section 7103(a) is amended to read as follows:

"(a) When the Chairman retains a matter or submits it to another Board member or a panel of members for determination in accordance with section 7102 of this title, or to an expanded panel of Board members in accordance with subsection (b) of this section, the Chairman, other member, or panel of members may:

"(1) Issue an order dismissing any appeal, in whole or in part, which fails to allege specific error of fact or law in the determination being appealed or in which the determination being appealed has become moot. Each order of dismissal shall include a written statement of the Board's findings and conclusions, and the reasons or bases for those findings and conclusions, in support of the dismissal.

"(2) Issue an order remanding the case, in whole or in part, to the agency of original jurisdiction for such additional development as the Chairman, other member, or panel of members may consider necessary for proper disposition of the case.

"(3) Render a written decision with respect to any issues not dismissed or remanded, which decision shall constitute the Board's final disposition of the issues so decided. Such decisions shall be based on the entire record in the proceeding, upon consideration of all evidence and material of record, and upon applicable provisions of law and regulation. The Board shall be bound in its decisions, including allowances made under the provisions of subsection (d) of this section, by the regulations of the Department, the instructions of the Secretary, and the precedent opinions of the chief legal officer of the Department. Each decision of a Board member or a panel of members shall include—

"(A) a written statement of the Board's findings and conclusions, and the reasons or bases for those findings and conclusions, on all material issues of fact and law presented on the record; and

"(B) an order granting appropriate relief or denying relief.

Decisions by a panel of Board members, except as otherwise provided in subsection (b), shall be made by a majority of the members of the panel.".

(b) RECONSIDERATION.—Section 7103(b) is amended to read as follows:

"(b) The decision of a Board member or a panel of members is final, unless the Chairman orders reconsideration of the case, and a claim disallowed by the Board may not thereafter be reopened or allowed except as provided in section 5108 of this title and subsection (d) of this section. If the Chairman orders reconsideration in a case, the case shall be considered upon reconsideration by a panel of members other than the Chairman if one member originally decided the case or by an expanded panel of members other than the Chairman if a panel originally decided the case. When a panel considers a case after a motion for reconsideration has been granted, the decision of a majority of the panel members shall constitute the final decision of the Board, except as provided in subsection (d). If the expanded panel cannot reach a majority decision, the Chairman may either assign additional members other than the Chairman to the panel or vote with the members of the expanded panel so as to create a majority decision. Either the expanded panel majority or the majority made with the vote of the Chairman shall constitute the final decision of the Board, except as provided in subsection (d).".

(c) ADMINISTRATIVE ALLOWANCE; NOTICE OF DETERMINATION.—Section 7103 is amended by adding at the end the following:

"(d) Whenever a Board member other than the Chairman or Vice Chairman is of the opinion that a prior, otherwise final denial of a claim should be revised or amended to allow the claim in whole or in part, based on a difference of opinion as to how the evidence should be evaluated rather than on any error in the prior decision, the Board member shall recommend such allowance to the Chairman or Vice Chairman. The Chairman or Vice Chairman, whether upon the recommendation of any other Board member or upon the Chairman's or Vice Chairman's own motion, if of the opinion that a prior, otherwise final denial of a claim should be revised or amended to allow the claim in whole or in part, based on a difference of opinion as to how the evidence should be evaluated rather than on any error in the prior decision, shall approve the award of any benefit, or any increase therein, on the basis of such difference of opinion. The discretionary exercise of the authority provided to the Chairman and Vice Chairman under this subsection shall not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(e) After reaching a determination under any of the provisions of this section, the Board shall promptly mail a copy of its written decision to the appellant and the appellant's authorized representative (if any) at

the last known address of the appellant and at the last known address of such representative (if any), respectively.".

SEC. 5. JURISDICTION OF THE BOARD.

Section 7104 is amended—

(1) by striking out "(a)";

(2) by striking out "211(a)" and inserting in lieu thereof "511(a)"; and

(3) by striking out all after "made by the Board.".

SEC. 6. APPELLATE PROCEDURE.

Section 7105(d) is amended by striking out paragraph (5).

SEC. 7. MEDICAL OPINIONS.

Section 7109 is amended to read as follows:

"§ 7109. Medical opinions

"(a) A Board member or a panel of members before whom a matter which involves a medical question is pending may, in the discretion of the member or panel, request an opinion on that medical question from—

"(1) an employee of the Board who is licensed to practice medicine in any State;

"(2) an employee of the Veterans Health Administration who is licensed to practice medicine in any State and who has been designated by the Under Secretary for Health to provide such an opinion; or

"(3) an employee of any Federal department or agency who is licensed to practice medicine in any State and who has been designated, in accordance with arrangements made by the Secretary with the head of any such Federal department or agency, to provide such an opinion.

"(b) When, in the judgment of a Board member or a panel of members assigned a matter for determination in accordance with section 7102 of this title, the medical complexity or controversy involved in that matter warrants expert medical opinion in addition to, or in lieu of, that available within the Department or within another Federal department or agency, the Board may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Department or of another Federal department or agency. The Secretary shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions at the request of the Chairman. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution. For purposes of this section, an employee of a medical school, university, or clinic shall not be considered an employee of the Department or another Federal department or agency just because the medical school, university, or clinic receives grants from, or provides contract services to, the Department or another Federal department or agency.

"(c) Any opinion provided under this section shall be in writing and made a part of the record. The Board shall notify a claimant that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall mail to the claimant and the claimant's authorized representative (if any) at the last known address of the claimant and at the last known address of such representative (if any) a copy of such opinion when the Board receives it. An opportunity for response by or on behalf of the claimant shall be provided following the mailing of the copy (or copies) of such advisory medical opinion.".

SEC. 8. HEARINGS.

Section 7110 is amended to read as follows:

"§ 7110. Hearings

"(a) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

"(b) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing will participate in making the final determination in the claim.

"(c) An appellant may request a hearing before the Board at either its principal location or a regional office of the Department. Any hearing held at a regional office of the Department shall be scheduled for hearing in the order in which the requests for hearing in that area are received by the Department at the place specified by the Department for the filing of requests for such hearings.

"(d) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission, or picture and voice transmission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location. When such facilities and equipment are available, the Chairman may, at his or her discretion, afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or members as provided in subsection (c).".

SEC. 9. TABLE OF CONTENTS.

The table of contents at the beginning of chapter 71 is amended by—

(1) striking "7102. Assignment of members of Board." and inserting in lieu thereof "7102. Assignment of appellate matters.";

(2) striking "7109. Independent medical opinions." and inserting in lieu thereof "7109. Medical opinions."; and

(3) striking "7110. Traveling sections." and inserting in lieu thereof "7110. Hearings.".

SEC. 10. EFFECTIVE DATES OF AWARDS BASED ON DIFFERENCE OF OPINION.

Section 5110 is amended by adding at the end the following new subsection:

"(o) The effective date of the award of any benefit, or any increase therein, pursuant to section 7103(d) of this title on the basis of a difference of opinion shall be—

"(1) if the award resulted from review initiated by an application to reopen the claim for the benefit in question under the provisions of section 5108 of this title, fixed in accordance with the facts found but shall not be earlier than the date the Department of Veterans Affairs received such application; or

"(2) if the award resulted from review of the final determination undertaken by the Department of Veterans Affairs solely on its own initiative, the date the Chairman or Vice Chairman of the Board of Veterans' Appeals approved the award.".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, August 13, 1993.

Hon. ALBERT GORE, JR.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill, entitled the "Veterans' Appeals Improvement Act of 1993," to amend title 38, United States Code, to improve and clarify certain adjudication and appeal procedures relating to claims for benefits under the laws administered by the Department of Veterans Affairs (VA or Department). I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

The improvements proposed in this bill are urgently needed to reverse the trends of decreasing productivity and increasing response time of the Board of Veterans' Appeals (BVA or Board). The growing demand for personal hearings, changes made by the Veterans' Judicial Review Act of 1988, and the evolving body of case law generated by the United States Court of Veterans Appeals (CVA or Court) have all contributed to the increased delays appellants are experiencing. The number of BVA decisions issued declined from 45,308 in FY 1991 to 33,483 in FY 1992, and is projected to drop further to 27,600 in FY 1993. (The number of appeals received by the BVA has also decreased, but only from 43,903 in FY 1991 to 38,229 in FY 1992, and is expected to rise to 39,000 in FY 1993.) More dramatic has been the increase in response time, the projected number of days it would take the BVA to decide all currently pending appeals, based on the average number of decisions rendered per day over the preceding year. Response time increased from 139 days in FY 1991 to 240 days in FY 1992, and is expected to soar to 441 days in FY 1993. Current BVA procedures must be revised to permit the Board to improve its productivity and timeliness. It is estimated that allowing individual Board members to sign decisions (as proposed in the bill), alone, would raise the number of decisions issued in FY 1994 from 29,185 to 36,550, an increase of 25.2 percent.

This bill would authorize several changes in the procedures used by the BVA to adjudicate appeals from denials of veterans' benefits within VA. The changes would include allowing individual BVA members, instead of sections of three members, to rule on matters before the BVA; allowing the BVA Chairman or Vice Chairman to administratively allow, on the basis of difference of opinion, previously denied claims; and allowing the BVA to use modern telecommunications technology to hold hearings with the BVA member ormembers presiding in Washington, D.C., and the claimant appearing at a remote location. The draft bill would also clarify the BVA's authority to obtain and employ medical opinions from its own staff physicians, other VA physicians, and those of other Federal departments or agencies. The enclosed section-by-section analysis describes in more detail all the changes the draft bill would make. Most of these would give the Board more flexibility to meet its increasing work load and to improve the quality and timeliness of its decisions.

Probably the single most important change this proposed bill would make in current law is that in Section 3, to authorize the BVA Chairman to determine any matter before the BVA, or rule on any motion in connection therewith, or to assign any such matter or motion to any other BVA member or panel or members for determination. Current section 7102 of title 38 allows the Chairman to divide the BVA into sections of three members, to assign members to the sections, and to designate the chiefs of the sections, and requires that a BVA section make determinations in any proceeding instituted before the BVA and on any motion in connection therewith, assigned to the section by the Chairman. The proposed change would allow the BVA to use its resources more efficiently in two ways. First, it would permit individual BVA members to decide appeals and rule on motions and fee agreements. Instead of three BVA members reviewing the

same case, each member could review and decide a different case. With review of BVA decisions by the CVA now available, having three BVA members review a case is not so critical to an assurance of good, fair decisions as it once was. Second, it would permit the Chairman to rule on procedural motions and other matters not requiring extensive familiarity with all the evidence in a case, thereby freeing the other members to review and decide cases on the merits.

The proposed bill would give the BVA the flexibility to use its resources more effectively in other ways. In addition to allowing individual-member decisions and a streamlined motion-ruling procedure, the proposed bill, at Section 2(a), would remove the 67-member limit on the BVA now in section 7101(a) of title 38. Removing the limit would give the Department more flexibility in meeting the BVA's increasing work load and complying with the Congressional mandate in current section 7101(a) of title 38 "to conduct hearings and consider and dispose of appeals . . . in a timely manner." In addition to increasing the number of matters pending before the BVA, judicial review has presented the challenge of an ever-evolving body of case law to be applied in the course of BVA's deliberations. Because decisional quality remains our top priority, Section 2(a) would also statutorily recognize the position of Deputy Vice Chairman, which was administratively created in 1980 to help control the quality of BVA decisions. No significant cost or saving is currently anticipated in connection with these changes.

Our bill would also authorize the BVA Chairman or Vice Chairman, either upon the recommendation of another BVA member or upon his or her own motion, to allow, on the basis of difference of opinion, a claim previously denied and otherwise final. The purpose of this provision is to allow the Chairman and Vice Chairman to temper harsh results in reviewing legally correct, albeit "close," prior decisions. It would re-establish an authority previously exercised by the BVA Chairman and Vice Chairman under regulation, which the VA General Counsel determined was inconsistent with current law. Although not directly affecting the timeliness or quality of BVA decisions, this provision of the bill would result in more allowed claims. Another provision of the draft bill, Section 10, would establish the traditional regulatory effective dates for awards administratively allowed, generally the date of application to reopen the claim, but for cases in which VA undertook review solely on its own initiative, the date the claim was administratively allowed (since no application to reopen the claim would have been received). Estimating 50 additional allowances under the provision for administrative allowance each year, based on 65 administrative allowances during FY 1989, the last full year the old procedure was in effect (the total number of cases the BVA decides in a year is now lower), the costs would be:

Fiscal year:

	Costs:
1994	$250,433
1995	259,449
1996	269,049
1997	278,734
1998	288,769
Total	1,346,434

The number of requests for hearings before the BVA, especially in the field, has increased since passage of the Veterans' Judicial Review Act of 1988. In FY 1991, the BVA held 1,108 hearings in Washington, D.C., and 880 hearings in VA regional offices; in FY 1992, the BVA held 1,394 hearings in Washington and 1,258 in regional offices. Section 8 of the draft bill, besides bringing together in one section hearing provisions currently in various sections of title 38, would authorize the BVA Chairman, when suitable facilities and equipment are available, to offer an appellant the opportunity to appear at a remote facility and participate, through voice or picture-and-voice transmission by electronic or other means, in a hearing with the BVA member or members sitting in Washington, D.C. The authorityto hold telecommunicated hearings would provide an alternative to sending a BVA member to a field facility when such a trip would not be cost-effective or time-effective. Section 8 also allows VA to specify where field hearing requests must be filed, which would help the BVA to better maintain a docket that satisfies the provision of current section 7110 that hearings be scheduled in the order the requests were received.

Section 7 of the draft bill would make explicit the authority of the BVA to obtain medical opinions from its own staff physician-advisers, from physicians of the Veterans Health Administration within VA, or from physicians of other Federal departments or agencies. This would be in addition to its current authority, in section 7109 of title 38, to obtain advisory medical opinions from independent medical experts not employed by VA.

These changes would help the BVA to meet one of the evidentiary requirements articulated by the CVA, to consider only independent medical evidence to support its findings and not to rely on the unsubstantiated opinion of its own deciding members. *Colvin v. Derwinski*, 1 Vet. App. 171 (1991). An increased demand for medical opinions is expected because of this CVA-imposed requirement. Using in-house BVA staff physicians as medical experts would save time, and the BVA would also be able to take advantage of nationally recognized expertise within VA and other Federal departments or agencies as needed. To satisfy due-process concerns, the proposal would require that medical options be in writing and that the appellant have an opportunity to respond. No additional VA staff are required, and no cost or saving is anticipated from these changes.

Section 2(c) of the proposed bill would repeal the Chairman's authority, in current section 7101(c)(1) of title 38, to designate temporary BVA members and would remove the limits, in current sections 7102(a)(2)(A)(ii) and 7102(a)(2)(B), on the length of time an acting member may serve. Section 2(d) would require the BVA Chairman to report each year who served as acting Board members during the preceding fiscal year and how many cases they participated in. No chairman has ever used the authority to designate a temporary member. Removing limits on how long an acting member may serve is important to keeping the same member associated with a case until final disposition. The BVA has had acting members hold a hearing, request a medical opinion, or otherwise participate in the evidentiary development of a case only to have their period as acting members expire by the time a decision was ready to be made. Also, the administrative burden of staying within the 90 and 270-day limits is considerable. The proposed change would allow acting members to follow through with a case to completion and relieve the BVA of that administrative burden. On the other hand, Congress would be able to monitor the Chairman's use of acting Board members and to redress any abuse of that authority by the Chairman. No cost or saving is associated with these proposed changes.

Enactment of this draft bill would result in estimated additional costs, all associated with the administrative-allowance provision, of $250,433 for fiscal year 1994 and $1,346,434 for the five-year period of fiscal years 1994 through 1998. Because it would increase direct spending, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to submission of this legislative proposal to the Congress.

Sincerely yours,

JESSE BROWN.

ANALYSIS OF PROPOSED BILL

Section 1. Short title; references to title 38, United States Code.

Section 1(a) of the draft bill states the bill's title: Veterans' Appeals Improvement Act of 1993.

Section 1(b) of the draft bill provides that an amendment of a section or other provision of law made by this bill shall be considered an amendment of a section or other provision of title 38, United States Code, unless expressly provided otherwise.

Section 2. Composition of the Board of Veterans' Appeals.

Section 2(a) of the draft bill would amend current section 7101(a) to codify the position of Deputy Vice Chairman of the Board of Veterans' Appeals and to remove the current 67-member limit on membership of the Board. It would also divide current section 7101(a) into two paragraphs and consolidate two nearly identical sentences in current section 7101(a).

Section 2(b) of the draft bill would amend current section 7101(b) to simplify and technically correct its language, to authorize the Chairman to appoint Deputy Vice Chairmen, and to provide that they perform such functions as the Chairman may specify and serve at his or her pleasure.

Section 2(c) of the draft bill would rescind the Chairman's authority in current section 7101(c)(1) to designate temporary Board members, would relocate there the Chairman's authority in current section 7102(a)(A)(ii) to designate acting Board members, and would remove the 90-day and 270-day limits in current sections 7102(a)(2)(A)(ii) and 7102(a)(2)(B) on the period acting Board members may serve. It also would remove references in current section 7101(c)(3) to temporary Board members.

Section 2(d) of the draft bill would require the Chairman to report yearly who served as acting Board members during the preceding fiscal year and how many cases they participated in.

Section 2(e) of the draft bill would correct a reference in current section 7101(d)(3)(B) to a nonexistent section and remove a reference in current section 7101(e) to temporary Board members.

Section 3. Assignment of Matters Before the Board.

Section 3 of the draft bill would amend current section 7102 by allowing the Chairman, in lieu of the current scheme of dividing the Board into three-member sections, to determine any matter or motion before the Board or to assign any such matter or motion to any other individual Board member or panel of members for determination. It also would prohibit judicial review of any

such assignment made by the Chairman. The provisions in current section 7102(b) concerning hearings would be relocated to proposed section 7110.

Section 4. Determinations by the Board.

Section 4(a) of the draft bill would amend current section 7103(a) to include the Board's authority in current section 7105(d)(5) to dismiss appeals which allege no specific error of fact or law in the determination being appealed. It would also amend section 7103(a) to authorize the Board to dismiss appeals in which the determination being appealed has become moot, to remand cases in which Board members deem additional development necessary for proper disposition, and to render a written decision on issues not dismissed or remanded, which decision shall constitute the Board's final disposition of such issues. It also would relocate into proposedsection 7103(a) various requirements in current section 7104: (1) that Board decisions be based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation; (2) that the Board be bound in its decisions by the regulations of the Department, instructions of the Secretary, and precedent opinions of the chief legal officer of the Department; and (3) that each Board decision include a written statement of the Board's findings and conclusions, as well as the reasons or bases for those findings and conclusions, on all material issues of fact and law presented on the record, and an order granting appropriate relief or denying relief. Section 4(a) would also change references to Board sections in current section 7103(a) to Board panels and subject the provision concerning majority decisions of panels to the exception in proposed section 7103(b) of having the Chairman vote on reconsiderations to create a majority when a majority decision cannot otherwise be reached.

Section 4(b) of the draft bill would amend section 7103(b) to relocate there the provision in current section 7103(a) concerning the finality of Board decisions unless the Chairman orders reconsideration in a case. It would also relocate into proposed section 7103(b) the provision in current section 7104(b) concerning the exception provided in section 5108 to the finality of a claim disallowed by the Board. Section 4(b) would also make administrative allowances under proposed section 7103(d) an exception to the finality of Board decisions. It also would amend section 7103(b) to clarify that, when the Chairman orders reconsideration in a case, the case shall be considered by a panel of Board members assigned by the Chairman but excluding the Chairman if originally decided by an individual Board member, or by an expanded panel of Board members assigned by the Chairman but excluding the Chairman if originally decided by a panel of members. It further would provide that, if the panel or expanded panel cannot reach a majority decision, the Chairman may again expand the panel or vote with the panel so as to create a majority decision.

Section 4(c) of the draft bill would amend current section 7103 by adding a new subsection (d), which would require any Board member who believes that a prior, otherwise final denial of a claim should be revised or amended to grant a benefit in whole or in part, based on a difference of opinion as to how the evidence should be evaluated rather than on any error in the prior decision, to refer such case to the Chairman or Vice Chairman for consideration. It also would require the Chairman or Vice Chairman, if of the same opinion in a case, whether upon referral by a Board member or on the Chairman's or Vice Chairman's own motion, to administratively allow the claim. Further, it would prohibit judicial review of the determination of the Chairman or vice Chairman as to whether to exercise this authority. Section 4(c) of the draft bill would also relocate into a new section 7103(e) the provisions in current section 7104(e), concerning the notification that a Board decision has been made, as well as making technical changes to the language.

Section 5. Jurisdiction of the Board.

Section 5 of the draft bill would amend current section 7104(a) to correct the citation to former section 211(a). It would also eliminate provisions in current section 7104(a), concerning the opportunity for a hearing and the bases of Board decisions, which would be relocated to other sections by sections 8 and 4 of the draft bill, respectively, and eliminate current sections 7104(b) through (e), the provisions of which would be relocated by section 4 of the draft bill.

Section 6. Appellate Procedure.

Section 6 of the draft bill would eliminate current section 7105(d)(5), the provisions of which would be included in proposed section 7103(a)(1) by section 4(a) of the draft bill.

Section 7. Medical Opinions.

Section 7 of the draft bill would amend section 7109 to specifically authorize Board members to request opinions on medical questions from Board employees, Veterans Health Administration employees, or employees of other Federal departments or agencies, provided such employees are licensed to practice medicine in any state. It also would combine into one subsection, proposed section 7109(b), the provisions in current sections 7109(a) and (b) and specify that employees of a medical school, university, or clinic shall not be considered, for purposes of this section, employees of VA or another Federal department or agency just because the medical school, university, or clinic receives grants from, or provides contract services to, VA or another Federal department or agency. Further, section 7 would amend current section 7109(c) to require that the opinion be in writing and made a part of the record, and that the claimant be given the opportunity to respond. It also would change the reference to furnishing a copy of the opinion to the claimant to mailing a copy of the opinion to the claimant and any representative.

Section 8. Hearings.

Section 8 of the draft bill would amend current section 7110 to include the requirement in current section 7104(a) that the Board decide an appeal only after affording the claimant the opportunity for a hearing and change the reference to the claimant to the appellant. It also would include in proposed section 7110(b) the requirements in current section 7102(b) that a hearing docket be maintained and formal recorded hearings be held by a Board member or members designated by the Chairman. Such member or members will participate in making the final determination in the claim. Technical changes to comport with other provisions in the draft bill are also included. It would also delete the reference in current section 7110 to a traveling section of the Board and specify that appellants may request a hearing before the Board at either its principal location or a VA regional office, as well as authorizing VA to specify where hearing requests may be filed. In addition, section 8 would authorize the Secretary to provide suitable facilities and equipment to enable appellants at a facility within a regional office area to participate, via voice or picture-and-voice transmission by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location. Further, where such facilities are available, it would give the Chairman discretion to offer such a hearing to an appellant in lieu of a personal appearance before the Board in the regional office area or at the Board's principal location.

Section 9. Table of Contents.

Section 9 of the draft bill would amend the table of contents at the beginning of chapter 71, title 38, United States Code, to conform to new section headings for proposed sections 7102, 7109, and 7110.

Section 10. Effective Dates of Awards Based on Difference of Opinion.

Section 10 of the draft bill would amend current section 5110 to add a new subsection (o), which would provide that the effective date for the award of any benefit or any increase in any benefit on the basis of a difference of opinion as authorized in proposed section 7103(d) be no earlier than the date VA received an application under 38 U.S.C. §5108 to reopen the claim if the award resulted from review initiated by such an application, or the date the Chairman or Vice Chairman approved the award if it resulted from review undertaken solely on VA's own initiative.●

By Mr. WOFFORD:

S. 1446. A bill to help schools achieve the sixth goal of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by supporting school and communitywide efforts to make schools and neighborhoods safe and drug free; to the Committee on Labor and Human Resources.

SAFE AND DRUG-FREE SCHOOLS ACT OF 1993

● Mr. WOFFORD. Mr. President, schools are opening across the country. But already one young person in California is fighting for his life after being caught in the crossfire of a gang fight. Along with the hopes, anxieties, and anticipation that many students carry to their first day of school are the hidden baggage of guns and knives—and above all the fear of violence.

Only 29 percent of parents believe that their children are safe in school. According to the Centers for Disease Control, nearly three million crimes occur on or near school campuses every year—one every six seconds. It's estimated that over one hundred thousand students carry guns to school each day. Thousands of students and teachers alike are victims of physical attacks or threats of violence. It's a terrifying situation. And, it's a scandal.

That's why I am introducing today the Safe and Drug Free Schools Act of 1993. I'm doing so on behalf of the President and Secretary Riley. This legislation will provide parents, teachers, and students with the tools they need to fight violence in our schools. And they clearly need help in this battle.

Victoria Johnson, a teacher at Olney High School in Philadelphia said, "It's

an everyday occurrence. I've had one student who attempted to shove me around. Recently, two of my students were arrested for carrying knives. There are four or five fights a day. I believe most of the students carry weapons, they just don't brandish them."

Ms. Johnson teaches in a large urban school. But school violence has infected our rural and suburban schools as well. Here's a letter I recently received from Barbara Ryan, a teacher in a Pennsylvania suburban school.

I am a high school biology teacher in Pennsburg, PA, a typical rural/suburban community with a relatively low crime rate. On May 24 of this year, a tenth grade student pulled out a handgun and shot and killed another student in my classroom. In doing so, he destroyed two lives and permanently bruised the lives of countless others. . . . I am still grappling with the utter senselessness of this tragedy, with what may have caused it, and how it might have been prevented. . .

I never ever want to see a child die in this manner again. It's imperative that we find solutions to this problem of teenage violence, because what happened in my classroom wasn't just an isolated incident, but has happened in countless communities across the country.

Mr. President, no teacher or student should have to feel that kind of pain and fear of senseless violence.

The sixth National Education Goal, established by the nation's governors, states, "By the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning." The legislation I am proposing today will bring us closer to that goal.

The Safe and Drug Free School Act will help local school districts develop and carry out comprehensive programs to prevent destructive behavior. Schools will be able to attack their own individual problems head-on. Schools could use funds to fit their own unique needs to develop programs such as teacher training, conflict resolution training for students, anti-gang efforts, or they could use funds to develop a partnership with the police, or a mentoring program with members of the business community.

Feelings of hopelessness, alienation, and cynicism that lure children into using drugs also lead to violent behavior. Since drug use and violence often go hand in hand, the most promising strategy is comprehensive, coordinated school and community efforts, efforts that bring together families, students, community organizations and law enforcement. This legislation will support these efforts.

This legislation does not create another federal program and bureaucracy. Rather, it alters an existing program to better meet the challenges facing our schools today. It will not burden schools with rigid, top-down, bureaucratic rules, but will leave communities free to produce the best course of action and give them some of the resources needed to get things done.

Many Pennsylvania communities have taken the lead in attacking violence in schools. I met today with students, teachers, and administrators from all parts of Pennsylvania who told me their own stories of the violence they see in their schools and how this legislation will help them do something about it. In Ptttsburgh, the school district formed a task force that's taking the ideas of parents to work to eliminate violence among young people. In Reading, a peer mediation program is teaching children how to settle their own disputes without resorting to weapons, punches, and insults.

Education is the one sure path to a better life for every American child. But children cannot learn if they don't feel safe. The Safe and Drug Free Schools Act will help us to once again make our schools a safe haven of knowledge, hope, and security.●

ADDITIONAL COSPONSORS

S. 455

At the request of Mr. HATFIED, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 463

At the request of Mr. BUMPERS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 463, a bill to prohibit the expenditure of appropriated funds on the Superconducting Super Collider program.

S. 470

At the request of Mrs. BOXER, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 470, a bill to amend chapter 41 of title 18, United States Code, to punish stalking.

S. 588

At the request of Mr. ROBB, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 588, a bill to regulate aboveground storage tanks used to store regulated substances, and for other purposes.

S. 913

At the request of Mr. LIEBERMAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 913, a bill to provide that the Vietnam Veterans Assistance Fund, Inc. shall be considered as having complied with certain national eligibility requirements for purposes of the 1992 Combined Federal Campaign, and for other purposes.

S. 914

At the request of Mr. BUMPERS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 914, a bill to amend the Internal Revenue Code of 1986 with respect to the discharge, or repayment, of student loans of students who agree to perform services in certain professions.

S. 1128

At the request of Mr. AKAKA, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 1128, a bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased reservists.

S. 1314

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1314, a bill to designate the United States Courthouse located in Bridgeport, Connecticut as the "Brien McMahon Federal Building."

SENATE JOINT RESOLUTION 69

At the request of Mr. PELL, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Joint Resolution 69, a joint resolution providing for the United States to assume a strong leadership role in implementing the decisions made at the Earth Summit by developing a national strategy to implement Agenda 21 and other Earth Summit agreements through domestic policy and foreign policy, by cooperating with all countries to identify and initiate further agreements to protect the global environment, and by supporting and participating in the high-level United Nations Sustainable Development Commission.

SENATE JOINT RESOLUTION 113

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating October 1993 as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 115

At the request of Mr. COCHRAN, the names of the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of Senate Joint Resolution 115, a joint resolution designating November 22, 1993, as "National Military Families Recognition Day."

SENATE CONCURRENT RESOLUTION 42

At the request of Mr. RIEGLE, the names of the Senator from Illinois [Mr. SIMON], the Senator from Kansas [Mr. DOLE], the Senator from Wyoming [Mr. WALLOP], the Senator from Michigan [Mr. LEVIN], the Senator from Maine [Mr. MITCHELL], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Concurrent Resolution 42, a concurrent resolution expressing the sense of Congress that the 60th anniversary of the Ukraine famine of 1932–33 should serve as a reminder of the brutality of Stalin's repressive policies toward the Ukrainian people.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT OF 1994

BOXER (AND OTHERS) AMENDMENT NO. 783

Mrs. BOXER (for herself, Mr. FEINGOLD, Mr. ROBB, Mr. CAMPBELL, and Mrs. MURRAY) proposed an amendment to the bill, S. 1298, to authorize appropriations for fiscal year 1994 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:

Strike out section 546 (page 139, line 20, through page 148, line 8) and insert in lieu thereof the following:

SEC. 546. SENSE OF CONGRESS CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.

It is the sense of Congress that the policy of the Government concerning the service of homosexuals in the Armed Forces is a matter that should be determined by the President, as chief executive officer of the Government and commander-in-chief of the Armed Forces, based upon advice provided to the President by the Secretary of Defense and the military advisors to the President and Secretary.

WARNER AMENDMENT NO. 784

Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1298, supra; as follows:

On page 242, after line 19, insert the following:

SEC. 1067. PREVENTION OF ENTRY INTO THE UNITED STATES OF CERTAIN FORMER MEMBERS OF THE IRAQI ARMED FORCES.

It is the Sense of the Senate that no person who was a member of the armed forces of Iraq during the period from August 2, 1990 through February 29, 1991 and who is in a refugee camp in Saudi Arabia as of the date of enactment of this Act shall be granted entry into the United States under the Immigration and Nationality Act, as amended, unless the President certifies to Congress prior to such entry that such person—

(1) assisted the United States or coalition armed forces after defection from the armed forces of Iraq or after capture by the United States or coalition armed forces; and

(2) did not commit or assist in the commission of war crimes. On page 9, after the item relating to section 1066, insert:

Sec. 1067. PREVENTION OF ENTRY INTO THE UNITED STATES OF CERTAIN FORMER MEMBERS OF THE IRAQI ARMED FORCES.

SASSER (AND OTHERS) AMENDMENT NO. 785

Mr. SASSER (for himself, Mr. BUMPERS, Mr. JEFFORDS, Mr.. SIMON, Mrs. BOXER, Mr. WOFFORD, Mr. LAUTENBERG, Mr. MATHEWS, Mr. WELLSTONE, Mr. PRYOR, Mr. DORGAN, and Mr. FEINGOLD) proposed an amendment to the bill S. 1298, supra, as follows:

On page 64, strike out line 21 and all that follows through page 65, line 3, and insert in lieu thereof the following:

more than $2,684,535,000 may be obligated for programs managed by the Ballistic Missile Defense Organization, of which—

(1) not more than 48 percent of the total amount may be obligated for Theater Missile Defense;

(2) not more than 32 percent of the total amount may be obligated for the Limited Defense System;

(3) not more than 9 percent of the total amount may be obligated for Other Follow-On Systems;

(4) not more than 10 percent of the total amount may be obligated for Research and Other Support Activities; and

(5) not more than 1 percent of the total amount may be obligated for Small Business Innovation Research program and the Small Business Technology Transfer program.

Notwithstanding paragraphs (1), (2), (3), and (4), the Secretary of Defense may obligate for a ballistic missile defense initiative or program element referred to in any such paragraph a total amount that exceeds by not more than 10 percent the maximum amount determined under that paragraph, except that the total amount obligated for all programs managed by the Ballistic Missile Defense Organization may not exceed the total amount authorized in the matter above paragraph (1).

(b) LIMITATION ON NUMBER OF TMD PROGRAMS.—(1) Subject to paragraph (2), the amount authorized to be obligated for Theater Missile Defense may be obligated only for—

(A) the Patriot PAC-3 Missile program;

(B) not more than 2 other lower-tier theater missile defense programs;

(C) not more than 2 upper-tier theater missile defense programs; and

(D) not more than 2 boost-phase intercept theater missile defense programs.

(2) The President may waive the limitation in paragraph (1) to the extent that the President determines appropriate in the national security interest of the United States.

(c) FUNDS NOT TO BE MADE AVAILABLE FOR BRILLIANT EYES.—None of the funds authorized to be obligated under subsection (a) may be obligated for the Brilliant Eyes space-based sensor program.

(d) REPORTING REQUIREMENT.—Not later than 60

SPECTER AMENDMENTS NOS. 786–789

(Ordered to lie on the table.)

Mr. Specter submitted four amendments intended to be proposed by him to the bill S. 1298, supra, as follows:

AMENDMENT NO. 786

On page 323, between lines 19 and 20, insert the following:

SEC. 2816. FUNDS FOR EXCESS COSTS FOR THE CLOSURE OR REALIGNMENT OF MILITARY INSTALLATIONS.

(a) FUNDS.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) in subsection (d), by striking out "The Secretary of Defense" and inserting in lieu thereof "Except as provided in subsection (e), the Secretary of Defense"; and

(2) by adding at the end the following:

"(e) EXCESS COSTS.—(1) If the cost of the closure or realignment (under this part) of a military installation referred to in paragraph (2) exceeds by more than 50 percent the cost estimated for such closure or realignment in the cost estimate prepared by the Secretary of Defense in recommending the closure or realignment of the installation—

"(A) the Secretary shall—

"(i) use funds available to the Secretary for military construction activities or operation and maintenance activities of the Department of Defense as the sole source of funds for such excess costs; and

"(ii) notify the Comptroller General that such costs so exceed such estimated cost; and

"(B) not later than 6 months after the date of the notification under subparagraph (A)(ii), the Comptroller General shall submit to Congress a detailed audit of the costs to be incurred by the Secretary in carrying out such closure or realignment, including an assessment of the reasons that such costs differed from the cost estimated for such closure or realignment in such cost estimate.

"(2) A military installation referred to in paragraph (1) is any installation whose closure or realignment under this part results in a reduction in the Department of Defense civilian workforce of the installation by more than 1,000 persons or by more than 50 percent of such workforce.".

(b) CONFORMING AMENDMENT.—Section 2906(b)(1) of such Act is amended by striking out "The Secretary" and inserting in lieu thereof "Except as provided in section 2905(e)(1)(A)(i), the Secretary".

AMENDMENT NO. 787

On page 134, strike out line 3 and all that follows through page 136, line 23, and insert in lieu thereof the following:

(b) ARMY ASSIGNMENTS.—(1) Part II of subtitle B of title 10, United States Code, is amended by inserting after chapter 345 the following new chapter:

CHAPTER 346—ADMINISTRATION

"3591. Assignments of women members.

"§ 3591. Assignments of women members

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Army may prescribe the kinds of duties which women members of the Army shall be assigned and the military authority which such members shall exercise.

"(b) NOTIFICATION OF CONGRESS.—The Secretary of the Army may not implement any regulation or other administrative authority prescribed by such Secretary pursuant to subsection (a) until the expiration of 30 days following the date on which the Secretary transmits to Congress a written notification of such regulation or other administrative authority.".

(2) The tables of chapters at the beginning of subtitle B of such title and of part II of such subtitle are amended by inserting after the item relating to chapter 345 the following:

"346. Administration ..... 3591".

(c) NAVY AND MARINE CORPS ASSIGNMENTS.—(1) Chapter 555 of title 10, United States Code, is amended by inserting after section 6014 the following new section 6015:

"§ 6015. Assignments of women members

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy may prescribe the kinds of duties which women members of the Navy and women members of the Marine Corps shall be assigned and the military authority which such members shall exercise.

"(b) NOTIFICATION OF CONGRESS.—The Secretary of the Navy may not implement any regulation or other administrative authority prescribed by such Secretary pursuant to subsection (a) until the expiration of 30 days following the date on which the Secretary transmits to Congress a written notification of such regulation or other administrative authority.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 6015 and inserting in lieu thereof the following:

"6015. Assignments of women members.

(d) AIR FORCE ASSIGNMENTS.—(1) Part II of subtitle D of title 10, United States Code, is amended by inserting after chapter 845 the following new chapter:

CHAPTER 846—ADMINISTRATION

"3691. Assignments of women members.

"§ 8591. Assignments of women members

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force may prescribe the kinds of duties which women members of the Air Force shall be assigned and the military authority which such members shall exercise.

"(b) NOTIFICATION OF CONGRESS.—The Secretary of the Air Force may not implement any regulation or other administrative authority prescribed by such Secretary pursuant to subsection (a) until the expiration of 30 days of continuous session of Congress following the date on which the Secretary transmits to Congress a written notification of such regulation or other administrative authority.".

(2) The tables of chapters at the beginning of subtitle D of such title and of part II of such subtitle are amended by inserting after the item relating to chapter 845 the following:

"846. Administration ..... 8591".

AMENDMENT 788

Amendment to Section 2909 of S. 1298:

SEC. 2909. ASSISTANCE TO AFFECTED STATES AND COMMUNITIES THROUGH THE OFFICE OF ECONOMIC ADJUSTMENTS.

In subsection (b) strike out the words "or community" after the word "authority" in two separate locations and adding the following subsection:

"(c) REDEVELOPMENT AUTHORITY.—(1) As described in subsection (a), the redevelopment authority shall include, at a minimum, two representatives designated by the majority of the employees at the affected facility."

"(2) The responsibilities of the redevelopment authority as described in subsection (a), will be managed by a chairman jointly selected by the employees at the affected installation and the Office of Economic Adjustment."

AMENDMENT NO. 789

At the appropriate place, insert:

SPECIAL LIMITATION REGARDING ZINC.—The disposal of zinc from the National Defense Stockpile under section 98e(b) of the Strategic and Critical Materials Act, 50 U.S.C. 98 etc., must be used, to the greatest possible extent, by the U.S. Mint for coinage (stockpile meeting the U.S. Mint's specifications) or as government furnished material supplied to a contractor in the performance of a Federal Government contract.

BYRD (AND OTHERS) AMENDMENT NO. 790

Mr. BYRD (for himself, Mr. MITCHELL, Mr. DOLE, Mr. NUNN, Mr. MCCAIN, Mr. LEVIN, Mr. COHEN, Mr. WARNER, Mr. PRESSLER, Mr. COCHRAN, Mr. BOND, and Mr. KERRY) proposed an amendment to amendment No. 782, as modified, to the bill S. 1298, supra, as follows:

In the amendment, strike all after line 4, page 1, and insert:

Sense of Congress regarding United States Policy towards Somalia.

Since United States Armed Forces made significant contributions under Operation Restore Hope towards the establishment of a secure environment for humanitarian relief operations and restoration of peace in the region to end the humanitarian disaster that had claimed more than 300,000 lives.

Since the mission of United States forces in support of the United Nations appears to be evolving from the establishment of "a secure environment for humanitarian relief operations," as set out in United Nations Security Council Resolution 794 of December 3, 1992, to one of internal security and nation building.

Statement of Congressional Policy:

(a) CONSULTATION WITH THE CONGRESS.—The President should consult closely with the Congress regarding U.S. policy with respect to Somalia, including in particular the deployment of U.S. armed forces in that country, whether under United Nations or United States command.

(b) PLANNING.—The United States shall facilitate the assumption of the functions of U.S. forces by the United Nations.

(c) REPORTING REQUIREMENT.—

(i) The President shall ensure that the goals and objectives supporting deployment of U.S. forces to Somalia and a description of the mission, command arrangements, size, functions, location, and anticipated duration in Somalia of those forces are clearly articulated and provided in a detailed report to the Congress by October 15, 1993.

(ii) Such report shall include the status of planning to transfer the functions contained in paragraph (b).

(d) CONGRESSIONAL APPROVAL.—Upon reporting under the requirements of paragraph (c) Congress believes the President should by November 15, 1993, seek and receive Congressional authorization in order for the deployment of U.S. forces to Somalia to continue.

PRYOR AMENDMENT NO. 791

Mr. PRYOR proposed an amendment to the bill S. 1298, supra, as follows:

On page 65, between lines 13 and 14, insert the following:

SEC. 228. TESTING OF NATIONAL MISSILE DEFENSE PROGRAM PROJECTS.

(a) ADVANCE REVIEW AND APPROVAL OF PROPOSED DEVELOPMENTAL TESTS.—No developmental test may be conducted under the limited missile defense program element of the Ballistic Missile Defense Program until the Director of the Ballistic Missile Defense Organization has notified the Secretary of Defense of the test and the Secretary has reviewed and approved (or approved with changes) the test plan.

(b) INDEPENDENT MONITORING OF TESTS.—(1) The Secretary shall provide for monitoring of the implementation of each test plan referred to in subsection (a) by a group composed of independent persons who—

(A) by reason of education, training, or experience, are qualified to monitor the testing covered by the plan; and

(B) are not assigned or detailed to, or otherwise performing duties of, the Ballistic Missile Defense Organization and are otherwise independent of such organization.

(2) The monitoring group shall submit to the Secretary its analysis of, and conclusions regarding, the conduct and results of each test monitored by the group.

DECONCINI (AND OTHERS) AMENDMENT NO. 792

Mr. DECONCINI (for himself, Mr. HARKIN, Mr. KENNEDY, and Mr. WELLSTONE) proposed an amendment to the bill S. 1298, supra, as follows:

On page 242, after line 19, add the following new section:

SEC. 1067. DRUG TREATMENT FOR WOMEN AND THEIR CHILDREN.

(a) FINDINGS.—Congress finds the following:

(1) Despite the fact that drugs are having a devastating effect on families in America, drug-exposed babies and their substance-abusing mothers go largely untreated. Women who do seek treatment often face tremendous barriers to care, most notably the fear of prosecution for abuse or neglect or of losing children to protective services, and the lack of gender-specific treatment interventions, including inadequate child care services.

(2) The growing phenomenon of infants prenatally exposed to alcohol and other drugs is exacerbated by the inaccessibility of treatment for drug-addicted mothers. It is estimated that between 100,000 and 375,000 drug-exposed infants may be born annually to chemically dependent women, with 500,000 cocaine-exposed infants projected by the year 2000.

(3) Mother-to-baby drug exposure comes at great economic and social cost to the Nation. Human costs can be measured by the problems of premature and low birth-weight infants, fetal alcohol syndrome/fetal alcohol effect, mental and developmental delays, and perinatal transmission of HIV and other sexually transmitted diseases. The United States ranks poorly among Western nations in infant mortality with maternal use of alcohol and other drugs thought to be a contributing factor.

(4) Currently there are 430,000 children in foster care. By 1995, this number is expected to increase to 550,000 children. A large portion of this increase is thought to be due to the introduction of crack cocaine in the mid 1980s and the increasing number of families who are abusing alcohol and other drugs.

(b) TRANSFER OF CERTAIN FUNDS.—Of funds appropriated to or for the Department of Defense and which remain unobligated on October 1, 1993, $85,485,000 shall be rescinded and $50,000,000 shall be transferred to the Department of Health and Human Services and shall remain available until September 30, 1994. Of such amount—

(1) $30,000,000 shall be available under section 510 of the Public Health Service Act (42 U.S.C. 290bb-3), of which—

(A) 50 percent of such amount shall be used for comprehensive residential treatment programs for women and children; and

(B) 50 percent of such amount shall be used for comprehensive outpatient treatment programs for women and children; and

(2) $20,000,000 shall be distributed to States pursuant to the formula under section 1933 of the Public Health Service Act (42 U.S.C. 300x-33) to be used by States towards their responsibility to provide treatment services for women under section 1922(c) of such Act (42 U.S.C. 300x-22(c)).

NUNN AMENDMENT NO. 793

Mr. NUNN proposed an amendment to amendment No. 792 proposed by Mr. DECONCINI to the bill S. 1298, supra, as follows:

On page 3, strike lines 5 through 11 and insert in lieu thereof the following:

"(b) TRANSFER OF FUNDS.—

"(1) The Director of the Office of Management and Budget shall transfer $50,000,000 from the funds appropriated for any discretionary programs, projects or activities which remain unobligated and available to all departments and agencies of the executive branch of the federal government as of October 1, 1993 as provided in paragraph (2).

"(2) The amount authorized to be transferred from the unobligated balances of any department or agency pursuant to paragraph (1) shall be an amount which bears the same ratio to $50,000,000 as the amount of unobligated funds of that department or agency on October 1, 1993 bears to the total amount of unobligated funds for the discretionary programs of all departments and agencies of the executive branch on October 1, 1993.

"(c) ALLOCATION OF FUNDS.—Of that amount—".

BOXER AMENDMENT NO. 794

Mrs. Boxer proposed an amendment to the bill S. 1298, supra, as follows:

On page 242, after line 19, insert the following:

SEC. 1067. SENSE OF THE CONGRESS REGARDING ESTABLISHMENT OF AN OFFICE OF ECONOMIC CONVERSION INFORMATION WITHIN THE DEPARTMENT OF COMMERCE.

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

(1) The available Federal resources for defense economic adjustment and conversion assistance are spread among 23 different Federal departments and agencies.

(2) Numerous other Federal departments and agencies are involved in related technology reinvestment activities.

(3) Workers and communities adversely affected by closures of military installations or decreased spending for national defense often experience difficulty finding which Federal department or agency is appropriate for providing assistance needed by such workers and communities.

(4) Expanded coordination between Federal departments and agencies could greatly improve Federal efforts to assist in defense economic adjustment and conversion.

(b) SENSE OF CONGRESS REGARDING ESTABLISHMENT OF AN OFFICE OF ECONOMIC CONVERSION INFORMATION.—It is the sense of the Congress that the President should work with the Congress to establish within the Department of Commerce an Office of Economic Conversion Information which, under the joint direction of the Secretary of Commerce and the Secretary of Defense, would—

(1) serve as an information clearinghouse to provide comprehensive information regarding assistance for communities, workers, and businesses that have been adversely affected by closures of military installations and reduced spending for national defense;

(2) enhance and consolidate existing programs for collecting and disseminating information regarding defense economic adjustment and conversion;

(3) be widely publicized as the central point of access for the public on issues related to defense economic adjustment and conversion;

(4) develop data bases of information, to be available to help communities, businesses, and workers dependent on spending for national defense identify and apply for assistance from Federal departments and agencies, including—

(A) comprehensive listings and summaries of all major Federal, State, and local economic adjustment and conversion programs;

(B) a data base listing information available to the public regarding major defense contract terminations and closures of military installations and identifying affected communities, industries, and jobs;

(C) listings and summaries of defense conversion attempts and successes; and

(D) relevant reference lists and bibliographies;

(5) provide information to communities, workers, and businesses by such easily accessible and easily used means as toll-free telephone information lines, inexpensive and frequently updated manuals and other print materials, workshops on clearinghouse services, and on-line computer access to clearinghouse information;

(6) facilitate a series of community roundtables, involving consultation and briefings with communities, workers, and businesses adversely affected by closures of military installations and reduced spending for national defense, to be held annually in all major regions of the United States so affected; and

(7) establish a mechanism, coordinated by the Secretary of Commerce and the Secretary of Defense, to ensure adequate cooperation between all Federal departments and agencies that oversee defense economic adjustment and conversion assistance programs.

(c) SENSE OF CONGRESS REGARDING EVALUATION AND FUNDING OF THE OFFICE OF ECONOMIC CONVERSION INFORMATION.—It is further the sense of Congress that—

(1) after the Office of Economic Conversion Information has been in operation for three years, the Secretary of Commerce and the Secretary of Defense should jointly conduct a comprehensive evaluation of the operations of such office and consider whether the purpose of the office should be modified or the office should be terminated; and

(2) the operating expenses for the Office of Economic Conversion Information should not exceed $5,000,000 for each of the first three full fiscal years in which the office is in operation.

FEINSTEIN AMENDMENT NO. 795

Mrs. FEINSTEIN proposed an amendment to the bill S. 1298, supra, as follows:

On page 180, after line 24, insert the following:

SEC. 804. TARGETING DEFENSE CONVERSION FUNDS.

It is the sense of Congress that—

(1) defense conversion funds, including funds for community assistance and dislocated personnel, should serve to relieve distress in areas of the country that are the most adversely affected by reduced spending for national defense and by military base closures;

(2) in the determinations of whether applicants for defense conversion assistance meet applicable cost-sharing requirements, all non-Federal funds, including funds from States and from local sources, should be considered;

(3) by April 30, 1994 (with respect to activities during the first half of fiscal year 1994) and by October 31, 1994 (with respect to activities during the second half of fiscal year 1994), the Secretary of Defense should submit to Congress a report setting forth—

(A) the geographic distribution of the sources of all proposals received for defense conversion assistance and the geographic distribution of the defense conversion assistance awarded (in order to indicate the extent to which the policy in paragraph (1) is being carried out); and

(B) the number of proposals for defense conversion assistance received from small businesses and the number of awards of defense conversion assistance to small businesses (in order to provide a basis for determining whether sufficient opportunities exist for small businesses to receive an appropriate portion of defense conversion funds and whether the cost-sharing requirements for small businesses should be reduced); and

(4) by January 1, 1994, the Secretary of Defense should—

(A) submit to Congress any recommendations that, taking into consideration the experience with providing defense conversion assistance during fiscal year 1993, the Secretary considers appropriate regarding—

(i) what share of the costs of participating in a defense conversion program should be borne by non-Department of Defense sources; and

(ii) what, if any, changes should be made in the laws providing authority for defense conversion programs; and

(B) prescribe regulations to provide full credit for in-kind contributions of non-Department of Defense sources for purposes of defense conversion program cost-sharing requirements.

LEVIN (AND COHEN) AMENDMENT NO. 796

Mr. LEVIN (for himself and Mr. COHEN) proposed an amendment to the bill S. 1298, supra, as follows:

On page 190, after line 24, insert the following:

SEC. 825. DEPARTMENT OF DEFENSE PURCHASES THROUGH OTHER AGENCIES.

(a) REGULATIONS REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall issue regulations governing the exercise by the Department of Defense of the authority under section 1535 of title 31, United States Code, to purchase goods and services under contracts entered into or administered by another agency.

(b) CONTENT OF REGULATIONS.—The regulations issued pursuant to subsection (a) shall—

(1) require that each purchase described in subsection (a) be approved in advance by a warranted contracting officer of the Department of Defense with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

(2) provide that such a purchase of goods or services may be made only if—

(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the Department;

(C) the agency or unit filling the order is specifically authorized by law or regulations

to purchase such goods or services on behalf of other agencies; or

(D) the purchase is authorized by an Executive order or a revision to the Federal Acquisition Regulation setting forth specific additional circumstances in which purchases referred to in subsection (a) are authorized;

(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the Senior Acquisition Executive responsible for purchasing by the ordering agency or unit; and

(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and administering the contract or other agreement under which the order is filled.

(c) MONITORING SYSTEM REQUIRED.—The Secretary of Defense shall ensure that, not later than one year after the date of enactment of this Act, systems of the Department of Defense for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations issued pursuant to paragraph (a).

(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations issued pursuant to subsection (a) take effect.

ROBB (AND WARNER) AMENDMENT NO. 797

Mr. NUNN (for Mr. ROBB, for himself and Mr. WARNER) proposed an amendment to the bill S. 1298, supra, as follows:

SEC. . TRANSFER OF OBSOLETE DESTROYER TENDER YOSEMITE.

(a) AUTHORITY.—Notwithstanding subsections (a) and (c) of section 7308 of title 10, United States Code, but subject to subsection (b) of that section, the Secretary of the Navy may transfer the obsolete destroyer tender Yosemite to the nonprofit organization Ships at Sea for education and drug rehabilitation purposes.

(b) LIMITATIONS.—The transfer authorized by subsection (a) may be made only if the Secretary determines that the vessel Yosemite is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

WARNER (AND ROBB) AMENDMENT NO. 798

Mr. NUNN (for Mr. WARNER, for himself and Mr. ROBB) proposed an amendment to the bill S. 1298, supra, as follows:

SEC. . Notwithstanding any other provision of law, none of the funds authorized for appropriations in fiscal years 1994, 1993, and 1992 for the Navy shall be obligated or expended for the procurement of ring laser gyro navigation systems for surface ships under a sole source contract.

WARNER (AND LEVIN) AMENDMENT NO. 799

Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 1298, supra, as follows:

At the appropriate point in the bill, add the following new section:

SEC. . Authority to reprogram funds for the Close Combat Tactical Trainer Quickstart Program. Subject to existing reprogramming procedures, the Secretary of the Army is authorized to reprogram funds in fiscal year 1994 to procure long lead component hardware items to accelerate the Close Combat Tactical Trainer Quickstart program.

MCCAIN AMENDMENT NO. 800

Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1298, supra, as follows:

At the appropriate place in the bill, add the following section:

SEC. . Transportation of Cargoes by Water.—Chapter 157 of title 10, United States Code, is amended by inserting a new section 2631a, as follows:

"2631a. Contingency planning—

"(a) CONSIDERATION OF PRIVATE CAPABILITIES.—The Secretary of Defense shall ensure that all studies and reports of the Department of Defense, and all actions taken in the Department of Defense, concerning sealift and related intermodal transportation requirements take into consideration the full range of the transportation and distribution capabilities that are available from operators of privately owned United States flag merchant vessels.

"(b) PRIVATE CAPACITIES PRESENTATIONS.—The Secretary shall afford each operator of a vessel referred to in subsection (a), not less often than annually, an opportunity to present to the Department of Defense information on its port-to-port and intermodal transportation capacities.

"(c) CERTIFICATION REQUIREMENT.—The Secretary shall submit to the Secretary of Transportation, not less often than annually, a certification of compliance with the requirements . . . subsection n(b)."

THURMOND AMENDMENT NO. 801

Mr. WARNER (for Mr. THURMOND) proposed an amendment to the bill S. 1298, supra, as follows:

On page 353, between lines 4 and 5, insert the following:

SEC. 2842. LAND CONVEYANCE, CHARLESTON, SOUTH CAROLINA.

(a) IN GENERAL.—The Secretary of the Navy may convey to the Division of Public Railways, South Carolina Department of Commerce (in this section referred to as the "Railway") all right, title and interest of the United States in and to a parcel of real property consisting of approximately 10.9 acres and comprising a portion of the Charleston Naval Weapons Station South Annex, North Charleston, South Carolina.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a) the Railway shall pay to the United States an amount equal to the fair market value of the property as determined by the Secretary.

(c) USE OF PROCEEDS.—The Secretary may use the proceeds received from the sale of property authorized by this section to pay for the cost of any environmental restoration of the property being conveyed. Any proceeds which remain after any necessary environmental restoration has been completed shall be deposited in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Railway.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Secretary considers to be necessary to protect the interests of the United States.

BINGAMAN AMENDMENT NO. 802

Mr. NUNN (for Mr. BINGAMAN) proposed an amendment to the bill S. 1298, supra, as follows:

On page 190, below line 24, add the following:

SEC. 825. AUTHORITY OF THE ADVANCED RESEARCH PROJECTS AGENCY TO CARRY OUT CERTAIN PILOT DEMONSTRATION PROJECTS AND PROTOTYPE PROJECTS.

(a) AUTHORITY.—The Director of the Advanced Research Projects Agency may, under the authority of section 2371 of title 10, United States Code, carry out pilot technology demonstration projects and prototype projects that are directly relevant to weapons or weapons systems proposed to be acquired or developed by the Department of Defense.

(b) EXERCISE OF AUTHORITY.—(1) Subsections (d)(2) and (d)(3) of such section 2371 shall not apply to pilot projects carried out under subsection (a).

(2) The Director shall, to the maximum extent practicable, utilize competitive procedures when entering into agreements to carry out projects under subsection (a).

(c) PERIOD OF AUTHORITY.—The authority of the Director to carry out projects under subsection (a) shall terminate 3 years after the date of the enactment of this Act.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 803

Mr. NUNN (for Mr. BINGAMAN for himself and Mr. DOMENICI) proposed an amendment to the bill S. 1298, supra, as follows:

On page 413, between lines 18 and 19, insert the following:

SEC. 3139 EXTENSION OF REVIEW OF WASTE ISOLATION PILOT PLANT IN NEW MEXICO

Section 1433(a) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2073) is amended in the second sentence by striking out "four additional one-year periods" and inserting in lieu thereof "nine additional one-year periods".

DECONCINI (AND OTHERS) AMENDMENT NO. 804

Mr. NUNN (for Mr. DECONCINI, for himself, Mr. BINGAMAN and Mr. DOMENICI) proposed an amendment to the bill S. 1298, supra, as follows:

On page 190, below line 24, add the following:

SEC. 825. IMPROVEMENT OF PRICING POLICIES FOR USE OF MAJOR RANGE AND TEST FACILITY INSTALLATIONS OF THE MILITARY DEPARTMENTS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2680 the following new section:

"§ 2681. Use of test and evaluation installations by commercial entities

"(a) CONTRACT AUTHORITY.—The Secretary of the military department concerned, in consultation with the Secretary of Defense, may enter into contracts with commercial entities that desire to conduct commercial test and evaluation activities at a Major Range and Test Facility Installation under the jurisdiction of the Secretary.

"(b) TERMINATION OR LIMITATION OF CONTRACT UNDER CERTAIN CIRCUMSTANCES.—A contract entered into under subsection (a) shall contain a provision that the installation commander may terminate, prohibit, or suspend immediately any commercial test or evaluation activity to be conducted at the Major Range and Test Facility Installation under the contract if the installation commander certifies in writing that the test or evaluation activity is or would be detrimental—

"(1) to the public health and safety;

"(2) to property (either public or private); or

"(3) to any national security interest or foreign policy interest of the United States.

"(c) CONTRACT PRICE.—A contract entered into under subsection (a) shall include a provision that requires a commercial entity using a Major Range and Test Facility Installation under the contract to reimburse the installation for all direct costs to the United States that are associated with the test and evaluation activities conducted by the commercial entity under the contract, as determined by the installation commander. In addition, the contract may include a provision that requires the commercial entity to reimburse the installation for such indirect costs related to the use of the installation as the installation commander considers to be appropriate.

"(d) RETENTION OF FUNDS COLLECTED FROM COMMERCIAL USERS.—Amounts collected under subsection (c) from a commercial entity conducting test and evaluation activities at a Major Range and Test Facility Installation shall be credited to the appropriation accounts under which the costs associated with the test and evaluation activities of the commercial entity were incurred.

"(e) REGULATIONS AND LIMITATIONS.—The Secretary of the military department concerned, in consultation with the Secretary of Defense, shall prescribe regulations to carry out this section. The authority of installation commanders under subsections (b) and (c) shall be subject to the authority, direction, and control of the Secretary of the military department concerned.

"(f) DEFINITIONS.—In this section:

"(1) The term 'Major Range and Test Facility Installation' means a test and evaluation installationunder the jurisdiction of the Secretary of a military department and designated as such by the Secretary.

"(2) The term 'direct costs' includes the cost of—

"(A) labor, material, facilities, utilities, equipment, supplies, and any other resources damaged or consumed during the test or evaluation activities or maintained for a particular commercial entity; and

"(B) construction specifically performed for the commercial entity to conduct test and evaluation activities.

"(3) The term 'installation commander' means the commander of a Major Range and Test Facility Installation.

"(g) TERMINATION OF AUTHORITY.—The authority provided to the Secretary of a military department by subsection (a) shall terminate on September 30, 1998.

"(h) REPORT.—Not later than January 1, 1999, the Secretary of each military department shall submit to the Secretary of Defense and Congress a report describing the number and purpose of contracts entered into under subsection (a) and evaluating the extent to which the authority under this section is exercised to open Major Range and Test Facility Installations to commercial test and evaluation activities.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2680 the following new item:

"2681. Use of test and evaluation installations by commercial entities.".

SMITH AMENDMENT NO. 805

Mr. WARNER (for Mr. SMITH) proposed an amendment to the bill S. 1298, supra, as follows:

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

SECTION 1. AWARD OF THE NAVY EXPEDITIONARY MEDAL

The Secretary of the Navy shall direct that members of the Navy who served in Navy Task Force 16, culminating in the air-raid commonly known as the "Doolittle raid on Tokyo", during April 1942, be awarded the Navy Expeditionary Medal for such service.

LEVIN (AND WARNER) AMENDMENT NO. 806

Mr. NUNN (for Mr. LEVIN, for himself, and Mr. WARNER) proposed an amendment to the bill S. 1298, supra, as follows:

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

SEC. . Interim Reconnaissance Program. (a) Of the funds authorized to be appropriated in section 201 for the Joint Program Office for Unmanned Aerial Vehicles, up to $40,000,000 may be obligated and expended for the purposes of initiating a long-endurance, unmanned reconnaissance aerial vehicle program, subject to the conditions outlined in subsection (b) and subsection (c).

(b) The funds may be obligated only to procure, integrate, test and evaluate non-developmental airframes, sensors, communication equipment, mission planning equipment and ground stations.

(c) None of the funds may be obligated until the Department identifies the programs within the jurisdiction of the Joint Program Office that will be terminated or deferred, consistent with normal reprogramming procedures.

KENNEDY (AND COHEN) AMENDMENT NO. 807

Mr. NUNN (for Mr. KENNEDY, for himself, and Mr. COHEN) proposed an amendment to the bill S. 1298, supra, as follows:

At the appropriate place in the bill, add the following section:

SEC. . Live-Fire Survivability Testing of C-17 Aircraft.

Section 132(d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) is amended by striking out "for fiscal year 1993."

AKAKA AMENDMENT NO. 808

Mr. NUNN (for Mr. AKAKA) proposed an amendment to the bill S. 1298, supra, as follows:

On page 156, between lines 2 and 3, insert the following:

SEC. 655. SENSE OF SENATE RELATING TO EXCESS LEAVE AND PERMISSIVE TEMPORARY DUTY FOR CERTAIN MEMBERS OF THE ARMED FORCES.

(a) SENSE OF SENATE.—(1) It is the sense of the Senate that the Secretary of Defense ensure that a member whose home of record is outside the continental United States and who is stationed inside the continental United States at the time of the separation of the member be eligible to receive the same amount of excess leave or permissive temporary duty under section 1149 of title 10, United States Code, as a member who is stationed overseas.

(2) In this subsection, the term "continental United States" means the 48 contiguous States and the District of Columbia.

(b) REPORT ON AREAS OF INEQUITABLE TREATMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense submit a report to Congress—

(1) describing all provisions of law concerning pay and allowances for members of the Armed Forces in which members whose homes of record are outside the continental United States receive different treatment than members whose homes of record are in the continental United States; and

(2) containing recommendations to equalize such treatment.

CHAFEE (AND THURMOND) AMENDMENT NO. 809

Mr. WARNER (for Mr. CHAFEE, for himself, Mr. THURMOND, and Mr. MURKOWSKI) proposed an amendment to the bill S. 1298, supra, as follows:

On page 242, after line 19, insert the following:

SEC. 1067. BURIAL OF REMAINS AT ARLINGTON NATIONAL CEMETERY.

(a) ELIGIBILITY.—Under regulations prescribed by the Secretary of the Army, former prisoners of war who, having served honorably in active military, naval, or air service (as determined in accordance with such regulations), die on or after the date of the enactment of this Act shall be eligible for burial in Arlington National Cemetery, Virginia.

(b) SAVINGS PROVISION.—This section may not be construed to make ineligible for burial in Arlington National Cemetery any former prisoner of war who was eligible before the date of the enactment of this Act to be buried in such cemetery

(c) DEFINITION.—In this section, the term "former prisoner of war" has the meaning given such term in section 101(32) of title 38, United States Code.

MCCAIN AMENDMENT NO. 810

Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1298, supra, as follows:

On page 233, after line 23, insert the following:

SEC. 1056. FINDINGS REGARDING DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

Congress makes the following findings:

(1) The President has made a commitment to maintain the qualitative superiority of the Israeli Defense Forces over any combination of adversary armed forces.

(2) The President has expressed a desire to enhance United States-Israeli military and technical cooperation, particularly in the areas of missile defense, counter-proliferation of weapons of mass destruction, and counter-proliferation of ballistic missiles.

(3) Maintaining the qualitative superiority of the Israeli Defense Forces and strengthening United States defense ties with Israel will help to ensure that Israel has the military strength and political support necessary for taking risks for peace while providing Arab states with an incentive to pursue negotiations instead of war.

(4) The establishment of the United States Israel Science and Technology Commission, the binational Senior Planning Group, and the Technology Transfer Working Group is in the interest of both the United States and Israel.

(5) It is in the national interests of the United States and Israel for the organizations referred to in paragraph (4) to work to strengthen existing mechanisms for cooperation and to eliminate barriers to further collaboration between the United States and Israel.

(6) Israel continues to face difficult threats to its national security that are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

BRYAN (AND OTHERS) AMENDMENT NO. 811

Mr. NUNN (for Mr. BRYAN, for himself and Mr. COATS, Mr. RIEGLE, and Mr. D'AMATO) proposed an amendment to the bill S. 1298, supra, as follows:

On page 356, between lines 19 and 20, insert the following:

SEC. 2854. ALLOTMENT OF SPACE IN FEDERAL BUILDINGS TO CREDIT UNIONS.

Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended in the first sentence—

(1) by striking out "at least 95 per centum" and all that follows through "and the members of their families,"; and

(2) by striking out "allot space to such credit union" and all that follows through the period and inserting in lieu thereof "allot space to such credit union without charge for rent or services if at least 95 per centum of the membership of the credit union to be served by the allotment of space is composed of persons who either are presently Federal employees or were Federal employees at the time of admission into the credit union, and members of their families, and if space is available.".

BAUCUS (AND CHAFEE) AMENDMENT NO. 812

Mr. NUNN (for Mr. BAUCUS for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1298, supra, as follows:

On page 94, between lines 11 and 12, insert the following:

SEC. 328. SHIPBOARD PLASTIC AND SOLID WASTE CONTROL.

(a) SHORT TITLE.—This section may be cited as the "Act to Prevent Pollution from Ships Amendments of 1993."

(b) DEADLINE FOR COMPLIANCE BY SHIPS OWNED OR OPERATED BY THE DEPARTMENT OF THE NAVY WITH CERTAIN POLLUTION CONTROL CONVENTIONS.—Subsection (b)(2)(A) of section 3 of the Act to Prevent Pollution from Ships (33 U.S.C. 1902) is amended by striking out "after 5 years" and all that follows and inserting in lieu thereof ", subject to subsection (f) of this section, as follows:

"(i) After December 31, 1993, to all ships referred to in paragraph (1)(A) of this subsection other than those owned or operated by the Department of the Navy.

"(ii) Except as provided in subsection (c) of this section, after December 31, 1998, to all ships referred to in paragraph (1)(A) of this subsection other than submersibles owned or operated by the Department of the Navy when such submersibles are engaged in noncommercial service.

"(iii) Except as provided in subsection (c) of this section, after December 31, 2008, to all ships referred to in paragraph (1)(A) of this subsection.".

(c) SPECIAL AREA DISCHARGES.—Section 3 of such Act is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) DISCHARGES IN SPECIAL AREAS.—(1) Not later than December 31, 2000, all surface vessels owned or operated by the Department of the Navy, and not later than December 31, 2008, all submersibles owned or operated by the Department of the Navy, shall comply with the special area requirements of Regulation 5 of Annex V of the Convention.

"(2) Not later than 3 years after the date of the enactment of the Act to Prevent Pollution from Ships Amendments of 1993, the Secretary of the Navy, shall, in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency, submit to the Congress a plan for the compliance by all vessels owned or operated by the Department of the Navy with the requirements set forth in paragraph (1) of this subsection. Such plan shall be submitted after opportunity for public participation in its preparation, and for public review and comment.

"(3) If the Navy plan for compliance demonstrates that compliance with the requirements set forth in paragraph (1) of this subsection is not technologically feasible in the case of certain vessels under certain circumstances, the plan shall include information describing—

"(A) the ships for which full compliance with the requirements of paragraph (1) of this subsection is not technologically feasible;

"(B) the technical and operational impediments to achieving such compliance;

"(C) a proposed alternative schedule for achieving such compliance as rapidly as is technologically feasible; and

"(D) such other information as the Secretary of the Navy considers relevant and appropriate.

"(4) Upon receipt of the compliance plan under paragraph (2) of this subsection, the Congress may modify the applicability of paragraph (1) of this subsection, as appropriate.".

(d) COMPLIANCE MEASURES.—Such section 3 is amended by inserting after subsection (d), as redesignated by subsection (c)(1), the following new subsection:

"(e) COMPLIANCE BY EXCLUDED VESSELS.—(1) The Secretary of the Navy shall develop and, as appropriate, support the development of technologies and practices for solid waste management aboard ships owned or operated by the Department of the Navy, including technologies and practices for the reduction of the waste stream generated aboard such ships, that are necessary to ensure the compliance of such ships with Annex V to the Convention on or before the dates referred to in subsections (b)(2)(A) and (c)(1) of this section.

"(2) Notwithstanding any effective date of the application of this section to a ship, the provisions of Annex V of the Convention with respect to the disposal of plastic shall apply to ships equipped with plastic processors required for the long-term collection and storage of plastic aboard ships of the Navy upon the installation of such processors in such ships.

"(3)(A) Within 12 months after the date of the enactment of the Act to Prevent Pollution from Ships Amendments of 1993, the Secretary of the Navy shall promulgate regulations applicable to ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy. The regulations shall be consistent with operational requirements of such ships and shall be revised from time to time in accordance with this subsection.

"(B) The regulations promulgated under subparagraph (A) of this paragraph shall include the following requirements:

"(i) That compacted trash discharged from submersibles be negatively buoyant and contain the minimum amount practicable of plastic.

"(ii) That plastics contaminated by substances other than food not be discharged overboard from any ship during the last 20 days before the ship enters port.

"(iii) That plastics contaminated by food not be discharged overboard from any ship during the last 3 days before the ship enters port.

"(4)(A) The Secretary of Defense shall publish in the Federal Register a report setting forth the names of ships provided with equipment enabling such ships to comply with Annex V to the Convention and describing the amount and nature of the discharges in special areas during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy. ".

(e) WAIVER AUTHORITY.—Such section 3, as amended by subsection (d), is further amended by inserting after subsection (e) the following new subsection:

"(f) WAIVER AUTHORITY.—The President may waive the effective dates of the requirements set forth in subsections (b)(2)(A) and (c) of this section and in subsection (f) of the Act to Prevent Pollution from Ships Amendments of 1993 if the President determines it to be in the paramount interest of the United States to do so. Any such waiver shall be for a period not in excess of 1 year. The President shall submit a report to the Congress each January on all waivers from the requirements of this section granted during the preceding calendar year, together with the reasons for granting such waivers.".

(f) OTHER ACTIONS.—(1) Not later than October 1, 1994, the Secretary of the Navy shall release a request for proposals for equipment (hereinafter in this subsection referred to as "plastics processor") required for the long-term collection and storage of plastic aboard ships of the Navy.

(2) Not later than July 1, 1996, the Secretary shall install the first production unit of the plastics processor on board a Navy ship.

(3) Not later than July 1, 1997, the Secretary shall complete the installation of plastics processors on board not less than 50

percent of the ships of the Navy that require such processors in order to comply with the provisions of section 3 of the Act to Prevent Pollution from Ships, as amended by subsections (b), (c), and (d) of this section.

(4) Not later than July 1, 1998, the Secretary shall complete the installation of plastics processors on board not less than 75 percent of the ships of the Navy that require such processors in order to comply with such provisions.

JOHNSTON (AND OTHERS) AMENDMENT NO. 813

Mr. NUNN (for Mr. JOHNSTON, for himself, Mr. WALLOP, Mr. BINGAMAN, Mr. DOMENICI, Mr. CRAIG, and Mr. SIMON) proposed an amendment to the bill S. 1298, supra, as follows:

On line 19, page 413 through line 9, page 425, strike "Subtitle D—Cooperative Research and Development" and insert in lieu thereof the following new subtitle:

"SUBTITLE D—COOPERATIVE RESEARCH AND DEVELOPMENT

"SEC. 3141. SHORT TITLE.

"This subtitle may be cited as the 'Department of Energy National Competitiveness Technology Partnership Act of 1993'.

"SEC. 3142. DEFINITIONS.

"For purposes of this subtitle, the term—

"(a) 'Department' means the United States Department of Energy; and

"(b) 'Secretary' means the Secretary of the United States Department of Energy.

"SEC. 3143. COMPETITIVENESS AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT.

"(a) The Department of Energy Organization Act is amended by adding the following new title (42 U.S.C. 7101 et. seq.):

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"SEC. 1101. FINDINGS, PURPOSES AND DEFINITIONS.

"(a) FINDINGS.—For purposes of this title, Congress finds that—

"(1) the Department has scientific and technical resources within the departmental laboratories in many areas of importance to the economic, scientific and technological competitiveness of United States industry;

"(2) the extensive scientific and technical investment in people, facilities and equipment in the departmental laboratories can contribute to the achievement of national technology goals in areas such as the environment, health, space, and transportation;

"(3) the Department has pursued aggressively the transfer of technology from departmental laboratories to the private sector; however, the capabilities of the laboratories could be made more fully accessible to United States industry and to other federal agencies;

"(4) technology development has been increasingly driven by the commercial marketplace, and the private sector has research and development capabilities in a broad range of generic technologies;

"(5) the Department and the departmental laboratories would benefit, in carrying out their missions, from collaboration and partnership with United States industry and other federal agencies; and

"(6) partnerships between the departmental laboratories and United States industry can provide significant benefits to the nation as a whole, including creation of jobs for United States workers and improvement of the competitive position of the United States in key sectors of the economy such as aerospace, automotive, chemical and electronics.

"(b) PURPOSES.—The purposes of this title are—

"(1) to promote partnerships among the Department, the departmental laboratories and the private sector;

"(2) to establish a goal for the amount of departmental laboratory resources to be committed to partnerships;

"(3) to ensure that the Department and the departmental laboratories play an appropriate role, consistent with the core competencies of the laboratories, implementing the President's critical technology strategies;

"(4) to provide additional authority to the Secretary to enter into partnerships with the private sector to carry out research, development, demonstration and commercial application activities;

"(5) to streamline the approval process for cooperative research and development agreements proposed by the departmental laboratories; and

"(6) to facilitate greater cooperation between the Department and other federal agencies as part of an integrated national effort to improve United States competitiveness.

"(c) DEFINITIONS.—For purposes of this title, the term—

"(1) "cooperative research and development agreement" has the meaning given that term in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)(1));

"(2) "core competency" means an area in which the Secretary determines a departmental laboratory has developed expertise and demonstrated capabilities;

"(3) "critical technology" means a technology identified in the Report of the National Critical Technologies Panel;

"(4) "Departmental laboratory" means a facility operated by or on behalf of the Department that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) or any other laboratory or facility designated by the Secretary;

"(5) "disadvantaged" has the same meaning as that term has in section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6));

"(6) "dual-use technology" means a technology that has military and commercial applications;

"(7) "educational institution" means a college, university, or elementary or secondary school, including any non-for-profit organization dedicated to education that would be exempt under section 501(a) of the Internal Revenue Code of 1986;

"(8) "minority college or university" means a historically Black college or university that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)).

"(9) "multi-program departmental laboratory" means any of the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories;

"(10) "partnership" means any arrangement under which the secretary or one or more departmental laboratories undertakes research, development, demonstration, commercial application or technical assistance activities in cooperation with one or more non-Federal partners and which may include partners from other federal agencies;

"(11) "Report of the National Critical Technologies Panel" means the biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

"(12) "small business" means a business concern that meets the applicable standards prescribed pursuant to section 3(a) of the Small business Act (15 U.S.C. 632(a)).

"SEC. 1102. GENERAL AUTHORITY.

"(a)(1) In carrying out the missions of the Department, the Secretary and the departmental laboratories may conduct research, development, demonstration or commercial application activities that build on the core competencies of the departmental laboratories.

"(2) In addition to missions established pursuant to other laws, the Secretary may assign to departmental laboratories any of the following missions:

"(A) National security, including the—

"(i) advancement of the military application of atomic energy;

"(ii) support of the production of atomic weapons, or atomic weapons parts, including special nuclear materials;

"(iii) support of naval nuclear propulsion programs;

"(iv) support for the dismantlement of atomic weapons and the safe storage, transportation and disposal of special nuclear materials;

"(v) development of technologies and techniques for the safe storage, processing, treatment, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs and of technologies and techniques for the reduction of environmental hazards and contamination due to such waste and the environmental restoration of sites affected by such waste;

"(vi) development of technologies and processes that facilitate the effective negotiation and verification of international arms control agreements and the containment of the proliferation of nuclear weapons and the proliferation of delivery systems for such weapons; and

"(vii) protection of health and promotion of safety in carrying out other national security missions.

"(B) Energy-related science and technology, including the—

"(i) enhancement of the understanding of all forms of energy production and use;

"(ii) support of basic and applied research on the fundamental nature of matter and energy, including construction and operation of unique scientific instruments;

"(iii) development of energy resources, including solar, geothermal, fossil, and nuclear energy resources, and related fuel cycles;

"(iv) pursuit of a comprehensive program of research and development on the environmental effects of energy technologies and programs;

"(v) development of technologies and processes to reduce the generation of waste or pollution or the consumption of energy or materials;

"(vi) development of technologies and techniques for the safe storage, processing, treatment, management, transportation and disposal of nuclear waste resulting from commercial nuclear activities; and

"(vii) improvement of the quality of education in science, mathematics, and engineering.

"(C) Technology transfer.

"(3)(A) In addition to the mission identified in subsection (a)(2), the Departmental laboratories may pursue supporting missions to the extent that these supporting missions—

"(i) support the technology policies of the President;

"(ii) are developed in consultation with and coordinated with any other Federal agency or agencies that carry out such mission activities;

"(iii) are built upon the competencies developed in carrying out the primary missions identified in subsection (a)(2) and do not interfere with the pursuit of the missions identified in subsection (a)(2); and

"(iv) are carried out through a process that solicits the views of United States industry and other appropriate parties.

"(B) These supporting missions shall include activities in the following areas:

"(i) developing and operating high-performance computing and communications systems, with the goals of contributing to a national information infrastructure and addressing complex scientific and industrial challenges which require large-scale computational capabilities;

"(ii) conducting research on and development of advanced manufacturing systems and technologies, with the goal of assisting the private sector in improving the productivity, quality, energy efficiency, and control of manufacturing processes;

"(iii) conducting research on and development of advanced materials, with the goals of increasing energy efficiency, environmental protection, and improved industrial performance.

"(4) In carrying out the Department's missions, the Secretary, and the directors of the departmental laboratories, shall, to the maximum extent practicable, make use of partnerships. Such partnerships shall be for purposes of the following:

"(A) to lead to the development of technologies that the private sector can commercialize in areas of technology with broad application important to U.S. technological and economic competitiveness;

"(B) to provide Federal support in areas of technology where the cost or risk is too high for the private sector to support alone but that offer a potentially high payoff to the United States;

"(C) to contribute to the education and training of scientists and engineers;

"(D) to provide university and private researchers access to departmental laboratory facilities; or

"(E) to provide technical expertise to universities, industry or other Federal agencies.

"(b) The Secretary, in carrying out partnerships, may enter into agreements using instruments authorized under applicable laws, including but not limited to contracts, cooperative research and development agreements, work for other agreements, user-facility agreements, cooperative agreements, grants, personnel exchange agreements and patent and software licenses with any person, any agency or instrumentality of the United States, any State or local governmental entity, any educational institution, and any other entity, private sector or otherwise.

"(c) The Secretary, and the directors of the departmental laboratories, shall utilize partnerships with United States industry, to the maximum extent practicable, to ensure that technologies developed in pursuit of the Department's missions are applied and commercialized in a timely manner.

"(d) The Secretary shall work with other federal agencies to carry out research, development, demonstration or commercial application activities where the core competencies of the departmental laboratories could contribute to the missions of such other agencies.

"SEC. 1103. ESTABLISHMENT OF GOAL FOR PARTNERSHIPS BETWEEN DEPARTMENTAL LABORATORIES AND UNITED STATES INDUSTRY.

"(a) Beginning in fiscal year 1994, the Secretary shall establish a goal to make available for cost-shared partnerships with United States industry not less than 20 percent of the annual funds provided by the Secretary to each multi-program departmental laboratory for research, development, demonstration and commercial application activities.

"(b) Beginning in fiscal year 1994, the Secretary shall establish an appropriate goal for the amount of resources to be made available for cost-shared partnerships with United States industry at other departmental laboratories.

"SEC. 1104. ROLE OF THE DEPARTMENT IN THE DEVELOPMENT OF CRITICAL TECHNOLOGY STRATEGIES.

"(a) The Secretary shall develop a multi-year critical technology strategy for research, development, demonstration and commercial application activities supported by the Department for the critical technologies listed in the Report of the National Critical Technologies Panel.

"(b) In developing such strategy, the Secretary shall—

"(1) identify the core competencies of each departmental laboratory;

"(2) develop goals and objectives for the appropriate role of the Department in each of the critical technologies listed in the report, taking into consideration the core competencies of the departmental laboratories;

"(3) consult with appropriate representatives of United States industry, including members of industry associations and representatives of labor organizations; and

"(4) participate in the executive branch process to develop critical technology strategies.

"SEC. 1105. PARTNERSHIP PREFERENCES.

"(a) The Secretary shall ensure that the principal economic benefits of any partnership accrue to the United States economy.

"(b) Any partnership that would be given preference under section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. §3710a(c)(4)) if it were a cooperative research and development agreement shall be given preference under this title.

"(c) The Secretary shall issue guidelines, after consultation with the Laboratory Partnership Advisory Board established in section 1109, for application of section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4)) and application of subsection (a) of this section to partnerships.

"(d) The Secretary shall encourage partnerships that involve minority colleges or universities or private sector entities owned or controlled by disadvantaged individuals.

"SEC. 1106. EVALUATION OF PARTNERSHIP PROGRAMS.

"(a) The Secretary, in consultation with the Laboratory Partnership Advisory Board established in section 1109, shall develop mechanisms for independent evaluation of the ongoing partnership activities of the Department and the departmental laboratories.

"(b)(1) The Secretary and the director of each departmental laboratory shall develop mechanisms for assessing the progress of each partnership.

"(2) The Secretary and the director of each departmental laboratory shall utilize the mechanisms developed under paragraph (1) to evaluate the accomplishments of each ongoing multi-year partnership and shall condition continued federal participation in each partnership on demonstrated progress.

"SEC. 1107. ANNUAL REPORT.

"(a) The Secretary shall submit an annual report to Congress describing the ongoing partnership activities of the Secretary and each departmental laboratory and, to the extent practicable, the activities planned by the Secretary and by each departmental laboratory for the coming fiscal year. In developing the report, the Secretary shall seek the advice of the Laboratory Partnership Advisory Board established in section 1109.

"(b) The Secretary shall submit the report under subsection (a) to the appropriate Committees of the Congress. No later than March 1, 1994, and no later than the first of March of each subsequent year, the Secretary shall submit the report under subsection (a) that covers the fiscal year beginning on the first of October of such year.

"(c) Each director of a departmental laboratory shall provide annually to the Secretary a report on ongoing partnership activities and a plan and such other information as the Secretary may reasonably require describing the partnership activities the director plans to carry out in the coming fiscal year. The director shall provide such report and plan in a timely manner as prescribed by the Secretary to permit preparation of the report under subsection (a).

"(d) The Secretary's description of planned activities under subsection (a) shall include, to the extent such information is available, appropriate information on—

"(1) the total funds to be allocated to partnership activities by the Secretary and by the director of each departmental laboratory;

"(2) a breakdown of funds to be allocated by the Secretary and by the director of each departmental laboratory for partnership activities by area of technology;

"(3) any plans for additional funds not described in paragraph (2) to be set aside for partnerships during the coming fiscal year;

"(4) any partnership that involves a Federal contribution in excess of $500,000 the Secretary or the director of each departmental laboratory expects to enter into in the coming fiscal year;

"(5) the technologies that will be advanced by each partnership that involves a federal contribution in excess of $500,000;

"(6) the types of entities that will be eligible for participation in partnerships;

"(7) the nature of the partnership arrangements, including the anticipated level of financial and in-kind contribution from participants and any repayment terms;

"(8) the extent of use of competitive procedures in selecting partnerships; and

"(9) such other information that the Secretary finds relevant to the determination of the appropriate level of Federal support for such partnerships.

"(e) The Secretary shall provide appropriate notice in advance to Congress of any partnership, which has not been described previously in the report required by subsection (a), that involves a federal contribution in excess of $500,000.

"SEC. 1108. PARTNERSHIP PAYMENTS.

"(a)(1) Partnership agreements entered into by the Secretary may require a person or other entity to make payments to the Department, or any other Federal agency, as a condition for receiving support under the agreement.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary, to the account established under paragraph (3). Amounts so credited shall be available, subject to appropriations, for partnerships.

"(3) There is hereby established in the United States Treasury an account to be known as the 'Department of Energy Partnership Fund'. Funds in such account shall be available to the Secretary for the support of partnerships.

"(b) The Secretary may advance funds under any partnership without regard to section 3324 of title 31 of the United States Code to—

"(1) small businesses;

"(2) not-for-profit organizations that would be exempt under section 501(a) of the Internal Revenue Code of 1986; or

"(3) State or local governmental entities.

"SEC. 1109. LABORATORY PARTNERSHIP ADVISORY BOARD AND INDUSTRIAL ADVISORY GROUPS AT MULTI-PROGRAM DEPARTMENTAL LABORATORIES.

"(A)(1) The Secretary shall establish within the Department an advisory board to be known as the "Laboratory Partnership Advisory Board," to provide the Secretary with advice on the implementation of this title.

"(2) The membership of the Laboratory Partnership Advisory Board shall consist of persons who are qualified to provide the Secretary with advice on the implementation of this title. Members of the Board shall include representatives primarily from United States industry but shall also include representatives from—

"(A) small businesses;

"(B) private sector entities owned or controlled by disadvantaged persons;

"(C) educational institutions, including representatives from minority colleges or universities;

"(D) laboratories of other federal agencies; and

"(E) professional and technical societies in the United States.

"(3) The Laboratory Partnership Advisory Board shall request comment and suggestions from departmental laboratories to assist the Board in providing advice to the Secretary on the implementation of this title.

"(b) The director of each multi-program departmental laboratory shall establish an advisory group consisting of persons from United States industry to—

"(1) evaluate new initiatives proposed by the departmental laboratory;

"(2) identify opportunities for partnerships with United States industry; and

"(3) evaluate ongoing programs at the departmental laboratory from the perspective of United States industry.

"(c) Nothing in this section is intended to preclude the Secretary or the director of a departmental laboratory fromutilizing existing advisory boards to achieve the purposes of this section.

"SEC. 1110. FELLOWSHIP PROGRAM.

"The Secretary shall encourage scientists, engineers and technical staff from departmental laboratories to serve as visiting fellows in research and manufacturing facilities of industrial organizations, State and local governments, and educational institutions in the United States and foreign countries. The Secretary may establish a formal fellowship program for this purpose or may authorize such activities on a case-by-case basis. The Secretary shall also encourage scientists and engineers from United States industry to serve as visiting scientists and engineers in the departmental laboratories.

"SEC. 1111. COOPERATION WITH STATE AND LOCAL PROGRAMS FOR TECHNOLOGY DEVELOPMENT AND DISSEMINATION.

"The Secretary and the director of each departmental laboratory shall seek opportunities to coordinate their activities with programs of State and local governments for technology development and dissemination, including programs funded in part by the Secretary of Defense pursuant to section 2523 of title 10 of the United States Code and section 2513 of title 10 of the United States Code and programs funded in part by the Secretary of Commerce pursuant to section 25 and 26 of the Act of March 3, 1901(15 U.S.C. 278k and 2781) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note).

"SEC. 1112. AVAILABILITY OF FUNDS FOR PARTNERSHIPS.

"(a) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application activities, other than atomic energy defense programs, shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(b) All of the funds authorized to be appropriated to the Secretary for atomic defense activities shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(c) Funds authorized to be appropriated to the Secretary and made available for departmental laboratory-directed research and development shall be available for any partnership.

"SEC. 1113. PROTECTION OF INFORMATION.

"Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to the partnership activities undertaken by the Secretary and by the directors of the departmental laboratories.

"SEC. 1114. FAIRNESS OF OPPORTUNITY.

"(a) The Secretary and the director of each departmental laboratory shall institute procedures to ensure that information on laboratory capabilities and arrangements for participating in partnerships with the Secretary or the departmental laboratories is publicly disseminated.

"(b) Prior to entering into any partnership having a federal contribution in excess of $5 million, the Secretary or director of a departmental laboratory shall ensure that the opportunity to participate in such partnership has been publicly announced to potential participants.

"(c) In cases where the Secretary or the director of a departmental laboratory believes a potential partnership activity would benefit from broad participation from the private sector, the Secretary or the director of such departmental laboratory may take such steps as may be necessary to facilitate formation of an United States industry consortium to pursue the partnership activity.

"SEC. 1115. PRODUCT LIABILITY.

"The Secretary, after consultation with the Laboratory Partnership Advisory Board established in section 1109, and the Attorney General shall enter into a memorandum of understanding establishing a consistent policy and standards regarding the liability of the United States, of the non-federal entity operating a departmental laboratory and of any other party to a partnership for product liability claims arising from partnership activities. The Secretary and the director of each departmental laboratory shall, to the maximum extent practicable, incorporate into any partnership the policy and standards established in the memorandum of understanding.

"SEC. 1116. INTELLECTUAL PROPERTY.

"The Secretary shall, after consultation with the Laboratory Partnership Advisory Board established in section 1109, develop guidelines governing the application of intellectual property laws by the Secretary and by the director of each departmental laboratory in partnership arrangements.

"SEC. 1117. SMALL BUSINESS.

"(a) The Secretary shall develop simplified procedures and guidelines for partnerships involving small businesses to facilitate access to the resources and capabilities of the departmental laboratories.

"(b) Notwithstanding any other law, the Secretary may waive, in whole or in part, any cost-sharing requirement for a small business involved in a partnership if the Secretary determines that the cost-sharing requirement would impose an undue hardship on the small business and would prevent the formation of the partnership.

"(c) Notwithstanding section 12(d) of the Stevenson-Wydler Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), the Secretary may provide funds as part of a cooperative research and development agreement to a small business if the Secretary determines that the funds are necessary to prevent imposing an undue hardship on the small business and necessary for the formation of the cooperative research and development agreement.

"SEC. 1118. MINORITY COLLEGE AND UNIVERSITY REPORT.

"Within one year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the appropriate Committees of the United States Senate and the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities being carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges and universities in preparing the report. Such report shall—

"(a) describe ongoing education and training programs being carried out by the Department or the departmental laboratories with respect to or in conjunction with minority colleges and universities in the areas of mathematics, science, and engineering;

"(b) describe ongoing research, development, demonstration or commercial application activities involving the Department or the departmental laboratories and minority colleges and universities;

"(c) describe funding levels for the programs and activities described in subsections (a) and (b);

"(d) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the fields of mathematics, science, and engineering;

"(e) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

"(f) address the need for and potential role of the Department or the departmental laboratories in providing to minority colleges and universities the following:

"(1) increased research opportunities for faculty and students;

"(2) assistance in faculty development and recruitment and curriculum enhancement and development; and

"(3) laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer;

"(g) address the need for and potential role of the Department or departmental laboratories in providing funding and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities at minority colleges and universities; and

"(h) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnership with the Department or departmental laboratories.

"SEC. 1119. MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAM.

"The Secretary shall establish a scholarship program for students attending minority colleges or universities and pursuing a degree in energy-related scientific, mathematical, engineering, and technical disciplines. The program shall include tuition assistance. The program shall provide an opportunity for the scholarship recipient to participate in an applied work experience in a departmental laboratory. Recipients of such scholarship shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study. Scholarships awarded under this program shall be known as Secretary of Energy Scholarships.".

"(b) CONFORMING AMENDMENT.—The table of contents of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) is amended by adding at the end thereof the following items—

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"Sec. 1101. Finding, Purposes and Definitions.
"Sec. 1102. General Authority.
"Sec. 1103. Establishment of Goal for Partnerships Between Departmental Laboratories and United States Industry.
"Sec. 1104. Role of the Department in the Development of Critical Technology Strategies.
"Sec. 1105. Partnership Preferences.
"Sec. 1106. Evaluation of Partnership Programs.
"Sec. 1107. Annual Report.
"Sec. 1108. Partnership Payments.
"Sec. 1109. Laboratory Partnership Advisory Board and Industrial Advisory Groups at Multi-Program Departmental Laboratories.
"Sec. 1110. Fellowship Program.
"Sec. 1111. Cooperation with State and Local Programs for Technology Development and Dissemination.
"Sec. 1112. Availability of Funds for Partnerships.
"Sec. 1113. Protection of Information.
"Sec. 1114. Fairness of Opportunity.
"Sec. 1115. Product Liability.
"Sec. 1116. Intellectual Property.
"Sec. 1117. Small Business.
"Sec. 1118. Minority College and University Report.
"Sec. 1119. Minority College and University Scholarship program.".

"SEC. 3144. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES PROGRAM.

"The Secretary is encouraged to use partnerships to expedite the private sector development of advanced manufacturing technologies as required by Section 2202(a) of the Energy Policy Act of 1992 (42 U.S.C. 13502).

"SEC. 3145. NOT-FOR-PROFIT ORGANIZATIONS.

"The Secretary shall encourage the establishment of not-for-profit organizations, such as the Center for Applied Development and Environmental Technology (CADET), that will facilitate the transfer of technologies from the departmental laboratories to the private sector.

"SEC. 3146. CAREER PATH PROGRAM.

"(a) The Secretary, utilizing authority under other applicable law and the authority of this section, shall establish a career path program to recruit employees of the national laboratories to serve in positions in the Department.

"(b) Section 207 of title 18, United States Code, is amended by inserting after subsection (j)(6) the following:

"(7) NATIONAL LABORATORIES.—(A) The restrictions contained in subsections (a), (b), (c), and (d) shall not apply to an appearance or communication made, or advice or aid rendered by a person employed at a facility described in subparagraph (B), if the appearance or communication is made on behalf of the facility or the advice or aid is provided to the contractor of the facility.

"(b) This paragraph applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak RidgeNational Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories."

"(c) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. section 423) is amended by inserting the following new subsection:

"(q) NATIONAL LABORATORIES.—(1) The restrictions on obtaining a recusal contained in paragraph (c)(2) and (c)(3) shall not apply to discussions of future employment or business opportunity between a procurement official and a competing contractor managing and operating a facility described in paragraph (3): Provided, That such discussions concern the employment of the procurement official at such facility.

"(2) The restrictions contained in paragraph (f)(1) shall not apply to activities performed on behalf of a facility described in paragraph (3).

"(3) This subsection applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

"SEC. 3147. AVLIS COMMERCIALIZATION.

"(a) PREDEPLOYMENT CONTRACTOR.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals for a commercial predeployment contractor to conduct such activities as may be necessary to enable the Secretary or any successor to the Secretary's uranium enrichment enterprise to deploy a commercial uranium enrichment plant using the Atomic Vapor Laser Isotope Separation (AVLIS) technology. Such activities shall include;

"(1) developing a transition plan for transferring the AVLIS program from research, development, and demonstration activities at the Lawrence Livermore National Laboratory to deployment of a commercial AVLIS production plant;

"(2) confirming the technical performance of AVLIS technology;

"(3) developing the economic and industrial assessments necessary for the Secretary or his successor to make a commercial decision whether to deploy AVLIS;

"(4) providing an industrial perspective for the planning and execution of remaining demonstration program activities; and

"(5) completing feasibility and risk studies necessary for a commercial decision whether to deploy AVLIS, including financing options.

"(b) ADDITIONAL ACTIVITIES.—Based upon the results of subsection (a), the Secretary may solicit additional proposals to complete the following activities:

"(1) site selection, site characterization, and environmental documentation activities for a commercial AVLIS plant;

"(2) engineering design of a production plant, developing a project schedule, and initiating operations planning;

"(3) activities leading to obtaining necessary licenses from the Nuclear Regulatory Commission; and

"(4) ensuring the successful integration of AVLIS technology into the commercial nuclear fuel cycle.

"(c) REPORTS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the Speaker of the House of Representatives a written report on the progress made toward the deployment of a commercial AVLIS production plant 90 days after the date of enactment of this act and each 90 days thereafter.

"SEC. 3148. AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

"(a) Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a (c)(5)) is amended—

"(1) by deleting subparagraph (c)(i) and inserting in lieu thereof the following:

"(C)(i) any agency that has contracted with a non-Federal entity to operate a laboratory shall review and approve, request specific modifications to, or disapprove a joint work statement and cooperative research anddevelopment agreement that is submitted by the director of such laboratory within 30 days after such submission. In any case where an agency has requested specific modifications to a joint work statement or cooperative research and development agreement, the agency shall approve or disapprove any resubmission of such joint work statement or cooperative research and development agreement within 15 days after such resubmission. No agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before both approval of the cooperative research and development agreement and a joint work statement.";

"(2) by adding in subparagraph (C)(ii) the words, "or cooperative research and development agreement" after "joint work statement";

"(3) by deleting subparagraph (C)(iv);

"(4) by deleting subparagraph (C)(v) and inserting in lieu thereof:

"(C)(iv) If an agency fails to complete a review under clause (i) within any of the specified time-periods, the agency shall submit to the Congress, within 10 days after the failure to complete the review, a report on the reasons for such failure. The agency shall, at the end of each successive 15-day period thereafter during which such failure continues, submit to Congress another report on the reasons for the continued failure."; and

"(5) by deleting subparagraph (C)(vi).

"(b) Section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) is amended—

"(1) in subparagraph (B) by striking "substantial" before "purpose"; and

"(2) in subparagraph (C) by striking "the primary purpose" and inserting in lieu thereof "one of the purposes".

"SEC. 3149. GUIDELINES.

"The implementation of the provisions of this Act shall not be delayed pending the issuance of guidelines, policies or standards required by sections 1105, 1115 and 1116 of the Department of Energy organization Act (42 U.S.C. 7101 et. seq.) as added by section 3143 of this Act.

"SEC. 3510. AUTHORIZATION.

"(a) In addition to funds made available for partnerships under section 1112 of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) as added by section 3143 of this Act, there is authorized to be appropriated from funds otherwise available to the Secretary for partnership activities with industry in areas other than atomic energy defense activities $100,000,000 for fiscal year 1994, $140,000,000 for fiscal year 1995, $180,000,000 for fiscal year 1996 and $220,000,000 for fiscal year 1997.

"(b) There is authorized to be appropriated to the Secretary for the Minority College and University Scholarship Program established in section 1119 of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) as added by section 3143 of this Act in areas other than atomic energy defense activities $1,000,000 for fiscal year 1994, $2,000,000 for fiscal year 1995 and $3,000,000 for fiscal year 1996.

"(c) There is authorized to be appropriated to the Secretary for research or educational programs, in areas other than atomic energy defense activities, carried out through partnerships or otherwise, and for related facilities and equipment that involve minority colleges or universities such sums as may be necessary.".

JOHNSTON (AND OTHERS) AMENDMENT NO. 814

Mr. NUNN (for Mr. JOHNSTON, for himself, Mr. WALLOP, Mr. BINGAMAN, Mr. DOMENICI, and Mr. CRAIG) proposed an amendment to the bill S. 1298, supra, as follows:

On page 408, line 26, after "prescribes." insert:

"The Under Secretaries shall be compensated at the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code."

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will be holding a hearing on Friday, September 10, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building on the constitutional issues relating to S. 1021, the Native American Free Exercise of Religion Act of 1993.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. NUNN. Mr. President, I request unanimous consent that the Senate Select Committee on Intelligence be allowed to meet on Thursday, September 9, 1993, at 4 o'clock to hold a closed briefing on intelligence matters.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NUNN. Mr. President, I request unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, September 9, 1993, at 10 a.m. to conduct a hearing on encouraging lending to and investment in small business.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I request unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, September 9, 1993, at 3 p.m. to hold nomination hearings on the following nominees: Reginald Bartholomew, of the District of Columbia, to be Ambassador to Italy; Richard N. Gardner, of New York, to be Ambassador to Spain; Richard Holbrooke, of New York, to be Ambassador to the Federal Republic of Germany; and William G. Miller, of Virginia, to be Ambassador to Ukraine.

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

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY, AND GENERAL LEGISLATION

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation be allowed to meet during the session of the Senate on Thursday, September 9, 1993 at 2:30 p.m. in SR-332 on the use of water to control grain dust.

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

SUBCOMMITTEE ON SUPERFUND, RECYCLING AND SOLID WASTE MANAGEMENT

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Recycling and Solid Waste Management, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, September 9, beginning at 10 a.m., to conduct a hearing on the Superfund cleanup process.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, September 9, 1993, at 10:30 a.m., to hold a hearing on S. 841 a bill to amend chapter 37 of title 31, United States Code, relating to false claims action, and for other purpose.

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

TRIBUTE TO REGAL WARE, INC.

• Mr. BUMPERS. Mr. President, I want to join my colleague, Senator PRYOR, in paying tribute to Regal Ware, Inc. This major housewares manufacturer has just announced a major expansion of its Jacksonville plant in Arkansas.

Jacksonville Manufacturing began operating as a Regal plant in 1984 and today has a work force of 634, making it the largest private employer in that community.

This Arkansas plant produces the largest assortment of drawn aluminum cookware in the industry, as well as cast cookware.

We are proud to have Regal Ware in our State and appreciate the continued commitment the company has made to the people of Jacksonville and the surrounding area in announcing this expansion.

As chairman of the Senate Small Business Committee, I am pleased to cite yet another example of one of the strengths of this Nation. That strength, of course, is a vibrant and growing small business sector in the economy.•

GREG WYATT EXHIBITS IN THE SENATE

• Mr. D'AMATO. Mr. President, I rise today to recognize Mr. Greg Wyatt, the sculptor-in-residence at the Cathedral Church of Saint John the Divine, and to urge my colleagues in the Senate to attend a unique exhibition that I am sponsoring on his behalf in the Russell Senate Office Building rotunda from Monday, September 13, 1993, through Friday, September 24, 1993.

Greg Wyatt, born in the small town of Grand View-on-the Hudson, NY in 1949, was nurtured in the artistic tradition of his native Hudson River Valley. His talent was encouraged at an early age by his father, art professor at Columbia University and City College of

New York. Upon completion of his bachelor of arts degree in art history at Columbia College in 1971, he studied classical sculpture for three years at the National Academy of Design. In 1975, he taught sculpture in Italy, where he developed his love of Renaissance art that led to the resignation of his teaching position at New York University and to his full-time devotion to sculpting.

Mr. Wyatt is currently the sculptor-in-residence at the Cathedral Church of St. John the Divine, a long-term appointment to a Renaissance studio within the crypt of the world's largest Gothic cathedral.

When the National Arts Club in 1983 in New York City wanted to have a symbol of its concern for children and the role of the arts in their development, it turned to Greg Wyatt to provide a fountain for Gramercy Park. Its excellence won for him critical acclaim, the patronage of the public and the admiration of other artists. His technical powers and his diligence in executing work have brought him many commissions. No other young artist has done more to restore sound principles of design and form to American sculpture.

When the Episcopal Diocese of New York celebrated its 200th anniversary the sculptor chosen to create a new statue to provide a message of strength and thanksgiving was inevitably Greg Wyatt. In the 16-ton bronze sculpture named "Peace Fountain," an imposing winged angel is depicted in combat against the incarnations of evil. It is a tribute to the decorative strength and charm of the bronze forms that the piece is not overwhelmed by the towering Gothic Cathedral of St. John the Divine. In this religious statuary is an example of Wyatt's genius on an imposing scale.

Wyatt's true inspiration continues to come from Roman and Greek sources. The Renaissance is also an important influence in his portraiture and in his medals. Wyatt has the rare gift of historical imagination. From his studies at the National Academy School and art history bachelor's degree at Columbia College, Wyatt is informed, soundly equipped and deeply inspired. This sculptor can easily project himself into another culture, extract its essence, and make it his own. Diverse elements and larger themes are fused in the white heat of his imagination into something entirely original.

Following his outstanding exhibition at the Metropolitan Museum of Art, Greg Wyatt was invited recently by Dudley House Graduate Student Center of Harvard College to place three heroic-scale works on the brick pavement in front of Lehman Hall in Harvard as part of a major sculpture exhibition. Of course, we have had the pleasure of having Mr. Wyatt here on Capitol Hill when he displayed his work in the Cannon House Office Building rotunda last March.

Finally, Mr. President, Mr. Wyatt is the president of Fantasy Foundation Inc., which provides a rare opportunity for apprentices in his sculpture studio at the Cathedral Church of St. John the Divine—high school and college aged students—to gain further insight into the Renaissance craft tradition.

I honor Greg Wyatt today on the floor of the U.S. Senate and wish him well in his efforts to bring the beauty of his art to education.●

NATIONAL COMMUNITY SERVICE ACT

● Mr. ROCKEFELLER. Mr. President, because of a personal commitment to attend a family event out of town, I simply could not be on the Senate floor yesterday to vote for the conference report on the National and Community Service Trust Act of 1993.

This legislation has been debated extensively in the Senate, and the outcome of the vote was not in doubt. The Senate passed the conference report with a bipartisan support. Had I been in the Senate Chamber, I would have voted for the legislation, and I want to reiterate my strong, personal support for it. As an original cosponsor of the bill and a VISTA worker in West Virginia over 25 years ago, I truly believe that investing in public service will greatly strengthen our country.

Also, I want to commend Senator KENNEDY, Senator WOFFORD, and my colleagues who have shown tremendous leadership and commitment to moving this legislation forward in a bipartisan manner. National service is an issue for every American, and having bipartisan initiative is important to bring our country together around the themes of national and community service. Enactment of this legislation should spark a bold new commitment across our country to public service.

I joined President Clinton at Rutgers University in March when he unveiled his vision for national service. It was a moving event designed to reach out to all Americans, especially young people by challenging them to serve. It is rewarding that the Senate acted within 6 months of that speech to establish the Corporation for National and Community Service and begin the initiative proposed by President Clinton.●

RECOGNIZING THOMAS TAYLOR OF FORT WAYNE, IN

● Mr. COATS. Mr. President, Hoosiers have a long tradition of caring for their environment. From the Dunes National Lakeshore in the northern part of the State to the Hoosier National Forest in the south, the people of Indiana are proud of the beauty and diversity of their natural environment.

It is in this spirit of Hoosier conservationism that Thomas Taylor of my home town of Fort Wayne has written a clear and concise statement about dedication to the environment.

Mr. Taylor's pledge was selected out of 10,000 entries to be Outdoor Life magazine's new conservation pledge. It will appear in each issue of the magazine, having made its debut in the July 1993 edition.

Mr. Taylor, his wife, and two children are a camping family, one that recognizes that enjoying nature together is one of the best ways to strengthen family ties.

In addition to being a lover of the out-of-doors, Mr. Taylor has had an effective career in public service, serving the people of Fort Wayne as a policeman for over 14 years.

Outdoor Life has a distinguished history of publishing America's leading writers and lovers of the out-of-doors, among them Theodore Roosevelt, Ernest Hemingway, Wally Schirra, and Patrick McManus.

Thomas Taylor's pledge deserves a place in the CONGRESSIONAL RECORD. It expresses eloquently the appreciation and duty we all must bring to the environment God has created, for our own sake and the sake of our children. I am pleased to include it here:

> I pledge to protect and conserve the natural resources of America. I promise to educate future generations so they may become caretakers of our water, air, land and wildlife.●

TRIBUTE TO ED HAMILTON: LOUISVILLE SCULPTOR RECEIVES NATIONAL RECOGNITION

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a fellow Louisvillian who has recently been honored by the Washington, DC Commission on the Arts and Humanities. A design by Mr. Ed Hamilton was recently chosen by the commission as the one for the Civil War memorial honoring black soldiers.

Mr. Hamilton is excited about the opportunity to pay homage to these special American citizens in such a prominent forum. The national monument, which is scheduled to be completed in 2 years, will be located at the corner of 10th and U Streets in northwest Washington.

Mr. Hamilton's design was deemed the most impressive of all the submissions. Included in the memorial will be all 185,000 names of the veterans, considerably more than the 58,000 which line the Vietnam Memorial Wall.

The Civil War, Mr. President, is an era in our Nation's history which is perhaps the darkest passage in our Nation's history. Brother was pitted against brother as Americans of all colors fought to protect their homes, families, and ideals. It is important that we recognize the soldiers who fought in this epic conflict, for their commitment to freedom and individual liberties.

Mr. President, it is obvious that a project of this magnitude requires a special person to follow it to fruition. Ed Hamilton has proven that he has the skill and compassion that are necessary to portray this important part of our Nation's history. His previous works include a bronze of boxer Joe Louis in Detroit, a statue of Booker T. Washington in Hampton, VA, and a monument to African Joseph Cinque in New Haven, CT. I think my colleagues will agree that this is an impressive body of work.

Mr. President, I ask my colleagues to join me in honoring this gentleman who has devoted his professional life to memorializing the people and ideas which have made this country great. In addition, I ask that an article from the August 20, 1993, Courier Journal be included in the RECORD at this point.

The article follows:

LOUISVILLE SCULPTOR HAS DESIGNS ON CAPITAL

(By Mark E. McCormick)

Lousiville sculptor Ed Hamilton's newly commissioned war memorial will include something often forgotten through the hazy memory of history: the families his Civil War soldiers were fighting for.

Hamilton recently was selected to design the centerpiece for a Civil War memorial in Washington, D.C., for black soldiers.

His design depicts a line of Civil War infantry and sailors on the convex side of a semicircle wall and the family figures they were leaving behind and for whom they were fighting on the other side of the wall.

"The committee agreed that this conveys the sense that they 'were fighting for the protection of their families from the slave trade, unjust treatment, and (for) equal protection under the law,'" said the commission's announcement letter to Hamilton.

Hamilton was one of two finalists for the $200,000 project to create a memorial honoring the 185,000 black Union troops. The memorial, commissioned by the District of Columbia, will be placed at the corner of 10th and U streets in northwest Washington.

Hamilton said he used to tell his wife, "I'll probably be 60 or something before I'll start (getting the opportunity) to build the big memorials."

But at 46, Hamilton has, in the Civil War memorial, possibly his most prestigious national project yet.

"It was like a burden had been lifted," said Hamilton in his Phoenix Hill neighborhood studio about hearing the news. "I felt triumphant. I wanted this so badly."

Matt Radford, art in public places coordinator with the Washington, D.C., Commission on the Arts and Humanities, said Hamilton's proposal for the project "truly told the story that they felt should be told."

"What they particularly appreciated was the way he was able to tell that story through the design proposal," Radford said.

The site also features a walkway leading to the monument lined on each side with nine light fixtures symbolizing the 18 free states. The names of the 185,000 black soldiers have been inscribed on ½-inch stainless steel plates and mounted on the semicircular walls behind the monument.

The Vietman Memorial by contrast is a much larger site but has 58,000 names.

Paul Devrouax, president of Devrouax & Purnell Architect Planners P.C., the firm that did the overall and landscaping design for the Civil War memorial, said he was impressed with Hamilton and Hamilton's past works.

"His approach was quite unique and refreshing," Devrouax sad, "Clearly we felt we had a number of artists that were renowned vying for the project. But it was his concept that really won over the other members of the board. It fit."

Hamilton said he wrestled with how to depict effectively the experience of the 185,000 soldiers and what they were fighting for.

"It goes beyond looking at bricks and mortar," Hamilton said. "I'm telling the story of our people's history. It's a narrative piece. You can't tell a story with just one or two figures. This tells what they are really fighting for."

This work, when completed in about two years, will be a continuation of Hamilton's march into national prominence as a top sculptor.

His previous public commissions include a bronze of boxer Joe Louis for Detroit, a statute of orator and teacher Booker T. Washington for Hampton Institute in Hampton, Va., and a monument to African Joseph Cinque in New Haven, Conn.

"I sleep and breathe this stuff," said Hamilton, whose father was a tailor and whose mother was a barber. "I can't even go on vacation because all I do is think about what I should be doing."

It wasn't long ago, however, that Hamilton was enduring the creative turmoil all artists endure—pursuing thematically fulfilling projects while trying to meet the financial needs of his family.

"I was having a crazy renaissance," said Hamilton of some of his earlier work, which included a collection of welded-metal abstractions called "Junkology." "But I was torn between wanting to do this full time and realizing I had to do something to pay the rent."

But now, hard at work in his studio crammed with works big and small that he says ooze with feeling, Hamilton is "right where I want to be. I can do what I want."

"I can look at where I've come and say, 'This kid off of Sixth and Walnut has done this?' I'm just lucky to be here."•

IN HONOR OF WILLIAM J. "BILL" HIMES, SR.

• Mr. BIDEN. Mr. President, when my friend, Bill Himes, talks about his memories from childhood, he literally traces the history of his beloved home town of Seaford, DE, and of Delaware's fire service community, in which he has been an active leader for more than 50 years.

Bill Himes remembers the sights and sounds of hose carts on steel-rimmed wheels, being pulled by firemen down unpaved streets; he can still hear the sound of those old fire bells and of voices through the smoke, and he still conveys the emotions that he felt as a young boy watching the very human struggle, the very real danger and the bravely shared fight to save a neighbor's home, a neighbor's life.

To young Bill Himes, what he saw and heard in his youth was a call to service. He decided before he was old enough for first grade that he would be one of those courageous and selfless good neighbors who would answer the fire alarm.

In the almost 80 years since that decision, Bill Himes has never failed to answer the call of the fire service. He joined the ranks of Seaford firefighters as soon as he was old enough; that was in 1942. He has been the company's chief engineer, chief, and president, and for the past 20 years, he has been the first and only member of the Seaford Volunteer Fire Company to hold the title of chief emeritus.

Even beyond his own home company, Bill Himes is one of the true founding fathers of Delaware's modern fire service. He has been there literally since the beginning, as an original member and longtime officer of the Sussex County Volunteer Fire Chiefs' Association; he has served on the Delaware State Fire Commission, and as president and director of the Fire Chiefs' Association of Delaware. Among the honors Bill has received are the Order of the First State and election to both the State and regional Firefighters Halls of Fame.

But no award and no words could ever capture the meaning of what Bill Himes has contributed to our State. Firefighters represent the very best of the ideals and spirit of American community, and Bill Himes represents the very best of the ideals and spirit of firefighters.

Bill is the kind of citizen who makes communities work, and moves them closer to what they can and should be. Bill Himes is a neighbor you can count on, a friend you can trust. It has been my privilege to trust and count on him for many years, and like the firefighter he is, Bill has been there every time I have needed him.

Last year, we in Delaware had an opportunity to say thank you to Bill, as his home company honored him for 50 years of faithful service and able leadership. An important part of that celebration was the Himes family, especially Bill's wonderful wife, Grace, who for the more than 64 years of their marriage has given the best possible support to Bill's work and has been a leader in her own right in the fire service community.

It is my privilege today to share with the Senate and with the nation the celebration of Bill Himes' 50 years as a firefighter, and of the countless contributions he and Grace have given so generously. The value of such citizens and of such friends cannot be measured in words, it can only be felt in our hearts. And from the heart, to Bill and Grace, I am proud to say thank you, from all of us.•

HUNDREDS OF BILLIONS WASTED ON INTEREST SPENDING

• Mr. SIMON. Mr. President, I rise today to direct the attention of my colleagues to a matter that has caused me

great anguish. An uncontrollable enigma, this ever growing interest on the Federal debt.

No other industrial nation except Israel spends as much on interest and on defense as we, the United States, do.

I have written about this topic with great fervor in a newspaper column that is appearing in dozens of Illinois newspapers this week.

Mr. President, without objection, for the benefit of my colleagues, I would like to reprint a copy of this newspaper column in the RECORD.

The article follows:

HUNDREDS OF BILLIONS WASTED ON INTEREST SPENDING

(By Senator Paul Simon)

Recently I read an article stating that the United States has the lowest rate of total taxation of any major industrial or Western European nation, with the possible exception of Greece.

One of the most highly respected, if not widely known, public officials. Robert Ball, who headed the Social Security Administration under Presidents Kennedy, Johnson and Nixon, recently wrote: "We are an undertaxed nation, hesitant as our political leaders may be to proclaim that fact. The International Organization for Economic Cooperation and Development tells us that some 30.1 percent of our Gross Domestic Product goes for federal, state and local taxes, including Social Security. Comparable levels elsewhere include 38.1 percent for Germany, 43.8 percent for France and 36.5 percent for Great Britain."

He adds that our relatively low taxes have been one of the reasons for our huge deficit which has harmed our economy, and he notes with accuracy: "Cutting benefits from Social Security—one of the few federal programs in surplus and one that plans ahead for adequate financing—is clearly not the way to address the problem."

But the good news that our taxes are lower than other countries (even though it may not feel like it), is balanced by another fact: No other industrial nation, except Israel, spends as little of the total taxes collected on the immediate needs of its people as does the United States.

But it another way: No other major industrial nation except Israel spends as much on interest (because of our reckless debt) and on defense as we do.

When the federal government this year spends roughly $300 billion on gross interest, and $290 billion on defense, most Americans see little benefit from that in their day-to-day living.

It is important to have a strong defense, but the other day one newspaper reported that Secretary of Defense Les Aspin wants to change defense plans to add 10 more submarines to the fleet. Why? We need to keep one submarine construction facility going, and we do need to maintain a minimum level of construction capabilities. But what is the great threat as this point? Why do we need 10 more submarines?

And our fiscal folly, which do President Clinton's credit he is addressing, means that the $300 billion we will spend this year on interest is 10 times what the federal government will spend on education, 40 times what we will spend on foreign economic non-military assistance, and twice what we will spend on all the domestic poverty programs combined. All of this illustrates why we need a constitutional amendment requiring a balanced budget unless there is an emergency.

Those who say that our taxes are lower than other nations are correct.

But it is also true that we should spend our money more wisely.●

GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993

● Mr. SASSER. Mr. President, S. 20, the Government Performance and Results Act of 1993, which was recently passed, presents us with an opportunity to improve the effectiveness of the Federal Government in addressing vital public needs. It offers an opportunity to demonstrate to the American people that government can work efficiently and effectively on their behalf for the public good.

We should be constantly looking for ways to improve congressional policymaking, spending decisions and program oversight by focusing on program performance and results. I think S. 20 is an important step in that direction. In assessing these results, however, we must concern ourselves not with just the effective functioning of individual agencies, but with the performance of the Federal Government as a whole.

The mission of Government is to use existing resources more effectively and efficiently to solve the problems we face as a nation. We have begun to recognize that many of today's problems no longer can be solved by individual agencies no matter how well they perform separately. Too many of the complex issues we deal with now cut across traditional classifications and are too wide-ranging to be addressed by a single agency.

As you know, Mr. President, S. 20 requires Federal agencies to establish 5-year strategic plans, setting forth explicitly their mission and long-term goals. I believe each agency should use the development of this strategic plan as a tool for improving cooperation with other agencies in addressing issues that can best be resolved through deliberate interagency coordination. Too often a lack of coordination between agencies results in wasteful duplication, inefficiencies and, ultimately, unwise use of public funds. There has been a lot of discussion lately about the notion of interagency cooperation and public/private partnerships, but it seems that these concepts seldom get beyond the realm of discussion and put into practice. This appears to be especially true in the area of natural resource management, despite a growing recognition that environmental and natural resource issues transcend man-made boundaries and are most effectively addressed in a much more cohesive and wholistic manner than has traditionally been the case.

There have been some notable successes in managing resources through interagency partnerships. Several good interagency programs have been developed with an ecosystems management approach in different regions of the country. Such projects demonstrate that strategic planning and cooperative approaches can indeed work effectively in addressing pressing public issues. For example, in the six-State region of the southern Appalachian, which includes my home State of Tennessee, we have a program called the Southern Appalachian Man and Biosphere Program or SAMAB. This program is dedicated to finding ways for developing a sound economy while maintaining and enhancing a healthy environment. Through SAMAB, Federal, State and local, and public and private institutions have developed innovative, cooperative approaches to ecosystems management and sustainable economic development. We still have a long way to go in these areas, but I believe SAMAB provides a useful model on a national and even international level.

In conclusion, I urge the Federal agencies covered by the Government Performance and Results Act of 1993 to used the opportunities it provides to include interagency coordination and public/private partnerships in their long-term strategic plans whenever such cooperation is possible and appropriate.●

NATIONAL DAY OF THE WORKING PARENT

● Mr. GLENN. Mr. President, I rise today in support of the National Council of Jewish Women's Day of the Working Parent. The National Council of Jewish Women [NCJW] has designated September 9, 1993 as the National Day of the Working Parent to bring attention to the needs of Americans who balance work responsibilities with the demands for caring for their families.

In 1989, NCJW initiated the work family project, a national public education and action campaign. NCJW believes that the public, private and volunteer sectors can work together to assure an adequate supply of high quality, affordable dependent care services and positive workplace policies which will help sustain a productive and viable work force.

Local NCJW organizations all over Ohio are planning a number of activities today. In Akron, over 2,000 boxes of information on child care and elder care will be distributed downtown and at four local hospitals. Cincinnati is distributing the same type of information to corporations and planning a breakfast at which the mayor will issue a proclamation. In Cleveland, they plan a resource fair on elder and childcare and distribution of boxes. Government officials from 50 municipalities around Cleveland will issue Proclamations. Columbus plans an event at the State House and Youngstown will distribute about 1000 boxes

and give awards to family-friendly corporations. In all it is expected that 7000 boxes will be distributed in my state. I applaud these efforts.

It is important that workplaces become more flexible to more effectively deal with the changing needs of workers with families. I was pleased that the Congress passed the parental leave bill last year and will be working on child care and programs for the aging population this session. Again I applaud the efforts of NCJW in calling attention to the needs of working families by declaring September 9, 1993 as the National Day of the Working Parent.●

ORDERS FOR FRIDAY, SEPTEMBER 10, 1993

Mr. NUNN. 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 9 a.m., Friday, September 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 the Senate then resume consideration of S. 1298, the Department of Defense authorization bill, and that Senator REID be recognized to offer his listed amendment relating to Gwen project and that upon disposition of the Reid amendment Senator LOTT be recognized to offer his listed amendment relating to delay of 95 BRAC.

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

RECESS UNTIL 9 A.M. TOMORROW

Mr. NUNN. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent the Senate stand in recess under the previous order.

There being no objection, the Senate, at 11:55 p.m., recessed until Friday, September 10, 1993, at 9 a.m..